STATE OF INDIANA

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MEMORANDUM

TO: Assessing Officials and County Auditors

FROM: Cheryl A.W. Musgrave, Commissioner CWM

DATE: July 2, 2008

SUBJECT: Changes to Procedures for Appeal of Assessment (IC 6-1.1-15)

1. The purpose of this memorandum is to inform assessing officials of the changes to Indiana Code chapter 6-1.1-15, *Procedures for Review and Appeal of Assessment and Correction of Errors*. The changes were part of HEA 1001 (P.L. 146-2008), which passed the General Assembly and was signed into law on March 19, 2008. This memorandum supplements the March 28, 2008 memorandum on the extended appeals deadline distributed by the Department of Local Government Finance ("Department"). The words in **bold** in this memorandum indicate the new language added to the Indiana Code, and the effective dates of the particular sections.

2. Review by county board, or PTABOA; written notice by taxpayer; change in assessment. Section 137 amended IC 6-1.1-15-1, **effective July 1, 2008**, states the following:

a. *Appeal of Assessment of Property*. Taxpayer may obtain a review by the county board (i.e., PTABOA) of a county or township official's action with respect to the assessment of the taxpayer's tangible (i.e., real or personal) property.

b. *Appeal of Deduction*. ***Taxpayer may obtain a review by the PTABOA of the official's action with respect to a deduction for which a review is authorized by:**

(1) IC 6-1.1-12-25.5 [rehabilitated property].

(2) IC 6-1.1-12-28.5 [resource recovery system].

(3) IC 6-1.1-12-35.5 [coal conversion system; hydroelectric power; geothermal energy heating or cooling device; building using coal combustion products].

(4) IC 6-1.1-12.1-5 [economic revitalization area (ERA) rehabilitation/redevelopment].

(5) IC 6-1.1-12.1-5.3 [ERA -- vacant building].

(6) IC 6-1.1-12.1-5.4 [ERA -- new equipment].

The PTABOA also examines the claims and may take action on a deduction under IC 6-1.1-12-4 [Mortgage deduction, members of armed forces] and IC 6-1.1-12-6 [Mortgage or contract deductions; transmission of application to second county].

c. *Notification of Opportunity to Appeal.* Once the taxpayer is given a notice of assessment (e.g., Form 11; or if no Form 11, the tax bill) or action on the deduction by the official, the taxpayer must also be informed in writing of:

(1) the opportunity for a review (i.e., to appeal), including a **preliminary informal meeting** with the official; *and*

(2) the procedures the taxpayer must follow to appeal.

d. *Forty-five (45) Days to Appeal from Notice of Assessment.* To appeal an assessment or deduction, the taxpayer must file a notice in writing with the official **not later than forty-five (45) days from the date of the notice of assessment** (e.g., Form 11; or if no Form 11, the tax bill) **or action on the deduction.**

e. *Appeal Rights Procedures When No Notice of Assessment Is Given.* Taxpayer may appeal to the PTABOA the assessment of the taxpayer's tangible property when a notice of assessment (e.g., Form 11; or if no Form 11, the tax bill) is not given. **To appeal, the taxpayer must file a notice in writing with the township assessor, or the county assessor if the township is not served by a township assessor**. The right of a taxpayer to appeal where a notice of assessment is not given does not relieve an assessing official of the duty to provide the taxpayer with the notice of assessment (e.g., Form 11; or if no Form 11, the tax bill). For an assessment date in a year before 2009 (i.e., 2007-pay-2008 and 2008-pay-2009), the notice must be filed **on or before May 10 of the year**. For an assessment date in a year after 2008 (i.e., 2009-pay-2010 and beyond), the notice must be filed not later than the later of:

(1) May 10 of the year; *or*

(2) forty-five (45) days after the date of the county auditor's statement (IC 6-1.1-17-3).

f. *Change in Assessment as Result of Appeal.* A change in an assessment made as a result of an appeal filed by a taxpayer when no notice of assessment (e.g., Form 11; or if no Form 11, the tax bill) is given after the time prescribed (i.e., May 10 or 45 days after date of auditor's statement) becomes effective for the next assessment date. A change in an assessment made as a result of an appeal filed by a taxpayer when either notice of assessment is given or not, **remains in effect from the assessment date for which the change is made until the next assessment date for which the assessment is changed**.

g. *Contents of Appeal.* *The appeal filed by a taxpayer must include the following information:

(1) The name of the taxpayer.

