



Disasters

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Today's class will cover

- Review of IC 6-1.1-4-11 and IC 6-1.1-4-11.5
- Disaster Petitions
- Case Law
- Effective Date of Reassessment
- Filing Deadline for the Petition
- Reassessing Damaged Property
- FAQ's
- Resources
- Questions



Disasters

- **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 partially or totally destroyed 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



Disasters

- (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.



Disasters

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 31 of the year in which the taxes which would first be affected by the reassessment are payable.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.2-1995, SEC.22; P.L.90-2002, SEC.34; P.L.219-2007, SEC.12.



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IC 6-1.1-4-11.5

Reassessment of parcels affected by flooding; petition; applicable dates; refund; publication of notice

- Sec. 11.5. (a) This section applies to one (1) or more parcels of real property in a county that:
 - (1) are permanently flooded or to which access over land is permanently prevented by flooding; and



Disasters

(2) are not being used for agricultural purposes.

(b) The owner of one (1) or more parcels referred to in subsection (a) may petition the county assessor for a reassessment of the parcel or parcels. Upon receipt of the petition, the county assessor shall:

(1) cause a survey to be made of the parcel or parcels; and



Disasters

- (2) if the parcel or parcels meet the description of subsection (a), order a reassessment of the parcel or parcels.
- (c) If the flooding referred to in subsection (a) occurs before May 11 of a calendar year (the "current year") and after the immediately preceding November 10 and a petition under subsection (b) is filed not later than December 31 of the current year:



Disasters

- (1) the reassessment ordered under subsection (b):
 - (A) takes effect for:
 - (i) the assessment date in the current year; and
 - (ii) the assessment date in the calendar year that immediately precedes the current year; and



Disasters

- (A) treats the parcel or parcels for those assessment dates as:
 - (i) being permanently flooded; or
 - (ii) having overland access permanently prevented by flooding;
- (2) the property taxes first due and payable in the current year with respect to the parcel or parcels are determined based on the reassessment; and



Disasters

- (3) the property taxes first due and payable in the calendar year that immediately succeeds the current year with respect to the parcel or parcels are determined based on the reassessment.
- (d) If the flooding referred to in subsection (a) occurs after May 10 of the current year and before November 11 of the current year and the petition under subsection (b) is filed not later than December 31 of the current year:



Disasters

- (1) subsection (c)(1) and (c)(3) apply; and
- (2) only:
 - (A) the second installment of property taxes under IC 6-1.1-22-9(a) first due and payable in the current year with respect to the parcel or parcels; or
 - (B) if property taxes are payable by a method other than two (2) annual installments, one-half (1/2) of the property tax liability for property taxes first due and payable in the current year with respect to the parcel or parcels; is determined based on the reassessment.



Disasters

- (e) This subsection applies only if:
- (1) the county assessor orders a reassessment under subsection (b); and
 - (2) the property owner pays property taxes in the current year with respect to the parcel or parcels based on the assessment that applied before the ordered reassessment.



Disasters

- The property owner is entitled to a refund of property taxes based on the difference in the amount of property taxes paid and the amount of property taxes determined based on the ordered reassessment. A property owner is not required to apply for a refund due under this section. The county auditor shall, without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund, if any, due the property owner.



Disasters

(f) If:

- (1) the county assessor orders a reassessment under subsection(b); and
- (2) when the reassessment is completed the property owner has not paid property taxes in the current year with respect to the parcel or parcels based on the assessment that applied before the ordered reassessment; the county treasurer shall issue to the property owner tax statements that reflect property taxes determined based on the reassessment.



Disasters

- (g) The county assessor shall specify in an order under subsection (b) the time within which the reassessment must be completed and the date on which the reassessment takes effect.
- (h) A reassessment under this section for an assessment date continues to apply for subsequent assessment dates until the assessor:



Disasters

- (1) determines that circumstances have changed sufficiently to warrant another reassessment of the property; and
- (2) reassesses the property based on the determination under subdivision (1).
 - (i) The county auditor and county treasurer shall publish notice of the availability of a reassessment under this section in accordance with IC 5-3-1.

As added by P.L.90-2009, SEC.1.



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Disaster Petitions:

- Affidavit of Destroyed or Removed Property (Form 135)
(<https://forms.in.gov/Download.aspx?id=6050>)
- Petition for Survey and Reassessment Real Property That Is Permanently Flooded Or Access Is Permanently Prevented By Flooding (Form 137PF)
(<https://forms.in.gov/Download.aspx?id=6978>)



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Disaster Petitions:

- Petition for Survey and Reassessment Real And Personal Property Partially Or Permanently Destroyed Disaster (Form 137R) (<https://forms.in.gov/Download.aspx?id=4773>)

Note: Form 137PF cannot be used for real property being used for agricultural purposes.



