

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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

**TO:** Assessing Officials & County Auditors  
**FROM:** Wesley R. Bennett, Commissioner  
**RE:** Legislation Affecting Assessment Matters  
**DATE:** June 17, 2019

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. Definition of “Owner”**

On May 5, 2019, Governor Holcomb signed into law House Enrolled Act 1427-2019 (“HEA 1427”). Section 11 of HEA 1427, effective July 1, 2019, amends the definition of “owner” under IC 6-1.1-1-9 to delete the provision specifying that an owner of tangible property includes the holder of a tenancy for a term of years (e.g., lessees).

During the 2017 Session, IC 6-1.1-1-9 was amended to specify that the holder of 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. While these amendments clarified that the holder of a fractional interest, as well as the holder of a life estate interest, was an owner of the real property if the holder was in possession of the property, the amendment also created a situation where lessees could be considered the owner of the property and therefore liable to property taxes. The revision under Section 1 of HEA 1427 clarifies that holder of a tenancy for a term of years or a lessee is not considered the owner of the property, and therefore is not liable for property taxes.

## **II. Like-Kind Exchanges of Depreciable Personal Property**

Section 12 of HEA 1427 specifies that the basis of the acquisition cost for depreciable personal property acquired in like-kind exchanges must be reported as: (1) the net book value of the depreciable personal property traded in; plus (2) any cash boot added to the exchange. A like-kind exchange of depreciable personal property would include transactions that meet the following:

- (1) The exchange would have been eligible for non-recognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017, also referred to as the federal Tax Cuts and Jobs Act of 2017;

- (2) The exchange is not eligible for non-recognition of gain or loss under Section 1031 of the Internal Revenue Code currently in effect; and,
- (3) The taxpayer made an election to take deductions under Section 179 [Election to Expense Certain Depreciable Business Assets] of Section 168(k) [Special Allowance for Certain Property] of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

SECTION 12 (HEA 1427) – IC 6-1.1-3-2.5

### **III. Assessment Contracts**

Sections 14-15 of HEA 1427, effective July 1, 2019, specify that professional appraiser contracts may be approved or denied by the Department of Local Government Finance (“Department”); however, the Department is no longer required to be a party to the contract. Beginning July 1, 2019, a county assessor who enters into a contract with a professional appraiser will be required to upload the contract to Gateway no later than thirty (30) days after the contract is executed. Upon successful upload to Gateway, the Department will review the agreement to ensure compliance with IC 6-1.1-4-19.5.

Section 16 of HEA 1427 modifies IC 6-1.1-4-19.5 to specify that all contracts with professional appraisers must include a provision stating that the contract is void and unenforceable if:

- (1) the appraiser is not certified by the Department on the date that the contract is executed; or
- (2) the Department subsequently revokes the professional appraiser’s certification under IC 6-1.1-31.7-4 after the contract is executed.

SECTION 16 (HEA 1427) – IC 6-1.1-4-19.5

The Department will be uploading revised Model Contracts for professional appraiser services.

### **IV. Gas & Oil Well Assessments**

On April 24, 2019, Governor Holcomb signed into law House Enrolled Act 1305-2019 (“HEA 1305”), which provides for the imposition of a monetary penalty against owners of oil or gas interests who fail to timely file property schedules. As revised by HEA 1305, the property schedule for gas and oil well assessments (Form G & O-1) with the appropriate assessor by May 15 of each year. If a taxpayer fails to file Form G & O-1 on or before May 15, the county auditor must add a \$25 penalty to the taxpayer’s next property tax installment.

Additionally, the county auditor is required to add an additional penalty to the taxes payable if the taxpayer fails to file the schedule within thirty (30) days after May 15. The additional penalty must be ten percent (10%) of the taxes finally determined to be due with respect to the property that should have been reported on the schedule by May 15.

## **V. Land in Inventory**

On April 24, 2019, Governor Holcomb signed into law House Enrolled Act 1345-2019 (“HEA 1345”). Section 1 of HEA 1345, effective January 1, 2020, provides that if a for-profit land developer acquires land in inventory from a school corporation or a local unit of government, the land in inventory shall be assessed as agricultural land at the agricultural land base rate for the first assessment date immediately following the date that the land developer acquires title to the land in inventory. For all assessments after the first year, the land in inventory is subject to the standard provisions for reassessment of a land developer’s land in inventory.

In addition to the revisions in HEA 1345, Section 13 of HEA 1427 specifies that the above assessment requirements only apply to property acquired from a school corporation or from a local unit of government that meets either of the following criteria:

- (1) local unit of government (as defined in IC 14-22-31.5-1), but only if the local unit of government:
  - (A) acquired the land in a tax sale procedure under IC 6-1.1; or
  - (B) had held the land for not less than three (3) years prior to the date on which the for-profit land developer acquires it from the local unit of government.

SECTION 13 (HEA 1427) – IC 6-1.1-4-12

### **Contact Information**

Questions may be directed to Emily Crisler, Deputy General Counsel, at (317) 234-8624 or [emcrisler@dlgf.in.gov](mailto:emcrisler@dlgf.in.gov).