(2) The address and parcel or key number of the property.

(3) The address and telephone number of the taxpayer.

**** The Form 130, which is again available on the Department's website, may be used, but its use is not required. The form is located at*** http://www.in.gov/icpr/webfile/formsdiv/21513.pdf.

h. *Consequence of Filing Appeal.* **The filing of an appeal:**

(1) initiates a review, or appeal; *and*

(2) constitutes a request by the taxpayer for a preliminary informal meeting with the official.

i. *Actions of Assessing Official Upon Receiving Appeal.* An official who receives notice of a taxpayer's appeal must:

(1) immediately forward the notice to the PTABOA; *and*

(2) attempt to hold a preliminary informal meeting with the taxpayer to resolve as many issues as possible by:

(a) discussing the specifics of the taxpayer's assessment or deduction;

(b) reviewing the taxpayer's property record card;

(c) explaining to the taxpayer how the assessment or deduction was determined;

(d) providing the taxpayer information about the statutes, rules, and guidelines that govern the determination of the assessment or deduction;

(e) noting and considering objections of the taxpayer;

(f) considering all errors alleged by the taxpayer; *and*

(g) otherwise educating the taxpayer about:

i. the taxpayer's assessment or deduction;

ii. the assessment or deduction process; *and*

iii. the assessment or deduction appeal process.

j. *Results of Preliminary Conference Forwarded to County Auditor and PTABOA.* **Not later than ten (10) days after the informal preliminary meeting, the official must forward to the county auditor and the PTABOA the results of the preliminary conference on a form prescribed by the Department that must be completed and signed by the taxpayer and the assessing official. *The form must indicate the following:**

(1) If the taxpayer and the official agree on the resolution of all assessment or deduction issues in the appeal, a statement of:

(a) those issues; *and*

(b) the assessed value of the tangible property or the amount of the deduction that results from the resolution of those issues in the manner agreed to by the taxpayer and the assessing official.

(2) If the taxpayer and the official do *not* agree on the resolution of all assessment or deduction issues in the appeal:

(a) a statement of those issues; *and*

(b) the identification of:

i. the issues on which the taxpayer and the official agree; *and*

ii. the issues on which the taxpayer and the official disagree [see paragraph l].

The Form 134 was recently developed by the Department and is located at http://www.in.gov/icpr/webfile/formsdiv/53626.pdf.

k. *Actions of PTABOA if Agreement Reached.* **If the PTABOA receives a preliminary hearing form that indicates agreement between the parties before their hearing:**

(1) the PTABOA must cancel the hearing;

(2) the county official must give notice to the taxpayer, the PTABOA, the county assessor, and the county auditor of the assessment or deduction in the amount that results from the resolution of those issues in the manner agreed to by the taxpayer and the official; *and*

(3) if the matter in issue is the assessment of tangible property, the PTABOA may reserve the right to change the assessment under IC 6-1.1-13 [Review of Current Assessments by County Board of Review].

l. *Actions of PTABOA if No Agreement Reached, or if No Notice of Results of Conference Received not later than One Hundred Twenty (120) Days after Appeal Filed.* **If:**

(1) the taxpayer and the official do *not* agree on the resolution of all assessment or deduction issues; *or*

(2) the PTABOA does *not* receive a form reporting the results of the preliminary conference not later than one hundred twenty (120) days after the date of the appeal filed by the taxpayer --

-- the PTABOA must hold a hearing on an appeal not later than one hundred eighty (180) days after the date the appeal is filed. The PTABOA must, by mail, give notice of the date, time, and place fixed for the hearing to the taxpayer and the county or township official with whom the taxpayer filed the appeal. The taxpayer and the county or township official with whom the taxpayer filed the appeal are parties to the PTABOA proceeding. ***The county assessor is recused from any action the PTABOA takes with respect to an assessment determination by the county assessor.**