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Case Law:

- Before case law, the STB/DLGF determined that a substantial amount of property within a township was 1% of the total assessed value of all property within the township.
- The STB/DLGF determined that the “disaster” had to affect more than one property.



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- There were two cases that substantially changed the STB/DLGF criteria for ordering a reassessment:
 1. Beta Steel Corp. v. DLGF
 2. Scheid v. STB



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Beta Steel Corp. v. DLGF:

- The DLGF denied the reassessment order because the assessed value of the destroyed property was not 1% of the total assessed value of all property within the township.



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- On December 20, 2002, the Indiana Tax Court published its determination that a “substantial amount” of destroyed property cannot be made in relation to the total assessed value in a township; and that the 15% of their real property and the 20% of their personal property that was destroyed did constitute a “substantial amount,” and thus ordered the reassessment of the property.



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- Because of this case law, the DLGF no longer used 1% of the total assessed value within a township to determine whether or not the destruction was a “substantial amount.”



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Scheid v. STB:

- In this case, a fire destroyed a building and real estate assessed at \$187,950.
- The STB contended that a fire was not a disaster.
- The Indiana Tax Court ruled that a fire was a disaster even though it was to a single family residence.



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- Because of this ruling, the theory that there has to be multiple properties involved in order to have a disaster is invalid.
- For purposes of this statute, the destruction of a single residence can constitute a “disaster” and a “disaster” does not have to be widespread.



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Effective Date of Reassessment:

- The effective date of the reassessment is the assessment date that is prior to the occurrence of the disaster.
- For annually assessed mobile/manufactured homes, it is the January 1 before the date of the disaster.
- For all other real and personal property, it is the January 1 before the date of the disaster.



Disasters

- For example, if the disaster occurred today the taxes effected would be the 2017 pay 2018 taxes for real and personal property or the 2017 pay 2017 taxes for annually assessed mobile/manufactured homes.



Disasters

Filing Deadline for the Petition:

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



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- If the disaster occurred today, the petition would be for taxes payable in 2018. The petition filing, reassessment, and tax adjustment order must be made by December 31, 2018. (If for an annually assessed mobile/manufactured home, it must be made by December 31, 2017).



Disasters

Reassessing Damaged Property:

- Physical inspection of property is required.
- Evidence such as photos, videos, repair bills, insurance claims, news articles, and appraisals should be reviewed.
- Documentation from local, state, and federal agencies may be helpful.



Disasters

- The final step is to determine the new assessed value of the property and notify the taxpayer of the change on the notice that is attached to the 137R petition.
- If the taxpayer disagrees he can appeal pursuant to IC 6-1.1-15.
- If the county assessor contracts with a vendor to perform reassessments, the contract must be submitted to the DLGF for review, as with any contract for assessment functions.



Disasters: Frequently Asked Questions

- **Question:** Could the decision to reassess or not be based solely on whether the President declared the area a disaster area and the homeowners qualified for federal disaster aid?
- **Answer:** NO! The decision to reassess should never be made solely on the basis of a disaster declared by a Governor or President. Each petition stands on its own and must be reviewed independently.



Disasters: Frequently Asked Questions

- **Question:** If a house burns down because of faulty wiring or if lightning hits a tree that falls onto the house, would a reassessment be ordered?
- **Answer:** It is likely that these examples would qualify for reassessment. (The Scheid case addresses this point specifically.)



Disasters: Frequently Asked Questions

- **Question:** If a disaster occurs in July of 2017 what assessment is affected if a reassessment is ordered?
- **Answer:** The effective date would be the assessment date prior to the disaster. If it was an annually assessed mobile/manufactured home the effective date would be 1/1/17 for taxes payable in 2017. If it was any other real or personal property the assessment date affected would be 1/1/17 for taxes payable in 2018.



Disasters: Frequently Asked Questions

- **Question:** Could a home be reduced to zero if it is completely destroyed?
- **Answer:** Yes. The true tax value for the home would be reduced to \$0 and the true tax value of the land would remain the same.



Disasters: Frequently Asked Questions

- **Question:** Would the assessed value be permanently reduced or is it for one year only?
- **Answer:** Each case stands on its own. The property would have to be looked at each assessment date subsequent to the disaster. If the property has been repaired by the next assessment date, the change would only be for one year. If the property has not been repaired, the reduced assessment would remain for each subsequent assessment date until the repairs are made.



