
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Assessing Officials & Property Tax Boards of Appeal
FROM: Wesley R. Bennett, Commissioner
RE: Legislation Affecting Assessment Matters
DATE: May 26, 2021

Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law.

I. Property Destroyed by Disaster – Form 137R

On April 8, 2021, Governor Holcomb signed into law House Enrolled Act 1271-2021 (“HEA 1271”). Section 6 of HEA 1271 amends Ind. Code § 6-1.1-4-11 and clarifies that if a substantial amount of real and personal property in a township has been physically destroyed, in whole or in part, as a result of a disaster, a person may petition for a survey and reassessment of the destroyed property. Section 6 of HEA 1271 was retroactively effective as of January 1, 2020.

Prior to this legislative change, Ind. Code § 6-1.1-4-11 did not specify that the real and personal property had to be *physically* destroyed. A person could petition – through Form 137R – for a survey and reassessment of real and personal property in a township if a substantial amount of the property was “partially or totally destroyed.”

With the amended language under HEA 1271, Ind. Code § 6-1.1-4-11 now reads as follows:

IC 6-1.1-4-11

Destroyed property; order of reassessment by county assessor

Sec. 11. (a) If a substantial amount of real and personal property in a township has been *physically* destroyed, *in whole or in part*, as a result of a disaster, the county assessor shall:

- (1) cause a survey to be made of the area or areas in which the property has been destroyed; and
 - (2) order a reassessment of the destroyed property;
- if a person petitions the county assessor to take that action. The county assessor shall specify in the assessor's order the time within which the reassessment must be completed and the date on which the reassessment will become effective. However, the reassessed value and the corresponding adjustment of tax due, past due, or already paid is effective as of the date the disaster occurred, without penalty.

(b) The petition for reassessment of destroyed property, the reassessment order, and the tax adjustment order may not be made after December 31st of the year in which the taxes which would first be affected by the reassessment are payable.

II. Business Personal Property Returns Update

Section 5 of HEA 1271 amends Ind. Code 6-1.1-3-6 and provides that if a taxpayer consented to receive the notification by electronic mail from the taxpayer's township or county assessor for personal property tax filings, the taxpayer's consent to receive this notification by electronic mail remains in effect unless the consent is revoked during the calendar year immediately preceding the filing year. Section 5 of HEA 1271 is effective July 1, 2021.

Prior to this legislative change, Ind. Code § 6-1.1-3-6 did not specify how long a taxpayer's consent to receive the notification via electronic mail remained in effect.

Beginning July 1, 2021, Ind. Code § 6-1.1-3-6 will be as follows:

IC 6-1.1-3-6

Return; notification to taxpayer

Sec. 6. Not later than thirty (30) days before the filing date of each year, the appropriate township assessor, or the county assessor if there is no township assessor for the township, shall provide notification to each person whose personal property is subject to assessment for that year. The notification must include the date that personal property tax returns are due, the telephone number and *email address* of the assessor's office, and instruction to the taxpayer on how to obtain the appropriate personal property tax forms. The notification must be sent by mail unless the taxpayer consents to receiving it by electronic mail. *Consent to receive notification via electronic mail remains in effect, unless the consent is revoked during the calendar year immediately preceding the filing year.*

III. Formal Complaints and Notice of Right to Appeal

On April 29, 2021, Governor Holcomb signed into law House Enrolled Act 1166-2021 ("HEA 1166"). Section 4 of HEA 1166, effective upon passage, amends Ind. Code § 6-1.1-35.7-4 to state that if a taxpayer has reason to believe that a township assessor, county assessor, an employee of the township or county assessor, or an appraiser violated Ind. Code § 6-1.1-35.7-4(a) (does not have the necessary competency to perform the assessment) or Ind. Code § 6-1.1-35.7-3 (failed to adhere to the Uniform Standards of Professional Appraisal Practices or engaged in a prohibited action), the taxpayer may submit a written complaint to the Department of Local Government Finance ("Department"). The Department is to respond in writing to the complaint within thirty (30) days.

