

Document: Proposed Rule

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TITLE 50 STATE BOARD OF TAX COMMISSIONERS

Proposed Rule

LSA Document #00-188

DIGEST

Amends 50 IAC 17 concerning the procedural rules governing property tax assessment appeal hearings where the taxpayer is represented by a tax representative. Adds new provisions requiring the petitioner in an assessment appeal to submit a proposed property record card demonstrating the requested changes in assessment and the specific assessed valuation sought. Also requires a petitioner that seeks a reduction of more than \$300,000 in true tax value to either provide a court reporter transcription of the hearing or pay the direct costs associated with the transcription of the state board's tape recording of the hearing. Allows the county property tax assessment board of appeals (PTABOA) to submit a transcription of the county hearing and all documentary evidence provided the PTABOA to serve as a record and means for limiting the review of the state board of tax commissioners. Specifies the provisions of the appeals hearing record that will be kept by the state board of tax commissioners under the authority of IC 6-1.1-30-6. Effective 30 days after filing with the secretary of state.

50 IAC 17-5-1

50 IAC 17-7-1

50 IAC 17-6-2

50 IAC 17-10.5

SECTION 1. 50 IAC 17-5-1, AS ADDED AT 23 IR 1611, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 17-5-1 Compliant appeal petition

Authority: IC 4-22-5-1; IC 6-1.1-31-11

Affected: IC 6-1.1-15

Sec. 1. (a) Appeal petitions must be completed in conformance with the instructions provided with the petition form and all other written instructions and promulgated rules of the appeals division or the board of tax commissioners. If the appeal petition is not properly completed, the appeals division will give the petitioner a notice of defect and return the appeal petition. (For example, but not by way of limitation, the appeal petition forms require the petitioner set forth the specific reasons why the petitioner believes the tax assessment is inaccurate. Failure to specify the reasons will be cause for the petition to be returned to the petitioner with a notice of defect.) Petitioner must correct or cure the appeal petition within thirty (30) days from the date the notice of defect. Failure to adequately correct the specified defect will result in denial of the petition without hearing or further opportunity to correct the petition.

(b) In addition to the requirements of subsection (a), the petitioner must submit the specific assessed valuation sought in connection with the appeal. The specific assessed valuation sought in connection with the appeal must also be demonstrated by showing the requested changes in assessment on a proposed property record card. Failure to submit a proposed property record card demonstrating the requested changes in assessment and the specific assessed valuation sought will be deemed a defect in the appeal petition and will be cause for the petition to be returned to the petitioner under subsection (a). The petitioner must identify and explain the specific assessed valuation sought by reference to the proposed property record card submitted with the petition as part of the petitioner's burden under 50 IAC 17-6-3. (*State Board of Tax Commissioners; 50 IAC 17-5-1; filed Mar 1, 2000, 7:53 a.m.: 23 IR 1611*)

SECTION 2. 50 IAC 17-6-2, AS ADDED AT 23 IR 1612, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 17-6-2 Hearing formality; transcription services

Authority: IC 4-22-5-1; IC 6-1.1-31-11

Affected: IC 6-1.1-15

Sec. 2. (a) Hearings will be conducted as a formal proceeding under the auspices of a hearing officer or panel of hearing officers.

(b) Witnesses must be sworn in under oath.

(c) Hearings will be tape recorded by the hearing officer. The recording of the hearing officer will serve as the basis of the official record of the proceeding unless the hearing is transcribed by a court reporter. A party may hire a court reporting service to transcribe the hearing so long as the reporting service is directed to submit an official copy of the transcript, to the appeals division or the board of tax commissioners, at no expense, to the appeals division or the board of tax commissioners.