The Department interprets this provision to mean the county assessor cannot vote as a member of the PTABOA with respect to any assessment made by the county assessor. Also, in

accordance with HEA 1001, Section 830, any assessment made by an elected township assessor or trustee-assessor before July 1, 2008 (or January 1, 2009 if the referendum provisions apply) is considered as having made by the county assessor, effective July 1, 2008. As a result, the county assessor is also unable to vote as a member of the PTABOA on any assessment made by an elected township assessor or trustee-assessor before the transfer date of assessing duties (i.e., July 1, 2008 in all but forty-three (43) cases).

m. *PTABOA Hearing.* At the PTABOA hearing resulting from the lack of agreement between the taxpayer and official at the preliminary conference, or from the PTABOA's non-receipt of the form reporting the results of the preliminary conference within one hundred twenty (120) days after the date of the appeal filed by the taxpayer:

(1) the taxpayer may present the taxpayer's reasons for disagreement with the assessment or deduction; *and*

(2) the county or township official with whom the taxpayer filed the appeal must present:

(a) the basis for the assessment **or deduction** decision; *and*

(b) the reasons the taxpayer's contentions should be denied.

n. *No Appraisal Required by Taxpayer.* The official may *not* require the taxpayer to provide documentary evidence at the preliminary informal meeting. The PTABOA may *not* require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing. If the action for which a taxpayer appeals is the assessment of tangible property, the taxpayer is *not* required to have an appraisal of the property in order to do the following:

(1) Initiate the appeal.

(2) Prosecute the appeal.

o. *PTABOA Must Give Notice of Decision Not Later Than One Hundred Twenty (120) Days After Hearing.* The PTABOA must prepare a written decision resolving all of the issues under appeal. The PTABOA must, by mail, give notice of its determination not later than one hundred twenty (120) days after the hearing to the taxpayer, the official, the county assessor, and the **county auditor**.

p. *Taxpayer Can Appeal to IBTR if PTABOA Fails to Meet Deadlines.* If the maximum time elapses:

(1) for the PTABOA to hold a hearing (i.e., PTABOA must hold a hearing on a review within one hundred eighty (180) days after the appeal is filed); or

(2) for the PTABOA to give notice of its determination (i.e., PTABOA must, by mail, give notice of its determination within one hundred twenty (120) days after its hearing) --

-- the taxpayer may file for a review before the Indiana Board of Tax Review (IBTR) at any time after the maximum time (i.e., 120 days or 180 days) elapses.

2. Appeal of corrected assessment. Section 138 amended IC 6-1.1-15-9, **effective on July 1, 2008**, to adjust for the transfer of assessing duties from elected township assessors and trustee-assessors to the county assessor.

3. Pending review; effect on tax payment; exclusion of assessed property. Section 139 amended IC 6-1.1-15-10, **effective as of March 19, 2008**, to make a very minor technical correction in citing IC 6-1.1-17-0.5 [Exclusion or reduction of assessed value of tangible property].

4. Tax duplicates; correction of errors; reasons; appeal. Section 140 amended IC 6-1.1-15-12, **effective on July 1, 2008**, to adjust for the transfer of assessing duties from elected township assessors and trustee-assessors to the county assessor.

5. Township assessor correcting error on own initiative. Section 141 added IC 6-1.1-15-12.5 as a new section to the Indiana Code, **effective on January 1, 2008 (retroactive)**.

a. *Township Assessor Must Correct Error.* **If a township assessor determines that he/she made an error concerning:**

(1) **the assessed valuation of property;**

(2) **the name of a taxpayer; or**

(3) **the description of property --**

-- *in an assessment, the township assessor must correct the error on their own initiative; however, the township assessor is not permitted to increase an assessment.

**** The Department interprets this provision to mean the corrected assessment for the subject property is to go into effect for the assessment date in the calendar year of the correction. For example, if Township Assessor Samuel corrects the assessed valuation of Mr. Jones's homestead on July 2, 2008, the corrected assessment is valid as of the March 1, 2008 assessment date.***

b. *Error Corrected without Filing of Appeal.* **The township assessor must correct the error in the assessment without requiring the taxpayer to file an appeal with the PTABOA requesting a review of the original assessment.**

c. *Notice of Correction Must be Sent to Taxpayer.* **If a township assessor corrects an error, he/she must give notice of the correction to the taxpayer, the county auditor, and the PTABOA.**

d. *Taxpayer Entitled to Credit Equal to Overpayment Resulting from Incorrect Assessment.* **If a correction results in a reduction of the amount of an assessment of a taxpayer's property, the taxpayer is entitled to a credit on the taxpayer's next tax installment equal to the amount of any overpayment of tax that resulted from the incorrect assessment. However, if the amount of the overpayment of tax exceeds the taxpayer's next tax installment, the taxpayer is entitled to:**