With the amended language under HEA 1166, Ind. Code § 6-1.1-35.7-4 now reads as follows:

IC 6-1.1-35.7-4

Conduct of township assessor, county assessor; or employee of the township assessor or county assessor; revocation of certification; certification appeal board

Sec. 4. (a) A township assessor, a county assessor, an employee of the township assessor or county assessor, or an appraiser:

- (1) must be competent to perform a particular assessment;
- (2) must acquire the necessary competency to perform the assessment; or
- (3) shall contract with an appraiser who demonstrates competency to do the assessment.

(b) *If a taxpayer has reason to believe that the township assessor, the county assessor, an employee of the township assessor or county assessor, or an appraiser has violated subsection (a) or section 3 of this chapter, the taxpayer may submit a written complaint to the department. The department shall respond in writing to the complaint within thirty (30) days. . . .*

Section 1 of HEA 1166, effective upon passage, amends Ind. Code § 6-1.1-4-22 to require that the notice that an assessing official must provide a taxpayer if the assessing official assesses or reassess any real property under Ind. Code 6-1.1-4 must include notice to the taxpayer of the taxpayer's right to submit a written complaint to the Department. Section 1 of HEA 1166 requires that the notice include the procedure that a taxpayer must follow to submit the written complaint to Department. The following forms prescribed by the Department will be modified to incorporate the notice required under Ind. Code § 6-1.1-4-22:

- (1) Form 11 – Notice of Assessment of Land and Improvements
- (2) Form 113 – Notice of Assessment by Assessing Official
- (3) TS-1 – Tax Statement

IV. Level 2 & 3 Certified Assessor-Appraiser Serving as Tax Representative

Section 3 of HEA 1166 amends Ind. Code § 6-1.1-15-17.3 and provides that Level 2 or Level 3 certified assessor-appraiser may serve as tax representatives for taxpayers under certain circumstances. Section 3 of HEA 1166 is effective July 1, 2021.

Section 3 of HEA 1166 provides that a Level 2 certified assessor-appraiser may serve as tax representatives for any taxpayer concerning property subject to property taxes in the county before the county's Property Tax Assessment Board of Appeals (PTABOA); however, it does not allow a certified Level 2 Assessor-Appraiser to serve as a tax representative for a taxpayer before the Indiana Board of Tax Review (IBTR). Additionally, Section 3 of HEA 1166 requires that the taxpayer authorize the Level 2 certified assessor-appraiser to serve as the taxpayer's representative on a form that is prepared by the Department and submit the form with the taxpayer's notice to initiate the appeal.

Section 3 of HEA 1166 provides that a Level 3 certified assessor-appraiser may serve as tax representatives for any taxpayer concerning property subject to property taxes in the county before the county's PTABOA *or* IBTR. Notably, unlike the requirements for a Level 2 certified

assessor-appraiser, Section 3 of HEA 1166 provides that if a taxpayer wishes to have Level 3 certified assessor-appraiser serve as the taxpayer's tax representative, the taxpayer is not required to authorize the Level 3 certified assessor-appraiser to serve as the taxpayer's tax representative on a Department prepared form or submit the form with the taxpayer's notice to initiate the appeal.

Before July 1, 2021, the Department will issue a new form for taxpayers to authorize a Level 2 or Level 3 assessor-appraiser to serve as a tax representative.

Beginning July 1, 2021, the amended portion of Ind. Code § 6-1.1-15-17.3 will be as follows:

IC 6-1.1-15-17.3

Restrictions on serving as a tax representative; representation by a relative; power of attorney form

...

(f) Notwithstanding any other law, but subject to subsections (b) and (d) and IC 6-1.1-31.7-3.5, an individual may serve as a tax representative of any taxpayer concerning property subject to property taxes in the county:

(1) before the county board of that county, if:

(A) the individual is certified as a level two assessor-appraiser under IC 6-1.1-35.5; and

(B) the taxpayer authorizes the individual to serve as the taxpayer's tax representative on a form that is:

(i) prepared by the department of local government finance; and

(ii) submitted with the taxpayer's notice to initiate an appeal; or

(2) before the county board of that county or the Indiana board, if the individual is certified as a level three assessor-appraiser under IC 6-1.1-35.5.