Disasters: Frequently Asked Questions

- **Question:** Do we treat the damage by flooding the same way as we do if it is by a tornado?
- **Answer:** The procedure is the same no matter what causes the disaster. It makes no difference whether the loss in value is caused by wind, flooding, or any other reason. Each case stands on its own.



Disasters: Frequently Asked Questions

- **Question:** There has been a severe amount of flooding in our area. Should a taxpayer file Form 137R or Form 137 PF?
- **Answer:** The decision depends on the individual circumstances. However, Form 137 PF should be used if one or more parcels of real property within a county are permanently flooded or to which access over land is permanently prevented because of flooding.



Disasters: Frequently Asked Questions

- **Question:** Does everyone who files a disaster petition get reassessed?
- **Answer:** No. Again each case stands on its own. There could be some minor damage without any decline in value to the property. If this is the case, no reassessment would be ordered. However; if there is damage that is severe enough to cause a loss in value to the property, a reassessment should be done.



Disasters: Frequently Asked Questions

- **Question:** Do assessors have to physically inspect the damage done to improvements on every petition filed?
- **Answer:** Physical inspections are mandatory and the only way to determine the true amount of damage. However; if the repairs have been made prior to the physical inspection other evidence must be considered as well.



Disasters: Frequently Asked Questions

- **Question:** What role does the taxpayer play in this process?
- **Answer:** The taxpayer must initiate the petition and then provide any information that is helpful in determining whether or not a reassessment should be ordered. i.e., photographs, news articles, etc.



Disasters: Frequently Asked Questions

- **Question:** What if the taxpayer files a petition but gives no supporting evidence?
- **Answer:** The assessor must physically inspect the property and make the determination based on the best information available. Each case stands on its own.



Disasters: Frequently Asked Questions

- **Question:** Should the assessor refuse to accept a Form 137R if the assessor does not think the property qualifies for reassessment?
- **Answer:** No. A taxpayer should always be allowed to file. The assessor then determines whether or not to reassess. If the decision is to not reassess, the taxpayer can appeal per IC 6-1.1-15.



Disasters: Frequently Asked Questions

- **Question:** So does this process apply only to real property?
- **Answer:** No. If personal property has been assessed on a Form 102 or 103, a reassessment could be ordered.



Disasters: Frequently Asked Questions

- **Question:** Can the assessor file the petition for the taxpayer?
- **Answer:** No. The taxpayer must file the petition and sign it.



Disasters: Frequently Asked Questions

- **Question:** Can a taxpayer file multiple parcels on one petition?
- **Answer:** Although a separate petition for each parcel is preferred, a taxpayer could file one petition for all of the parcels (a comprehensive list of each parcel number, property address, and legal description should be included). However, a physical inspection is mandatory for each parcel, and it is possible that some parcels may be reassessed and some are not reassessed.



Disasters: Frequently Asked Questions

- **Question:** Is the petition good for one year only, or does the taxpayer need to file a petition each year?
- **Answer:** This question would have to be answered on a case-by-case basis since each assessment date stands alone. However, since a disaster presumably does not occur repeatedly, the petition would be for the current event. There could be a situation where due to the extent of the damage, repairs could take more than one year, in which case a petition should be filed each year.



Disasters: Frequently Asked Questions

- **Question:** How is the taxpayer notified that their petition has been approved or denied?
- **Answer:** At the bottom of both Form 137R and Form 137PF, the county assessor checks whether a reassessment was ordered. A copy should be sent to the taxpayer (the assessor keeps the original). If a reassessment is ordered, a Notice of Assessment indicating the revised assessed value should be sent to the taxpayer. Under I.C. 6-1.1-15, the taxpayer would have the right to appeal the change in assessed value.



Disasters: Frequently Asked Questions

- **Question:** Are there any other helpful hints that could be offered?
- **Answer:** When a taxpayer comes into your office and files this petition, review the form and make certain there is current contact information included. If a person is forced to relocate because of the disaster and the form lists a mailing address and phone number for the destroyed or damaged home, it will be difficult to contact the taxpayer for more information.



Disasters

Resources:

- http://www.in.gov/dlgf/files/pdf/Memo_RegardingDisasterPetitionsForm137R.pdf
- [http://www.in.gov/dlgf/files/pdf/110429 -
Wood Memo -
Reassessment Following a Disaster and P
ermanently Flooded Property Reassessmen
ts.pdf](http://www.in.gov/dlgf/files/pdf/110429_-_Wood_Memo_-_Reassessment_Following_a_Disaster_and_Permanently_Flooded_Property_Reassessments.pdf)



Questions



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