

Procedure for Appeal of Assessment

Taxpayer has right to appeal assessment.

- Form 11 Notice (must file appeal within 45 days)
- Form 113 Notice (must file appeal within 45 days)
- Tax Bill (notice required but not issued, must file appeal within 45 days)
- May 10 Filing (notice not required)

IC 6-1.1-15-1(a)-(d)

Taxpayer files a property tax appeal with assessing official.

With the assessing official, the taxpayer files an appeal containing the taxpayer's name, address and parcel/key number of the property, and taxpayer's address and telephone number. (Form 130 may be used but is not required.)

IC 6-1.1-15-1(f)

Filing of the appeal:

- initiates a review; and
- constitutes a request by the taxpayer for a preliminary informal meeting with the assessing official.

IC 6-1.1-15-1(g)

Assessing official must forward appeal to PTABOA and attempt to hold the preliminary informal meeting with the taxpayer to resolve as many issues as possible. Not later than 10 days after the meeting, the assessing official must forward results of the preliminary meeting to Auditor and PTABOA¹ using Form 134.

IC 6-1.1-15-1(h)-(i)

If PTABOA receives Form 134 that indicates an agreement was reached before the PTABOA hearing:

- PTABOA cancels hearing,
- assessing official gives notice of the agreed to assessment to PTABOA, Auditor and Assessor (if not same as assessing official); and
- PTABOA may change assessment.

IC 6-1.1-15-1(j)

If no agreement is reached or PTABOA does not receive Form 134 within 120 days of appeal, PTABOA must hold hearing within 180 days of filing of appeal.

IC 6-1.1-15-1(k)

During the PTABOA hearing, taxpayer may present his/her evidence for disagreement. The assessing official must present the basis for the assessment decision and refute the taxpayer's evidence. No appraisal is required by taxpayer.³

IC 6-1.1-15-1(l)-(m)

1. PTABOA =

County Property Tax Assessment Board of Appeals

• Each county must have PTABOA comprised of individuals "knowledgeable in the valuation of property."

• The County Commissioners may determine whether to have a 3 or 5 member PTABOA. The County Assessor is a non-voting member of the PTABOA regardless of the number of members.

• Three-Member PTABOA:

- The fiscal body appoints 1 individual who must be a certified Level II or III assessor-appraiser.
- The Board of Commissioners appoints 2 freehold members so that not more than 2 of the members may be of the same political party and so that at least 2 are residents of the county. At least 1 of the Board's appointees must be a certified Level II or III assessor-appraiser. The Board, however, may waive that requirement.

• Five-Member PTABOA:

- The Board of Commissioners appoints 3 freehold members and the county fiscal body appoints 2 members.
- At least 1 of the members appointed by the county fiscal body must be a certified Level II or III assessor-appraiser.
- The Board of the county shall appoint 3 freehold members so that not more than 3 of the 5 members may be of the same political party and so that at least 3 of the 5 members are residents of the county. At least 1 of the members appointed by the Board must be a certified Level II or III assessor-appraiser. The Board, however, may waive the requirements that one of their appointments be a Level II or III assessor-appraiser.

IC 6-1.1-28-1

If the PTABOA refuses to hold a timely hearing within 180 days of filing of appeal or give notice of decision within 120 days after hearing, taxpayer may appeal to IBTR².

IC 6-1.1-15-1(o)

Taxpayer initiates an appeal with IBTR

Taxpayer may appeal PTABOA's action to IBTR with respect to (1) assessment of taxpayer's real or personal property, (2) exemption of taxpayer's real or personal property or (3) property tax deductions. The taxpayer must file the Form 131 with the IBTR within 45 days when PTABOA's order is given to parties and must mail a copy of the petition to the other party, i.e. the assessing official. No appraisal is required by taxpayer.³

IC 6-1.1-15-3(a), (d), (f)
IC 6-1.5-4-1

IBTR holds hearing within 9 months after appeal petition is filed (unless general reassessment year). IBTR must issue decision within 90 days after hearing (unless extension ordered or general reassessment year). Party may request a rehearing within 15 days of IBTR final determination. May appeal to Tax Court.

IC 6-1.1-15-4(e)-(h)
IC 6-1.1-15-5(a)

Taxpayer initiates appeal with Tax Court

A taxpayer must file a petition with the Indiana Tax Court within 45 days of IBTR final determination or at any time after the maximum time elapses for the IBTR to make a final determination. May appeal Tax Court determination to Supreme Court.

IC 6-1.1-15-5(b), (c), (g)

Taxpayer initiates appeal with Indiana Supreme Court

Review by the Supreme Court is discretionary.

IC 33-26-6-7(d)

2. IBTR = Indiana Board of Tax Review

- IBTR is a state agency with 3 commissioners appointed by the Governor.
- 2 members of IBTR must be members of one major political party, and 1 member must be a member of the other major political party.
- IBTR may appoint administrative law judges to conduct appeal hearing.