V. Assessment Appeals

Section 2 of HEA 1166, effective January 1, 2022, adds Ind. Code § 6-1.1-13-13, which states that under certain circumstances, if the assessed value of the residential or commercial property is increased, and the taxpayer for the property successfully appeals the increased assessment of the property before the taxpayer's county PTABOA or IBTR, the assessing official shall not increase the assessed value of the property until the first year of the next four (4) year cyclical assessment cycle for any reason other than by application of the annual adjustment factor or trending used by the assessing official to adjust property values for a subsequent assessment year. Section 5 of HEA 1166 specifies that the new language under Ind. Code § 6-1.1-13-13 will apply to taxable years beginning after December 31, 2021.

Additionally, Section 2 of HEA 1166 specifies that Ind. Code § 6-1.1-13-13 applies to both residential and commercial property with an assessed value of three million dollars (\$3,000,000) or less, for which the assessed value was increased for a tax year by an assessing official for any reason other than by the application of the annual adjustment factor used by the assessing official to adjust property values for that year. However, this section does not apply to an assessment if the assessment was based on: (1) structural improvements; (2) zoning; or (3) uses; that were not

considered in the assessment for the prior tax year. Furthermore, Section 2 of HEA 1166 states that the relief provided by Ind. Code § 6-1.1-13-13 does not apply if the reduction in assessed value to a taxpayer's property is the result of:

- (1) A settlement agreement or joint resolution reached during the preliminary informal meeting between the taxpayer and the assessing official; or
- (2) An appeal that is based on a correction of error under Ind. Code 6-1.1-15-1.1(a) and Ind. Code 6-1.1-15-1.1(b).

If a taxpayer is successful in the taxpayer's appeal before the taxpayer's county PTABOA or the IBTR and none of the statutory exceptions apply to the property, the assessed value of the property would "freeze" pursuant to the relief provided by Ind. Code § 6-1.1-13-13(b). The taxpayer may not appeal an increased assessment to the property made by the assessor during the "freeze" period unless the taxpayer believes that the increased assessment is:

- (1) Arbitrary and capricious; and
- (2) Not made consistent with the annual adjustment factor used by the assessing official to adjust property values for a year.

For any taxpayer appeals related to an increase in the assessed value of the property during the "freeze" period for these reasons, the burden shifting language under Ind. Code § 6-1.1-15-17.2(d) does not apply.

Additionally, Section 2 of HEA 1166 provides that if the taxpayer who successfully appealed an increased assessment of the property under Ind. Code § 6-1.1-13-13 subsequently sells that property for fair-market value, the assessor may reassess the sold property. Once again, the language in HEA 1166 will only prevent assessment changes after a successful appeal that are not the result of an annual adjustment or trending, cyclical reassessment, or changes to the structure, zoning, or property use that were not previously considered in the assessment.

Beginning January 1, 2022, the new language under Ind. Code 6-1.1-13-13 will read as follows:

IC 6-1.1-13-13

Sec. 13. (a) This section applies to both residential real property and commercial property, with an assessed value of three million dollars (\$3,000,000) or less, for which the assessed value was increased for a tax year by an assessing official for any reason other than by the application of the annual adjustment factor used by the assessing official to adjust property values for that year. However, this section does not apply to an assessment if the assessment is based on:

- (1) structural improvements;
- (2) zoning; or
- (3) uses.

that were not considered in the assessment for the prior tax year.

(b) If the taxpayer:

- (4) appeals an increased assessment as described in subsection (a) to the county property tax assessment board of appeals or the Indiana board; and

(5) prevails in an appeal described in subdivision (1) or any resulting subsequent appeal of the increased assessment described in subsection (a); the assessing official shall not increase the assessed value of the property until the first year of the next four (4) year cyclical assessment cycle for any reason other than by application of the annual adjustment factor used by the assessing official to adjust property values for a tax year. During this period, the taxpayer may not appeal an increased assessment made by the assessor unless the taxpayer believes that the increased assessment is arbitrary and capricious and not made consistent with the annual adjustment factor used by the assessing official to adjust property values for a tax year. If the taxpayer does appeal during this period on the grounds that the increased assessment is arbitrary and capricious and not made consistent with the annual adjustment factor used by the assessing official to adjust property values for a tax year, the provision shifting the burden to the assessing official to prove that the assessment is correct under IC 6-1.1-15-17.2(d) does not apply

(c) This section does not apply if:

(1) the reduction in assessed value is the result of a settlement agreement between the taxpayer and the assessing official; or

(2) the appeal is based on a correction of error under IC 6-1.1-15-1.1(a) and IC 6-1.1-15-1.1(b).

