TO: School Corporation Officials  
FROM: Courtney L. Schaafsma, Commissioner  
SUBJECT: School Corporation Waiver from the Implementation of Protected Taxes  
DATE: April 19, 2017

This memorandum will discuss the procedures for a school corporation to waive the implementation of protected taxes for 2017, first implemented by House Enrolled Act 1062-2014 (“HEA 1062”) and amended by HEA 1109-2016 (“HEA 1109”).

On March 25, 2014, Governor Mike Pence signed HEA 1062 into law. Section 3 of HEA 1062 adds IC 6-1.1-20.6-9.9 to allow certain school corporations a waiver from the implementation of protected taxes under IC 6-1.1-20.6-9.8, originally for 2014, 2015 or 2016 as applicable.

Under IC 6-1.1-20.6-9.9, a school corporation can determine its eligibility to waive the implementation of protected taxes. School corporations that are eligible for the waiver in a given year will be allowed to allocate their 1%/2%/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 (voter-approved referendum or certain debt funds in Lake and St. Joseph counties) funds are excluded from the application of 1%/2%/3% circuit breaker credits. Exempt funds are not excluded from the application of the Over 65 credits provided for in IC 6-1.1-20.6-8.5. This means debt service funds will be allowed to experience a loss associated with 1%/2%/3% circuit breaker credits for those school corporations that are eligible for and timely request the waiver from the implementation of protected taxes.

On March 23, 2016, Governor Pence signed HEA 1109 into law. Section 1 of HEA 1109 amended IC 6-1.1-20.6-9.9 to extend the waiver from implementing protected taxes into 2017 and 2018. It also added an additional restriction for a school corporation seeking a waiver for these years. If a school corporation issues new bonds or enters into a new lease rental agreement for which the school corporation is imposing or will impose a debt service levy (except a levy to refinance or renew prior bond or lease rental obligations existing before January 1, 2017, or indebtedness approved by a local public question or referendum), and the school corporation’s total debt service levy in the applicable year is greater than the school corporation’s 2016 debt service levy, the school corporation is not eligible to allocate credits proportionately.

For determination of eligibility for 2017, the Department will not consider the additional provisions regarding the issuance of debt that were implemented in HEA 1109. The language in IC 6-1.1-20.6-9.9 contemplates the issuance of debt throughout 2017 as a factor to be considered when making the eligibility determination. However, the timing of the waiver process for 2017 does not allow for the Department to have complete and verified information on the issuance of debt in 2017 by school corporations. As such, the Department will consider the issuance of debt in 2017 as a factor that would impact the school corporation’s eligibility for the waiver in 2018. This will allow the Department to verify the existence of debt during the budget review process for Budget Year 2018.
To determine if a school corporation is eligible for a waiver from the implementation of protected taxes, a school corporation should prepare the following analysis:

1. Determine the amount of circuit breaker credits being applied to the school’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 of Local Government Finance’s (“Department”) circuit breaker reports. These reports can be found on the Department’s webpage at [http://www.in.gov/dlgf/9598.htm](http://www.in.gov/dlgf/9598.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 transportation fund from the 2017 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 from the implementation of protected taxes. In order to qualify, 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 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 by April 30 of the year in which the school corporation wants the waiver from the implementation of protected taxes. Because April 30 falls on a Sunday in 2017, the written request must be received by May 1, 2017. In order to facilitate the calculation detailed above and the written request by the school corporation, the Department has prepared a standard State form for the written request. State Form 56028 can be found at [http://in.gov/dlgf/8516.htm](http://in.gov/dlgf/8516.htm) or via a direct link at [https://forms.in.gov/Download.aspx?id=12743](https://forms.in.gov/Download.aspx?id=12743). A school corporation desiring to be determined to be eligible for the waiver from the implementation of protected taxes should complete this form and email it to David Marusarz at dmarusarz@dlgf.in.gov. It is recommended, but not required, that a form be accompanied with a school board resolution or similar action authorizing submission of the application. **Any written request received by the Department after May 1 will not be accepted.**

After receiving a written request from a school corporation, the Department shall determine whether the percentage computed by the school corporation is accurate and whether the school corporation is eligible for the waiver from the implementation of protected taxes. 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 2016, 2017, or 2018. 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 2016, it must submit a written request again by May 1, 2017 using 2017 circuit breaker credit and levy information in order to qualify for the waiver in 2017. Each waiver applies only to one applicable tax year.

For those school corporations that have submitted a written request and that the Department has determined to be eligible for the waiver from the implementation of protected taxes, additional steps will be necessary 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 2018 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.