(d) A petitioner that seeks a reduction of more than three hundred thousand dollars (\$300,000) in true tax value (one hundred thousand dollars (\$100,000) assessed valuation before March 1, 2001, and three hundred thousand dollars (\$300,000) assessed valuation after March 1, 2001) must either provide a court reporter transcription of the hearing under subsection (c), or pay the direct costs associated with the transcription of the state board of tax commissioners' tape recording of the hearing. The transcription is required in order for an official copy of the transcription to be included in the record created under 50 IAC 17-10.5-1. The state board of tax commissioners' direct costs associated with the transcription of the state board of tax commissioners' tape recording of the hearing will be published in the Indiana Register on a quarterly basis. (State Board of Tax Commissioners; 50 IAC 17-6-2; filed Mar 1, 2000, 7:53 a.m.: 23 IR 1612)

SECTION 3. 50 IAC 17-7-1, AS ADDED AT 23 IR 1613, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

50 IAC 17-7-1 Evidence not previously presented

Authority: IC 4-22-5-1; IC 6-1.1-31-11

Affected: IC 6-1.1-15

Sec. 1. (a) **The PTABOA may provide a transcription and a complete set of copies of all documentary evidence properly submitted to the PTABOA while the appeal was pending before the PTABOA within fifteen (15) days following the filing of the appeal petition. The PTABOA must submit a copy of the transcription and documentary evidence to the petitioner at the same time it is provided to the appeals division. The petitioner will be given fifteen (15) days following receipt of the transcription and documentary evidence provided by the PTABOA, to dispute the completeness or accuracy of the record. The petitioner will be required to file a statement with the appeals division indicating petitioner's acceptance of the transcription and documentary evidence provided by the PTABOA, or specifying in detail all alleged inaccuracies or missing items, within the fifteen (15) days following receipt of the transcription and documentary evidence provided by the PTABOA. When a transcription and documentary evidence is provided by the PTABOA under this subsection, no additional testimony or documentary evidence may be presented to the appeals division other than that necessary to demonstrate the inaccuracies or missing items specified by the petitioner within the fifteen (15) days following receipt of the documentary evidence provided by the PTABOA.**

(b) **This subsection applies only when no documentary evidence is provided under subsection (a).** Documentary evidence that was not presented at the PTABOA hearing may not be presented by a party at a proceeding before the appeals division unless the evidence directly relates to an issue specifically expressed at the PTABOA hearing of the matter, or in the PTABOA's final determination. Any evidence that was not presented at the PTABOA hearing, which a party intends to introduce at a hearing before the appeals division, must be filed with the appeals division within thirty (30) days following the filing of the original appeal petition. However, in the event a hearing is scheduled within the thirty (30) day period following the filing of the petition, any evidence not presented at the PTABOA hearing must be filed with the approval of the appeals division not less than five (5) days prior to the hearing. Evidence filed under this section must be filed at the central office and a copy of each document served upon all parties.

(c) **This subsection applies only when no transcription is provided under subsection (a).** Testimony not offered at the PTABOA hearing may not be offered at a proceeding before the appeals division unless the testimony directly relates to an issue specifically expressed at the PTABOA hearing of the matter, or in the PTABOA's final determination. Any testimony that was not offered at the PTABOA hearing that a party intends to introduce at a hearing before the appeals division must be identified by submission of the name of the witness and a brief statement of the witness' testimony to the appeals division within thirty (30) days following the filing of the original appeal petition. However, in the event a hearing is scheduled within the thirty (30) day period following the filing of the petition, any testimony not offered at the PTABOA hearing must be submitted with the approval of the appeals division not less than five (5) days prior to the hearing. A submission identifying testimony under this section must be filed at the central office and a copy of the submission served upon all parties.

(d) Notwithstanding subsection (a), (b), or (c), the petitioner will not be restricted in presenting testimony or evidence on issues that are first raised by the PTABOA and the PTABOA's hearing of the matter.