(d) If the taxpayer who appealed an increased assessment under this section sells the property, whose assessment was appealed, for fair market value, notwithstanding subsection(b), the assessor may reassess the property that was sold.

V. Solar Assessments

On April 29, 2021, Governor Holcomb signed into law House Enrolled Act 1348-2021 (“HEA 1348”). Section 1 of HEA 1348, effective January 1, 2022, amends Ind. Code § 6-1.1-8-2 by updating and adding definitions used in Ind. Code § 6-1.1-8, which provides how property owned or used by a public utility company shall be taxed.

Section 1 of HEA 1348 states that the term “light, heat or power company” now includes a utility grade solar energy installation facility. The term “solar land base rate” means the solar land based rates determined under Ind. Code § 6-1.1-8-24. The term “utility grade solar energy installation facility” means a renewable utility grade solar electricity facility that is used for purposes of generating solar electricity for resale to consumers. Section 1 of HEA 1348 also provides definitions for the terms “north region,” “central region,” and “south region” – dividing the 92 counties into one of these three (3) regions as shown below:



Section 2 of HEA 1348, effective upon passage, amends Ind. Code § 6-1.1-8-24 by providing new guidelines for the assessment of the land underneath the fixed property of a utility grade solar energy installation facility. The provisions state that the township or county assessors will determine the assessed value of the land underneath the fixed property of a utility grade solar energy installation facility at an amount that does not exceed the solar land base rate for the region in which the property is located. Beginning December 1, 2021, the solar land base rates¹ for each region will be calculated by the Department and it will serve as the assessment cap, unless the facility was in existence and assessed on the January 1, 2021 assessment date. Assessing officials are still instructed to follow the normal guidelines and procedures as are applicable under Ind. Code § 6-1.1-20.6.

Section 2 of HEA 1348 specifies that the amendment to Ind. Code § 6-1.1-8-24 applies to a utility grade solar energy installation facility:

- (1) that had the land portion of its fixed property assessed and valued on January 1, 2021, property taxes first due and payable in 2022; and
- (2) for assessment dates after December 31, 2021, but only until the next planned reassessment of the property during the county’s four (4) year reassessment cycle.

¹ The land base rate will apply to the land underneath a solar panel, as well as the land in between and immediately surrounding the solar panels.

Section 2 of HEA 1348 carves out a limited exception for a utility grade solar energy installation facility that had the land underneath the fixed property assessed and valued on the January 1, 2021, assessment date. For these facilities with assessments that have been set for the January 1, 2021, assessment date, the assessed value cannot be changed until the next cyclical reassessment if the assessed value of the facility is less than the solar base rate.

Beginning July 1, 2021, the amended portion of Ind. Code § 6-1.1-8-24 will be as follows:

IC 6-1.1-8-24

Township assessor or county assessor determination of assessed values

...

(c) This subsection applies to assessment dates after December 31, 2021. The land portion of the fixed property of a utility grade solar energy installation facility shall be assessed at an amount that does not exceed the solar land base rate for the region in which the property is located.

(d) Assessing officials shall follow the normal guidelines and procedures as are applicable under IC 6-1.1-20.6.

(e) This subsection applies to a utility grade solar energy installation facility:

(1) that had the land portion of its fixed property assessed and valued on January 1, 2021, for property taxes first due and payable in 2022; and

(2) for assessment dates after December 31, 2021, but only until the next planned reassessment of the property during the county's four (4) year reassessment cycle under IC 6-1.1-4-4.2.

If, for an assessment date described in subdivision (2), the assessed value of the land portion of the fixed property of a utility grade solar energy installation facility described in this subsection for the January 1, 2021, assessment date is less than the solar land base rate for the region in which the property is located on a particular assessment date, the land portion of the fixed property of a utility grade solar energy installation facility shall be assessed at an amount equal to the assessed value determined for the January 1, 2021, assessment date.

Section 3 of HEA 1348, effective upon passage, adds Ind. Code § 6-1.1-8-24.5 and provides that the Department will determine and release the solar land base rates for the north, central, and south regions of the State. In calculating the base rate, the Department will determine the median true tax value (TTV) per acre of land in the region classified under the utility property class codes of the Department for the immediately preceding year. The Department will release its annual determination of the solar land base rates on or before December 1st of each year.