(1) **a credit in the full amount of the next tax installment; *and***

(2) **credits on succeeding tax installments until the taxpayer has received total credits equal to the amount of the overpayment.**

6. Review; use of rules and consideration of circumstances at time of assessment. Section 142 amended IC 6-1.1-15-14, **effective on July 1, 2008**, to eliminate reference to the county assessor and members of the PTABOA. This change was made because of the expanded definition of "assessing official" in IC 6-1.1-1-1.5, which includes the county assessor and PTABOA members.

7. Consideration given by board to all relevant evidence. Section 143 amended IC 6-1.1-15-16, **effective on July 1, 2008**, to adjust for the transfer of assessing duties from elected township assessors and trustee-assessors to the county assessor.

8. Extension of Appeals Deadline for Pay 2008. Section 868 added a non-Indiana Code provision, **effective on July 1, 2007 (retroactive)**.

a. *Forty-five (45) Days from Tax Bill or July 1, 2008.* A taxpayer that receives a regular tax bill (IC 6-1.1-22) or a provisional tax bill (IC 6-1.1-22.5-2) for the first installment of property taxes based on the March 1, 2007 assessment date and first due and payable in 2008 may appeal the assessment by filing a notice in writing with the county or township official referred to in IC 6-1.1-15-1(a) ***not later than the later of*:**

(1) forty-five (45) days after:

(A) the regular tax bill (IC 6-1.1-22); or

(B) the reconciling tax bill that reconciles the taxes from the aforementioned provisional tax bill --

-- is given (i.e., date placed in mail/postmarked per IC 6-1.1-36-1) to taxpayer; *or*

(2) July 1, 2008.

b. *Applies Even if Form 11s Mailed.*

(1) As stated in the Department's March 28, 2008 memorandum from the Assessment Division Director, J. Barry Wood, this non-Code provision applies even if a county has previously sent out Notices of Assessment (Form 11). If a county has sent out Form 11s and a taxpayer files an appeal from that Form 11 within the forty-five (45) day time period prescribed in IC 6-1.1-15-1(b), the taxpayer is prohibited from filing another appeal under this provision. In other words, HEA 1001 did not provide an *additional* appeal period to the taxpayer. This prohibition is because of the previous appeal filed from the Form 11.

(2) However, for those taxpayers who received a Form 11, but did *not* file an appeal from the Form 11 within the forty-five (45) day time period in IC 6-1.1-15-1(b), the taxpayer will now be able to file an appeal as described in paragraph 8a above.

c. *No Delay in Transmitting Assessed Values to County Auditor.* This extended appeal deadline in no manner should delay the assessing official from rolling the gross assessed values to the County Auditor. **Processing all appeals is certainly not required before the assessing official rolls the**