(e) Failure to comply with the requirements of this section may serve as grounds to exclude the evidence or to dismiss the appeal petition. (*State Board of Tax Commissioners; 50 IAC 17-7-1; filed Mar 1, 2000, 7:53 a.m.: 23 IR 1613*)

SECTION 4. 50 IAC 17, AS ADDED AT 23 IR 1608, SECTION 1, IS AMENDED BY ADDING A NEW RULE TO READ AS FOLLOWS:

Rule 10.5. Hearing Records

50 IAC 17-10.5-1 Hearing records

Authority: IC 4-22-5-1; IC 6-1.1-31-11

Affected: IC 6-1.1-15-4; IC 6-1.1-30-6; IC 33-3-5-14

Sec. 1. Under the authority of IC 6-1.1-30-6, the state board of tax commissioners shall maintain an official record of all hearings conducted under IC 6-1.1-15-4. This record must include the following documents and items:

- (1) Copies of all papers submitted to the state board of tax commissioners, including its division of appeals, during the course of the action and copies of all papers provided to the parties by the state board of tax commissioners, including its division of appeals. As used in this subdivision, "papers" includes, without limitation, all notices, petitions, motions, pleadings, orders, orders on rehearing, briefs, requests, intermediate rulings, photographs, and other written documents. As used in this subdivision, "papers" does not include intraagency deliberative materials made for the purpose of decision making.
- (2) Evidence received or considered by the state board of tax commissioners, including its division of appeals.
- (3) A statement of whether a site inspection was conducted, and, if a site inspection was conducted, either:
 - (A) a summary report of the site inspection; or
 - (B) a videotape transcript of the site inspection.
- (4) A statement of matters officially noticed.
- (5) Proffers of proof and objections and rulings on them.
- (6) Copies of proposed findings submitted by the parties, requested orders, and exceptions.
- (7) Either:
 - (A) a transcription of the audiotape of the hearing; or
 - (B) a transcript of the hearing prepared by a court reporter.
- (8) Any additional materials, other than those excluded under subdivision (1), that is required to:
 - (A) constitute the full and complete body of evidence upon which the state board of tax commissioners relied for the purpose of making its final determination; or
 - (B) under the law governing the Tax Court in making a determination under IC 33-3-5-14 as to whether any issues or evidence may be heard in an appeal that was not heard, presented, or considered by the state board of tax commissioners in the administrative hearing conducted under IC 6-1.1-15-4.

Copies of exhibits that, because of their nature, cannot be incorporated into the certified record must be kept by the state board of tax commissioners until the appeal is finally terminated. However, this evidence must be briefly named and identified in the transcript of the evidence and proceedings.

(b) A complete copy of the record kept by the state board of tax commissioners, pursuant to subsection (a), may be requested by a party to the administrative hearing conducted under IC 6-1.1-15-4 during or at the conclusion of the hearing. If the party requests a copy after the date of the hearing, the time for the appeals division to issue a decision under IC 6-1.1-15-4 shall be extended equal to the number of days that the request is made after the date of the hearing. Time may also be extended by the number of days to accommodate a reasonable briefing schedule, if requested by a party and granted by the appeals division.

(c) Parties requesting copies of the state board of tax commissioners record kept under subsection (a), or the petitioner in an appeal to Tax Court, will be required to pay the direct costs incurred by the state board of tax commissioners associated with the preparation of the record. A schedule of the costs for typical reproduction expenses associated with the state board of tax commissioners' reproduction of record materials will be published in the Indiana Register on a quarterly basis. (*State Board of Tax Commissioners; 50 IAC 17-10.5-1*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 23, 2001 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the State Board of Tax Commissioners will hold a public hearing on proposed amendments to procedural rules contained in 50 IAC 17 governing the administrative hearings before the county property tax assessment board of appeals and the state board of tax commissioners

Parties interested in participating in the public hearing are encouraged to attend and submit written statements expressing their specific or general concerns, any suggested additions or revisions, and any documentation that may serve to support, clarify, or supplement their concerns, suggestions, or proposed revisions. The State Board of Tax Commissioners also encourages any interested party who has concerns, suggestions, or proposed revisions to contact Bill Waltz, General Counsel, State Board of Tax Commissioners, at (317) 233-4361.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 1058 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Timothy A. Brooks
Chairman
State Board of Tax Commissioners