The new statutory language under Ind. Code § 6-1.1-8-24.5 will be as follows:

IC 6-1.1-8-24.5

Sec. 24.5. The department of local government finance shall annually determine and release a solar land base rate for the north region, the central region, and the south region of the state as follows:

- (1) For each region, the department shall determine the median true tax value per acre of all land in the region classified under the utility property class codes of the department of local government finance for the immediately preceding assessment date.
- (2) The department shall release the department's annual determination of the solar land base rates on or before December 1 of each year.

The solar land base rates annually determined by the Department will apply to the ensuing assessment date. For example, if the Department releases its annual determination on the solar land base rates on December 1, 2021, those rates will apply to the January 1, 2022 assessment date.

VI. Business Personal Property Exemptions

On April 29, 2021, Governor Holcomb signed into law Senate Enrolled Act 336-2021 (“SEA 336”). Section 1 of SEA 336, effective January 1, 2022, amends Ind. Code § 6-1.1-3-7.2 by increasing the acquisition cost of a taxpayer’s total business personal property in a county from \$40,000 to \$80,000 for purposes of receiving a business personal property tax exemption.

VII. Enterprise Zone Renewals

On April 19, 2021, Governor Holcomb signed into law House Enrolled Act 1025-2021 (“HEA 1025”). HEA 1025 amends Ind. Code § 5-28-15-10 as it relates to Enterprise Zones. It provides that an Enterprise Zone may be renewed for an additional five-year period if the fiscal body of the municipality in which the Enterprise Zone is located adopts a resolution to renew the Enterprise Zone. It also provides that a zone business located in the renewed Enterprise Zone may only access the property tax deduction incentives available under Ind. Code § 6-1.1-45. It further provides that an Enterprise Zone may be renewed in this manner regardless of the number of times the Enterprise Zone has been previously renewed under Ind. Code § 5-28-15-10. HEA 1025 is effective July 1, 2021.

Beginning July 1, 2021, the relevant amended portion of Ind. Code § 5-28-15-10 will be as follows:

IC 5-28-15-10

Expiration of enterprise zone; renewal

...

(g) Before the expiration date of an enterprise zone, the fiscal body of the municipality in which the enterprise zone is located may adopt a resolution to renew the enterprise zone for an additional five (5) year period. A zone business in an enterprise zone renewed under this subsection may only access incentives available under IC 6-1.1-45. An enterprise zone may be renewed under this subsection regardless of the number of times the enterprise zone has been previously renewed under this section.

VIII. Urban Agricultural Zones

On April 29, 2021, Governor Holcomb signed into law House Enrolled Act 1283-2021 (“HEA 1283”). HEA 1283 adds Ind. Code § 6-1.1-1-48, which provides a property tax exemption for a designated urban agricultural zone (UAZ). HEA 1283 is effective July 1, 2021.

HEA 1283 provides that a qualifying farmer may apply to a designating body to have an area designated as an UAZ. Before a designating body designating an area as a UAZ, it must hold a public hearing and allow for public comment. If a designating body designates an area as an UAZ, it may by ordinance or resolution exempt land located partially or wholly within a UAZ from property taxation.

HEA 1283 provides that if an UAZ is established, a designating body is to monitor the UAZ for compliance with the requirements of Ind. Code § 6-1.1-1-48 and those reasonably imposed in the ordinance or resolution adopted by the designating body. HEA 1283 outlines the requirements for a designating body to dissolve a UAZ for noncompliance.

HEA 1283 states that the term "urban agriculture zone" does not include rooftop gardening or farming practices that occur on the top of a building or residential home. It also provides that an area of land assessed as agricultural land under IC 6-1.1-4-13 or as a homestead (as defined in IC 6-1.1-12-37) may not be designated as an UAZ.

HEA 1283 specifies that a designating body may not impose a special benefits tax for public services provided to an UAZ unless the designating body imposed the special benefits tax before it designated the area as an UAZ.

Contact Information

Questions may be directed to Kelly Elliott, Deputy General Counsel, at (317) 233-9219 or KElliott@dlgf.in.gov.