

## TITLE 52 INDIANA BOARD OF TAX REVIEW

### ARTICLE 1. TAX REPRESENTATIVES

#### Rule 1. Definitions

##### **52 IAC 1-1-1 Applicability**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.5

Sec. 1. The definitions in this rule apply throughout this article. (*Indiana Board of Tax Review; 52 IAC 1-1-1; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2316*)

##### **52 IAC 1-1-2 "Board" defined**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.5-1-3

Sec. 2. "Board" refers to the Indiana board of tax review established under IC 6-1.5-1-3. References to the board in this rule shall, where necessary, include its predecessor agency, the state board of tax commissioners. (*Indiana Board of Tax Review; 52 IAC 1-1-2; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2316*)

##### **52 IAC 1-1-3 "Department" defined**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-30-1.1

Sec. 3. "Department" means the department of local government finance established under IC 6-1.1-30-1.1. (*Indiana Board of Tax Review; 52 IAC 1-1-3; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2316*)

##### **52 IAC 1-1-3.5 "Local government representative" defined**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-26-2

Sec. 3.5. (a) "Local government representative" means a person who meets the requirements in 50 IAC 15-4-1 and who represents a local assessing official at a proceeding before the board under IC 6-1.1-15. The term does not include any of the following:

- (1) An assessing official who is a party to the proceeding or a permanent full-time employee of any such assessing official.
- (2) A certified public accountant when the certified public accountant is representing a local assessing official in a matter that relates only to personal property taxation.
- (3) An attorney who is a member in good standing of the Indiana bar or any person who:
  - (A) is a member in good standing of any other state bar; and
  - (B) has been granted leave by the board to appear before the board.

(b) A local government representative must file a written verification that the representative is a professional appraiser approved by the department. A separate verification must be filed in each proceeding where such representation is provided.

(c) A local government representative is subject to the same practice limitations that apply to certified tax representatives as stated in 52 IAC 1-2-1(b). (*Indiana Board of Tax Review; 52 IAC 1-1-3.5; filed Nov 14, 2007, 11:11 a.m.: 20071212-IR-052060571FRA*)

##### **52 IAC 1-1-4 "Practice before the board" defined**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.5; IC 6-1.1-15

Sec. 4. "Practice before the board" means participation in any matters connected with a presentation to the board or any of its members or employees relating to a client's rights, privileges, or liabilities under Indiana's property tax laws or rules. Such

presentations include, but are not limited to, the following:

- (1) Preparing and filing necessary documents, except personal property returns.
- (2) Corresponding and communicating with the board.
- (3) Representing a client at hearings, on-site inspections, and meetings.

The term does not include the activities of any local unit of government participating before the board. (*Indiana Board of Tax Review; 52 IAC 1-1-4; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2316*)

**52 IAC 1-1-5 "Property tax assessment board of appeals" or "PTABOA" defined**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-28-1

Sec. 5. "Property tax assessment board of appeals" or "PTABOA" means the county property tax assessment board of appeals established under IC 6-1.1-28-1. (*Indiana Board of Tax Review; 52 IAC 1-1-5; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2316; filed Nov 14, 2007, 11:11 a.m.: 20071212-IR-052060571FRA*)

**52 IAC 1-1-6 "Tax representative" defined**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-26-2

Sec. 6. "Tax representative" means a person who represents another person at a proceeding before the board under IC 6-1.1-15. The term does not include any of the following:

- (1) The owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal.
- (2) A permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) who is the subject of the appeal.
- (3) Assessing officials and permanent full-time employees of local units of government appearing on behalf of the unit or as the authorized representative of another unit.
- (4) Local government representatives as defined in section 3.5 of this rule appearing on behalf of the local governmental unit.
- (5) A representative of a minor or incapacitated party as defined in 52 IAC 1-2-1.1.
- (6) A certified public accountant when the certified public accountant is representing a client in a matter that relates only to personal property taxation.
- (7) An attorney who is a member in good standing of the Indiana bar or any person who:
  - (A) is a member in good standing of any other state bar; and
  - (B) has been granted leave to appear before the board.

(*Indiana Board of Tax Review; 52 IAC 1-1-6; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2316; filed Nov 14, 2007, 11:11 a.m.: 20071212-IR-052060571FRA*)

**Rule 2. Tax Representatives**

**52 IAC 1-2-1 Practice requirements for tax representatives**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-15-1; IC 6-1.1-15-12; IC 6-1.1-26-1

Sec. 1. (a) In order to practice before the board, a tax representative under 52 IAC 1-1-6 must:

- (1) be properly certified by the department; and
  - (2) have a copy of a properly executed power of attorney from the taxpayer on the form prescribed by the board on file with the board before a hearing will be scheduled.
- (b) Tax representatives will not be allowed to practice before the board for:
- (1) matters relating to real and personal property exemptions claimed on a Form 132 or 136;
  - (2) claims that assessments or taxes are "illegal as a matter of law", whether brought on:
    - (A) a Form 133 under IC 6-1.1-15-12(a)(6);
    - (B) a Form 17-T under IC 6-1.1-26-1(4);

- (C) a Form 130 under IC 6-1.1-15-1; or
- (D) any other form;

- (3) claims regarding the constitutionality of an assessment; or
- (4) any other representation that involves the practice of law.

