
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Assessing Officials
FROM: Courtney L. Schaafsma, Commissioner
RE: Legislation Affecting Assessment Matters
DATE: September 1, 2017

This memorandum discusses the revisions made to the law regarding property tax assessments. Please note that this memorandum is for informational purposes only and is not a substitute for reading the law.

I. Rolling Assessed Values

On April 28, 2017, Governor Holcomb signed into law Senate Enrolled Act 386-2017 (“SEA 386”).

Section 1 of SEA 386, effective upon passage, amends IC 6-1.1-3-17 to require the assessing official to roll personal property assessed values to the county auditor on or before July 1.

Previously, for assessment dates starting in 2017, personal property assessed values had to be rolled on or before June 15. Similarly, Sections 3 & 5 amend IC 6-1.1-4-4.6 & IC 6-1.1-15-14, respectively, to require the assessing official to roll real property assessed values on or before July 1 (originally, by June 1). The Department released a memo on June 1, 2017, regarding the changes to the roll dates, found at this link: <http://in.gov/dlhf/files/pdf/170601%20-%20Schaafsma%20Memo%20-%20Personal%20and%20Real%20Property%20Roll%20Dates.pdf>. This change is effective for this year and impacts the rolling of the assessed values for the 2017 Pay 2018 tax year.

II. Assisted Living Facilities

On April 28, 2017, Governor Holcomb signed into law House Enrolled Act 1450-2017 (“HEA 1450”). Sections 3 & 7 of HEA 1450 amends the law regarding assessing assisted living facilities.

Section 3 of HEA 1450, effective upon passage, adds IC 6-1.1-1-3.1 defining “assisted living facilities” as an array of services that may be provided to a recipient residing in a facility eligible to provide home and community based services, including any and all of the following:

- (1) Personal care services.
- (2) Homemaker services.
- (3) Chore services.

- (4) Attendant care services.
- (5) Companion services.
- (6) Medication oversight (to the extent permitted under state law).
- (7) Therapeutic, social, and recreational programming.

Section 7 of HEA 1450, effective July 1, 2017, makes two significant changes to IC 6-1.1-4-41. First, “low income rental property” is redefined as real property used to provide low income housing eligible for federal income tax credits awarded under Internal Revenue Code Section 42, **including during the time period during which the property is subject to an extended low income housing commitment under Internal Revenue Code Section 42** (amendment in bold). The term and definition for “rental period” was also deleted.

Second, Section 7 adds subsection (c), providing that, for assessment dates starting in 2018, **the total true tax value of low income rental property that offers or is used to provide Medicaid assisting living services equals the total true tax value that results in a gross annual tax liability equal to five percent (5%) of the total gross rent received from the rental of all living units in the property for the most recent taxpayer fiscal year ending before the assessment date. The total true tax value must not include gross receipts from, or value of, any assisted living services provided** (amendment in bold). Currently, low income rental property is assessed at the amount determined using income capitalization or the value that results in gross taxes equal to 5% of the annual total gross rents for the property, whichever is lower. As a result, there is variation among counties as to whether in using the income approach to value for these facilities, the total income stream generated or the room and board only should be used. The intent of this provision is to clarify that the revenue related to the room and board is to be used.

III. Holder of Legal Title as “Owner”

Section 4 of HEA 1450, effective upon passage, amends the definition of “owner” for purposes of property tax assessment. IC 6-1.1-1-9 is therefore amended so that the holder of the legal title to personal property, or the legal title in fee to real property, is the owner, regardless of whether the holder of legal title holds a fractional interest, a remainder interest, a life estate, or a tenancy for a term of years. It also provides that when a life tenant of real property or a holder of a tenancy for a term of years in real property is in possession of the real property, only the life tenant or the holder of a tenancy for a term of years is the owner of that property. These amendments clarify that the holder of a fractional interest, as well as the holder of a life estate interest, is an owner of real property if that interest holder is in possession of the real property.

The Department notes that ‘possession’ as a legal concept means, among other things, to exercise control over something to the exclusion of all others. Hence, in order to be considered the owner of the property, a holder of a fractional interest in property (i.e., a tenant for a term of years) must have exclusive control over the premises applicable to the tenancy.

IV. Agricultural Base Rate

Section 6 of HEA 1450 makes two changes to IC 6-1.1-4-4.5, affecting the agricultural base rate. First, it changes the requirement to use data from the six most recent years, for which data is available, preceding the assessment year. Under HEA 1450, the Department must use data which comes from the six most recent years preceding the assessment year, regardless of whether data is available in a given year within that six year span. This change allows the Department to utilize estimated values as needed, though the Department will look to depend on official data as much as possible. Second, IC 6-1.1-4-4.5 is amended so that the Department must release its annual base rate determination on or before March 1 of each year. Section 6 of HEA 1450 is effective retroactive to January 1, 2017.

Section 2 of SEA 386 also modifies IC 6-1.1-4-4.5 to require the Department to release the annual base rate determination not later than March 1 of each year. This section is effective on January 1, 2018.

V. Payment of Penalties for Delinquent Utility Property Filings

Section 9 of HEA 1450 amends IC 6-1.1-8-20 to require a utility company for which a penalty is imposed for a late utility property return to remit payment to the Department of Revenue (“DOR”). The Department is required to notify both the Attorney General’s Office and the DOR if a utility company fails to timely file a return. This section is effective July 1, 2017.

VI. Deadline to Adopt Market Segmentation Rule

Section 19 of HEA 1450, effective retroactive to July 1, 2016, sets a new deadline for the Department to adopt a rule on market segmentation under IC 6-1.1-31-6. Under current law, the Department cannot adopt a rule on the assessment of real property after June 30 in the year prior to assessment work beginning on real property. This section allows the Department until September 1, 2017, to adopt a rule on market segmentation, and that the rule upon adoption and approval by the Governor would affect assessments starting with the January 1, 2018, assessment date.

VII. Personal Property Assessment Audit Contracting

On April 21, 2017, Governor Holcomb signed into law Senate Enrolled Act 449-2017 (“SEA 449”). Section 1 of SEA 449, effective July 1, 2017, amends IC 6-1.1-36-12 regarding county contracts with property tax audit contractors.

First, SEA 449 makes changes regarding the special nonreverting fund set up to collect revenue from taxes resulting from undervalued or omitted property. A contract entered into after June 30, 2017, including any extensions, must specify a monetary threshold set by the county assessor. When the money in the special nonreverting fund exceeds the threshold, then the county auditor shall distribute the excess money to the appropriate taxing units in the county using the property tax rates of each taxing unit in effect at the time of the distribution.

In addition, IC 6-1.1-36-12 is amended so that the contract for audit services may not be drafted to provide for payments to the contractor that are based in any way on increases of assessed value or property tax revenue that are attributable to the discovery of property that has been undervalued or omitted from assessment.

Finally, the term of a contract for audit services entered into after June 30, 2017, may not exceed three (3) years, including any extensions.

Contact Information

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