IC 6-1.5-2-1, IC 6-1.5-3-3

3. Even though the law says an appraisal is not required, the Indiana Tax Court has ruled that "the most effective method to rebut the presumption that an assessment is correct is through the presentation of a market value-in-use appraisal, completed in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP)." *Eckerling v. Wayne Twp. Assessor*, 841 N.E.2d 674, 677-678 (Ind. Tax Ct. 2006)(citing *Kooshtard Prop. VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 n. 6 (Ind. Tax Ct.2005)).

Taxpayers may present any form of evidence that will provide an indication of the value of the appealed property including, but not limited to:

- a sale of the subject property adjusted to the valuation date,
- sales or assessments of comparable properties if the taxpayer can demonstrate the similarity between the appealed property and the comparable properties,
- an appraisal trended to the appropriate valuation date, and

* income and expense information if the property is an investment.

August 24, 2007 DLGF Appeals Memorandum, http://www.in.gov/dlgi/files/Memo_Appeals082407.pdf

Assessor Burden of Proof: If the assessment for which a notice of review is filed increased the assessed value of the property by more than five percent (5%) over the assessed value finally determined for the immediately preceding assessment date, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct.

IC 6-1.1-15-1(p)

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) 232-8779

Assessment Appeals Frequently Asked Questions February 1, 2010

How do I file an appeal?

An appeal begins at the local level when a taxpayer notifies the local assessing official – either the county assessor or township assessor – by filing an appeal form or submitting a written notice that includes the taxpayer’s name, parcel or key number, address, and the phone number of the taxpayer.

The type of form used depends on the kind of appeal the taxpayer would like to file. There are two kinds of appeals – objective and subjective.

An objective appeal should be filed to dispute issues like the square footage of the property, whether there is a basement, etc. Typically, these are physically verifiable. To file an objective appeal, the taxpayer would submit a Form 133, the Petition for Correction of an Error.

A subjective appeal should be filed to dispute issues related to whether the property’s assessed value is consistent with the property’s market value-in use. To file a subjective appeal, the taxpayer may use the Form 130. Note that the Form 130 is optional. The taxpayer may choose not to use the Form 130 and instead file a written notice that includes the taxpayer’s name, parcel or key number, address, and phone number.

What is the deadline to file an appeal?

The deadline to file an appeal depends on whether the county sent out what is known as the “Notice of Assessment,” (e.g., Form 11). If no Form 11 is mailed, the tax bill serves as the notice of assessment.

For 2009 pay 2010 taxes, if the tax bill is mailed on April 23, 2010, the deadline to file an appeal would be June 7, 2010 if the county assessor did not send out a “Notice of Assessment”, (e.g. Form 11).

If the tax bill is mailed on a different date and no Notice of Assessment was sent, the deadline to appeal is the later of:

- May 10 of the tax billing year; or

- Forty-five (45) days after the date the tax bill is mailed by the county treasurer, regardless of whether the assessing official changes the taxpayer's assessment. IC 6-1.1-15-1(d).

If a Notice of Assessment was sent, the deadline to appeal is not later than forty-five (45) days after the date of the Notice of Assessment. IC 6-1.1-15-1(c). The day on which the notice is deposited in the U.S. mail is the day notice is given. IC 6-1.1-36-1.

For example, if the county assessor mails the notice of assessment on May 31, 2010, the taxpayer will have until July 15, 2010 to file an appeal with the assessor.

What happens if I miss the appeals deadline? Do I lose my chance to appeal?

If an appeal is filed after the deadline, the taxpayer loses the ability to dispute the assessed value used to determine the tax liability for that year. However, taxpayers may still appeal the assessment to reduce the base for the following year. A change made in an assessment as a result of a successful appeal filed after the deadline becomes effective on the next assessment date. IC 6-1.1-15-1(e).

I have appealed my assessment. Do I still have to pay my tax bill? If yes, when are my taxes due, and how much do I pay?

The taxpayer must pay taxes when the property tax bill comes due, even if an appeal is pending, unless the court orders that the taxpayer may withhold paying the taxes pending the outcome of the case.

If the appeal is for personal property, the individual would pay an amount that is based on the assessed value reported on the personal property return.

If the appeal is for real property, the individual would pay an amount that is based on the assessed value of the property the prior year.

In either of these cases, if the taxpayer's appeal is not successful, the taxpayer will be liable for interest and/or penalties as a result of late payment of taxes owed. (See below for more information.)

Alternately, the taxpayer may choose to pay the full amount currently owed. If the taxpayer's appeal is successful, the taxpayer would receive a credit or refund in the amount overpaid. (See below for more information.)