(c) Notwithstanding subsection (a)(1), the board may grant leave to practice before the board to a tax representative who is properly licensed or certified in another state. (*Indiana Board of Tax Review; 52 IAC 1-2-1; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2317; filed Nov 14, 2007, 11:11 a.m.: 20071212-IR-052060571FRA*)

**52 IAC 1-2-1.1 Representation of minority and incapacitated parties**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-15-1; IC 6-1.1-15-12; IC 6-1.1-26-1

Sec. 1.1. (a) In the event that a party:

- (1) has not attained eighteen (18) years of age;
- (2) is not mentally competent; or
- (3) is physically unable to file and pursue or defend an appeal;

the board may allow any legally appointed guardian or other appropriate representative to file and pursue or defend an appeal within the limitations imposed by section 1(b) of this rule.

(b) A request to allow such representation must:

- (1) be in writing;
- (2) be signed by the:
  - (A) party to be represented (unless that person lacks the capacity to agree); and
  - (B) person who would be the representative;
- (3) specify the circumstances supporting the request;
- (4) include independent documentation, such as:
  - (A) medical records; or
  - (B) a doctor's statement; and
- (5) be filed with the board at least five (5) business days before any hearing on the matter.

Any order authorizing this form of representation may be modified, limited, or withdrawn at the discretion of the board. (*Indiana Board of Tax Review; 52 IAC 1-2-1.1; filed Nov 14, 2007, 11:11 a.m.: 20071212-IR-052060571FRA*)

**52 IAC 1-2-2 Communication with client or prospective client**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-2-4; IC 6-1.1-15

Sec. 2. (a) No tax representative shall, with respect to any matter relating to practice before the board, in any way use or participate in the use of any form of public communication containing a:

- (1) false, fraudulent, unduly influencing, coercive, or unfair statement or claim; or
- (2) misleading or deceptive statement or claim.

(b) A tax representative shall advise the client or prospective client in writing, using a typeface of not less than 12-point, either:

- (1) on the power of attorney; or
- (2) in some other form that may be reasonably interpreted by the taxpayer (the property owner or person liable for the taxes under IC 6-1.1-2-4) to set forth the rights of the taxpayer with regard to his or her appeal;

the statement, "I understand that by authorizing \_\_\_\_\_ to serve as my certified property tax representative, I am aware of and accept the possibility that the property value may increase as a result of filing an administrative appeal with the board. I further understand that the certified property tax representative is not an attorney and may not present arguments of a legal nature on my behalf. I understand that legal issues relating to my assessment that may now exist or may be discovered at some time in the future will not and cannot be addressed by the certified property tax representative, and that if not raised before the board may not be raised at a later stage of my assessment appeal."

(c) The disclosure shall be signed by the taxpayer. The tax representative shall provide the taxpayer with a copy of the disclosure and shall be required to provide a copy of the disclosure to the board upon request. Failure to provide a signed copy of

disclosure upon request may be grounds for either of the following:

- (1) Denying the tax representative the right to represent the taxpayer with respect to the property subject to the pending administrative appeal.
- (2) A recommendation of disciplinary action to the department under 50 IAC 15-5-8.
- (d) A disclosure properly filed or presented to the department by the tax representative in connection with the representation of the taxpayer in an appeal from a proceeding before the department or the PTABOA may be presented instead of the disclosure described in subsection (b). (*Indiana Board of Tax Review; 52 IAC 1-2-2; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2317; filed Nov 14, 2007, 11:11 a.m.: 20071212-IR-052060571FRA*)

**52 IAC 1-2-3 Prohibitions; obligations**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-2-4; IC 6-1.1-15

Sec. 3. A certified tax representative shall:

- (1) not knowingly misrepresent any information or act in a fraudulent manner;
- (2) not prepare documents or provide evidence in a property assessment appeal unless the representative is authorized by the property owner (or person liable for the taxes under IC 6-1.1-2-4) to do so and any required authorization form has been filed;
- (3) not knowingly submit false or erroneous information in a property assessment appeal;
- (4) use the appraisal standards and methods required by rules adopted by the department or the board when the representative submits appraisal information in a property assessment appeal; and
- (5) notify the property owner (or person liable for the taxes under IC 6-1.1-2-4) of all matters relating to the review of the assessment of taxpayers' property before the board, including, but not limited to, the following:
  - (A) The tax representative's filing of all necessary documents, correspondence, and communications with the board.
  - (B) The dates and substance of all hearings, on-site inspections, and meetings.

(*Indiana Board of Tax Review; 52 IAC 1-2-3; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2317*)

**52 IAC 1-2-4 Contingent fees**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-15

Sec. 4. (a) In the event a tax representative charges a contingent fee for any matter relating to practice before the board, the tax representative may not testify at a hearing without first disclosing the existence of the contingent fee arrangement.

(b) As used in this section, "contingent fee" includes a fee, whether accruing to the tax representative or to the entity with which the tax representative is affiliated, that is based on a percentage of the:

- (1) refund obtained;
- (2) taxes saved; or
- (3) reduction in assessed value.

(c) Failure to disclose the existence of a contingent fee arrangement may result in the presumption that a contingent fee arrangement exists between the taxpayer and the tax representative. (*Indiana Board of Tax Review; 52 IAC 1-2-4; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2318*)

**52 IAC 1-2-5 Certification; revocation**

Authority: IC 6-1.5-6-1

Affected: IC 6-1.1-15; IC 6-1.1-35.5-8

Sec. 5. The board may recommend to the department the denial, suspension, or revocation of the certification of a tax representative for any of the following:

- (1) Violation of any rule of practice established under this article.
- (2) Gross incompetence in the tax representative's practice before the board.
- (3) Dishonesty or fraud committed while practicing before the board.
- (4) Violation of the standards of ethics or rules of solicitation adopted by the department or the board.

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*(Indiana Board of Tax Review; 52 IAC 1-2-5; filed Feb 13, 2003, 9:41 a.m.: 26 IR 2318; filed Nov 14, 2007, 11:11 a.m.: 20071212-IR-052060571FRA)*

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