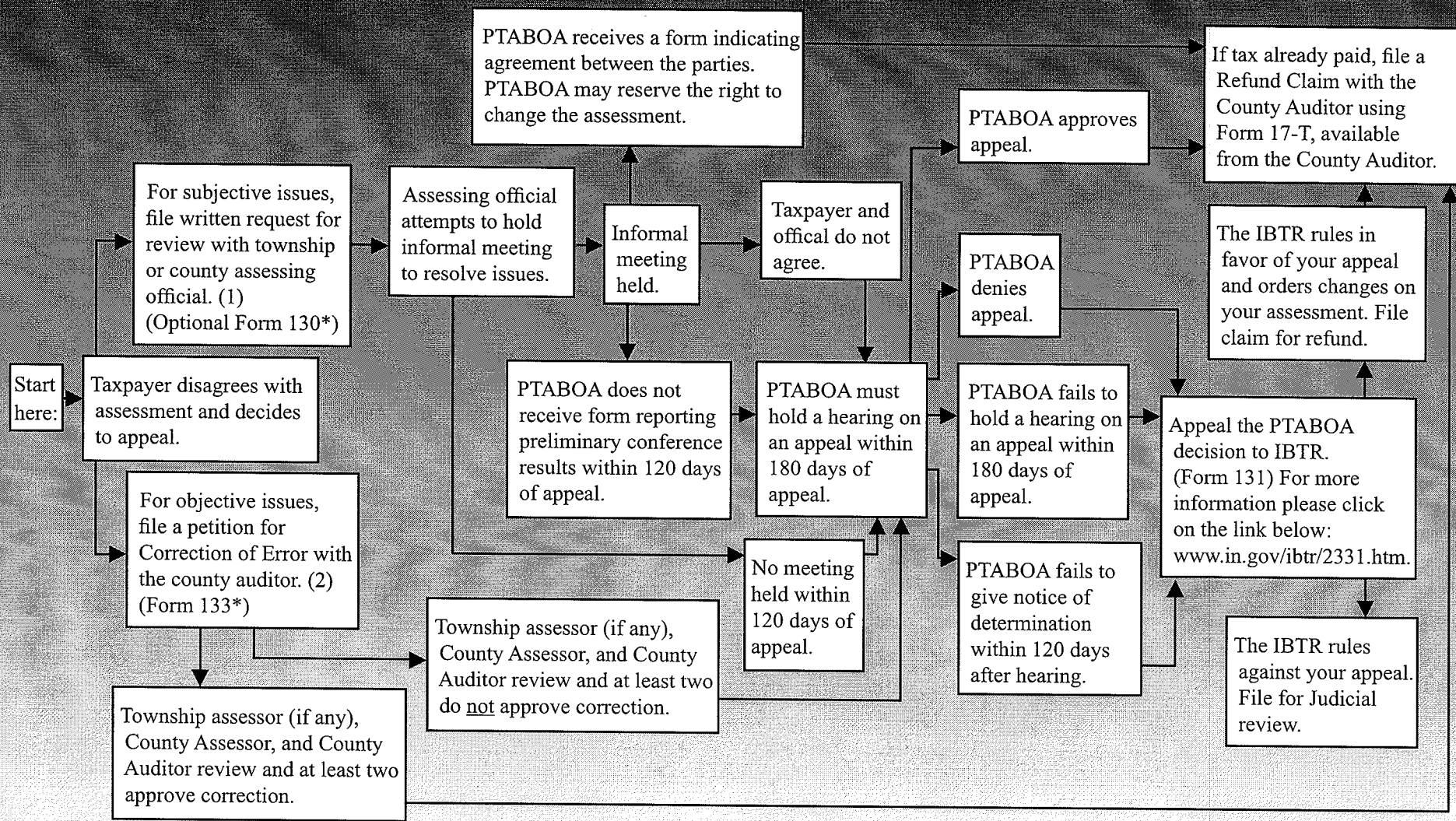
assessed values to the County Auditor. Although having an accurate estimate of potential changes in assessed value due to appeals is certainly beneficial for the County Auditor, it is not a requirement. Other provisions in the law, such as IC 6-1.1-17-0.5, which allows the County Auditor to reduce a taxing unit's assessed value to absorb the effects of reduced property tax collections expected to result from successful appeals, is a more suitable option.

9. Tax Bill as Notice. IC 6-1.1-15-13, which was *not* amended by the 2008 General Assembly, still states that if notice of an action of a board or official (e.g., assessing official) is not otherwise given in accordance with the general assessment provisions of IC 6-1.1, including the notice of assessment (e.g., Form 11) of real property in 6-1.1-4-22, the receipt of the tax bill is the taxpayer's notice for the purpose of determining the taxpayer's right to appeal the board or official's action.

10. If you have any questions, please contact your assessment field representative, or J. Barry Wood, Assessment Division Director at (317) 232-3773, or bwood@dlgf.in.gov.

Attachment:
Appeals Flow Chart (1 page)

Property Tax Assessment Appeals Process



(1) Subjective parts of the assessment are determinations made by a township assessor's subjective judgement.
(2) Objective issues are such things as mathematical miscalculations, factual errors or incorrect measurements.

* These forms are available on the Department of Local Government FinanceWeb site **www.in.gov/dlgf/** or from a township or county assessor.