STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

TO: School Corporation Officials

FROM: Courtney L. Schaafsma, Commissioner

SUBJECT: School Corporation Waiver from the Implementation of Protected Taxes

DATE: April 18, 2016

NOTE: On March 23, 2016, Governor Pence signed into law House Enrolled Act 1109-2016 ("HEA 1109"). Section 1 of HEA 1109 makes changes effective July 1, 2016 concerning the eligibility requirements for school corporations seeking to waive implementation of protected taxes. The Department of Local Government Finance ("Department") will release a memorandum on HEA 1109 at a later date. Because the changes made by HEA 1109 do not go into effect until July 1, they will not impact the eligibility requirements for waiving implementation of protected taxes for the 2016 budget year. Therefore, this memorandum will not address these legislative changes.

Indiana Code 6-1.1-20.6-9.9 allows certain school corporations to waive the implementation of protected taxes under IC 6-1.1-20.6-9.8 for 2014, 2015, or 2016, as applicable. This memorandum details the process by which a school corporation can obtain a waiver.

Under IC 6-1.1-20.6-9.8, protected taxes went into effect for Pay 2014. Protected taxes are designed to ensure sufficient tax collections in a taxing unit's debt service funds in order to meet debt service obligations. In order to "protect" the debt service funds, the circuit breaker credits attributable to the tax rate for the debt service funds are applied against a taxing unit's unprotected or non-debt service funds.

Under IC 6-1.1-20.6-9.9, a school corporation can determine its eligibility to waive the implementation of protected taxes for 2014, 2015, or 2016. School corporations that are eligible for the waiver in a given year will be allowed to allocate their 1%, 2%, and 3% circuit breaker credits proportionally across all funds that are not exempt from circuit breaker credits without regard for whether the fund is a debt service fund. Only exempt funds (voter-approved referenda funds and certain Lake and St. Joseph County unit debt funds) are excluded from the application of 1%, 2%, and 3% circuit breaker credits, but they are not excluded from the application of the Over 65 Credits provided for in IC 6-1.1-20.6-8.5.

In sum, debt service funds will be allowed to experience a loss associated with the 1%, 2%, and 3% circuit breaker credits for those school corporations that are eligible for and timely request the waiver from the implementation of protected taxes.

To determine if a school corporation is eligible for a waiver, a school corporation should prepare the following analysis:

1. Determine the amount of circuit breaker credits being applied to the school corporation's transportation fund. This amount should be calculated assuming protected taxes are in place for the school corporation. To determine this amount, the school corporation can use the Department's circuit breaker reports. These reports can be found on the Department's website at http://in.gov/dlgf/9515.htm. The values computed for these reports assume the implementation of protected taxes for the school corporation's funds. The school corporation can utilize the circuit breaker credit amount shown for its transportation fund. The school corporation may only use a report for the applicable year in which the waiver would apply. **Reports from prior years may not be used.**

2. Determine the amount of the transportation fund levy for the school corporation. This should equal the certified levy for the school corporation transportation fund from the 2016 Budget Order. The certified levy is also shown on the circuit breaker report for easy reference.

3. Divide the circuit breaker credit amount by the transportation fund levy and express it as a percentage. If the circuit breaker loss equals at least 10% of the transportation fund levy, the school corporation is eligible for a waiver. This calculation must show a loss of at least 10%. **Rounding up the calculation in order to achieve 10% will be not accepted.**

A school corporation that is an eligible school corporation and that would like to waive the implementation of protected taxes must submit a written request to the Department for a certification that the school corporation's calculation is correct. This written request must be provided to the Department before May 1 of the year in which the school corporation wants the waiver. In order to facilitate the calculation detailed above and the written request by the school corporation, the Department has prepared a standard form for the written request, which is attached to this memorandum. A school corporation seeking a certification should complete this form and email it to David Marusarz at dmarusarz@dlgf.in.gov. Because April 30 falls on a Saturday in 2016, this form must be submitted by May 2. It is recommended, but not required, that the form be accompanied by a school board resolution authorizing submission of the application. **Any written request received by the Department after May 2 will not be accepted.**

After receiving a written request from a school corporation, the Department will determine whether the percentage computed by the school corporation is accurate and whether the school corporation is eligible for the waiver. The Department must complete its actions by June 1 of the year for which the waiver is requested.

Indiana Code 6-1.1-20.6-9.9 allows for a waiver to be granted for taxes payable in 2014, 2015, and 2016. A school corporation that is approved in one year for a waiver must submit a written request and calculation again in each future year in order to qualify. As an example, if a school corporation received a waiver in 2015, it must submit a written request again by May 2, 2016 using 2016 circuit breaker credit and levy information in order to qualify for the waiver in 2016. Each waiver applies only to one applicable tax year.

For those school corporations that submit a written request and are determined eligible for the waiver, additional steps must be taken when the school corporation receives its tax distributions in June and

December. The school corporation will be responsible for reallocating its tax distribution among the appropriate funds in order to eliminate the impact of protected taxes. Further information and guidance on this process will be provided by the Department in advance of the June tax distributions.

A school corporation should submit this request only if it intends to proceed with the waiver. A school that submits a request but later rescinds it could delay or disrupt its 2017 budget certification. School corporations are highly encouraged to review their financial situation, work with their financial advisors, or confer with the Department about how the mechanics of waiving protected taxes will affect the school corporations' other funds before submitting their requests.

If you have any questions on the process outlined above, please contact David Marusarz, Deputy General Counsel, at (317) 233-6770 or dmarusarz@dlgf.in.gov.