What if I lose the appeal and I haven't paid the taxes?

If the appeal is unsuccessful and the taxpayer paid less in taxes than is ultimately due after the appeal is settled, the taxpayer will be required to pay interest on the taxes at the rate of ten percent (10%) per year from the original tax bill due date to:

- the date the taxpayer pays the tax bill; or
- the next May 10 or November 10, whichever occurs first.

Will I have to pay late fees and penalties if I lose the appeal and haven't paid the full taxes?

Yes. A taxpayer is subject to the late penalty in IC 6-1.1-37-10 (5% and/or 10%) if the taxpayer doesn't pay the full amount due by the next May 10 or the next November 10; whichever occurs first.

However, the late penalty is only paid if the taxpayer has not paid the amount of taxes resulting from the appeal, and the taxpayer either:

(A) received notice of the taxes the taxpayer is required to pay as a result of the appeal at least thirty (30) days before the date for payment; or

(B) voluntarily signed and filed a personal property assessment return for the taxes. 50 IAC 4.2-2-10 (e).

For example, if, on April 20, a taxpayer receives notice of the taxes he is required to pay as a result of the appeal, his payment is due November 10. The reason: the notice was **not** received at least thirty days before May 10.

But, if, on April 6, the taxpayer receives notice of the taxes he is required to pay as a result of the appeal, his payment is due May 10. The reason: the notice was received at least thirty days before May 10.

If I paid the taxes and win the appeal, do I get a refund?

If the taxpayer wins the appeal and the result is a lowered assessment, the taxpayer should receive a **credit** for the amount of any overpayment. The credit would appear on the next successive tax bill, if any, due in that year.

After the credit is given, if there is still money due to the taxpayer as a result of an overpayment, the taxpayer should receive a refund in that amount. IC 6-1.1-15-11(a).

What do I have to do to receive the credit or refund if entitled to one?

If as a result of a successful appeal, a taxpayer is entitled to receive a credit or refund, the taxpayer should contact the county auditor's office. Depending on the timing of the appeal, a taxpayer may be entitled to a credit on their tax bill, or if the taxes have been paid, a refund. The county auditor's office may initiate the refund process by sending the necessary paperwork to the taxpayer or may require the taxpayer to submit the refund paperwork (e.g. Form 17-T, see http://www.in.gov/dlgf/files/Form_17T.pdf).

When should I receive the property tax refund or credit?

A refund or credit must be issued not later than ninety (90) days after the request is received. IC 6-1.1-37-11.

If a taxpayer who is entitled to a refund or credit does *not* make a written request for the refund or credit within forty-five (45) days after the final determination of the appeal, interest shall be computed from the date on which the taxes were paid or due to the date that is forty-five (45) days after the final determination.

Do I get interest on what I have paid in property tax if my assessment is lowered on appeal?

Yes. The taxpayer should receive interest at the rate of four percent (4%) per annum. The interest is computed from the date on which the taxes were paid or due, whichever is later, to the date of the refund or credit.

What if I never received notice of the amount of taxes to pay as a result of the appeal, or did not sign and file an assessment return?

In that case, a taxpayer is to begin paying the late penalties on the May 10 following the next May 10 or on the November 10 that follows the next November 10 referred to above; whichever occurs first.

I appealed my taxes in 2009 and my appeal was successful. However, when I received my 2010 tax bill, they had the assessed value wrong again! Why would they do that?

A change in an assessment made as a result of an appeal filed by a taxpayer remains in effect from the assessment date for which the change is made until the next assessment date. In other words, each assessment year stands alone, so the assessed value may increase, decrease, or remain the same in the annual adjustment process from year-to-year.

However, if a taxpayer successfully appeals their assessment, and as a result of the successful appeal, the assessor changes the underlying parcel characteristics (i.e., grade, condition, etc.), those changes resulting from the successful appeal should carry-over to succeeding assessment dates *unless* there is documented evidence of a change to the property brought about by new construction, remodeling, demolition, or destruction that requires an update to those underlying parcel characteristics.

Based on the timing of when the appeal was resolved, the new value may or may not be reflected on the tax bill. The taxpayer should receive notification of the final assessed value.

What can I do if I am not satisfied with the results of my appeal at the local level?

A petitioner may appeal the PTABOA decision to the Indiana Board of Tax Review (IBTR). The appeal must be made within 45 days after the mailing date of the PTABOA determination, and is filed with the county auditor.

After being heard by the IBTR, taxpayers may also seek review by the Indiana Tax Court. Details on how to appeal to the Tax Court following review by the IBTR can be obtained by contacting the IBTR. Contact information for IBTR is available at www.in.gov/ibtr.

If you have any additional questions, please contact Assessment Director Barry Wood at 317.232.3762 or bwood@dlgf.in.gov.