

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Local Property Taxing Authorities

FROM: Timothy J. Rushenberg, Commissioner *TJR 11/12/09*

RE: Excessive Levy Appeal Procedures

DATE: November 12, 2009

House Enrolled Act 1001-2009 eliminated the Local Government and School Property Tax Control Boards ("Boards") as of January 1, 2010. The remaining functions of both Boards were transferred directly to the Department of Local Government Finance ("Department") effective July 1, 2009. Therefore, **the Department will review and make determinations regarding all excess property tax levy appeals, creation of new taxing districts, the establishment of new property tax supported funds, and the establishment of initial maximum levies.**

The process for submitting materials to the Department for issues that previously would have been sent to the Boards will remain the same. However, **the Department now requires only three (3) copies of the materials** rather than eight (8) previously required.

As outlined in our July 10, 2009 memo, the deadline for submitting materials for all appeals except shortfall appeals was October 19, 2009. **Units seeking to file shortfall appeals may do so until December 31, 2009.** All appeals must have been included and adopted in the budget for 2010 and included in the budget advertisement as an excessive levy appeal.

The Department will consider several issues when the review is conducted. On occasion a unit may be requested to meet with Department representatives in Indianapolis to discuss the merits and conditions of the appeal. Units may also request to meet with Department personnel to explain the appeal.

Attached is a list of questions to be considered when a unit is deciding whether to or not to request a meeting. Also included is a list of factors the Department may consider when reviewing a request. In addition to the items on the checklist, the Department may request supplemental information from the appellant unit after the appeal has been initially reviewed.

The first step of the review process is to determine if the unit qualifies for the appeal. Then the Department will confirm that all required materials have been submitted. Some of those appeals will be readily processed. Other steps may be required depending upon the appeal. The length of time required to process the majority of the appeals varies considerably and is according to the complexity of the appeal and if there are any legal questions requiring an opinion. Please allow two (2) weeks to eight (8) weeks to process appeals.

A major goal of the Department is process excessive levy appeals in a manner that allows timely certification of 2010 budget orders. To stay on track for on-time billing in 2010, the Department encourages units to file shortfall appeals as soon as possible.

Please send all levy and fund requests to Tafrica Harewood by mail at the above address, by e-mail at dlgftemp@dlgf.in.gov or by fax at 317.232.8779. If you have any questions about the process, please contact Tafrica Harewood, administrative assistant, at 317.234.5592 or dlgftemp@dlgf.in.gov, Micah Vincent, staff attorney, at 317.232.3772 or mvincent@dlgf.in.gov or Dan Jones, assistant budget director, at 317.232.0651 or djones@dlgf.in.gov.

Excessive Levy Appeals

Answering “yes” to the following questions may indicate the unit may need to meet with the Department to explain the appeal request:

1. Will this appeal require a significant tax increase in those tax districts?
2. Is the Department’s decision subjective?
3. Does the unit need to establish and prove a financial “need” for the appeal?
4. Does the appeal require clarification or explanation?

Factors the Department will consider while reviewing the appeal request:

1. What is the percent increase of the rate due to the appeal?
2. What is the percent increase of the levy due to the appeal?
3. What is the appeal impact per capita?
4. Is the taxing unit affected by circuit breaker credits? If so, discuss.
5. Will the appeal create a circuit breaker credit?
6. Has the unit experienced levy excess in the recent years?
7. What is the taxing unit’s history of excessive levy appeals?
8. Is the appeal in a TIF district?
9. Does the unit have a balance in the rainy day fund? If so, how much?
10. Does the unit plan to transfer surpluses in the current year to rainy day? If so, how much?
11. What is the units fund balance as percent of budget?
12. What will be the effect on the unit if the appeal is denied?
13. If the appeal is a correction of an error, explain the error.
14. If the appeal is an emergency appeal, explain the emergency.
15. If the appeal is an extension of services, consolidation, or annexation, how many additional people will the unit serve? What is the expected increase in assessed value? What will be the impact of the income and excise tax distribution?
16. If the appeal is an annexation, does the amount of the appeal agree with the fiscal plan as originally submitted?
17. Was there opposition or objectors to the appeal?
18. What was the vote by the fiscal body approving the appeal? Yes _____ No _____
19. Was the appeal advertised with the ensuing year’s budget advertisement?
20. Is the appeal a permanent or temporary increase to the maximum levy?

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