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**TITLE 50 STATE BOARD OF TAX COMMISSIONERS**

**Proposed Rule**  
LSA Document #01-266

DIGEST

Amends 50 IAC 15 concerning the certification of assessor-appraisers, professional appraisers, and tax representatives. Makes changes recognizing the new department of local government finance and the Indiana board of tax review as entities that will succeed the state board of tax commissioners effective January 1, 2002 (pursuant to P.L.198-2001.) Makes other changes required under P.L.198-2001, including the deletion of testing requirements in connection with continuing education and adding provisions regarding procedures for the revocation of a certification. Effective 30 days after filing with the secretary of state.

<b>50 IAC 15-1-2.5</b>	<b>50 IAC 15-3-6</b>
<b>50 IAC 15-1-2.6</b>	<b>50 IAC 15-4-1</b>
<b>50 IAC 15-1-3</b>	<b>50 IAC 15-5-1</b>
<b>50 IAC 15-1-5</b>	<b>50 IAC 15-5-2</b>
<b>50 IAC 15-1-6</b>	<b>50 IAC 15-5-4</b>
<b>50 IAC 15-3-1</b>	<b>50 IAC 15-5-5</b>
<b>50 IAC 15-3-2</b>	<b>50 IAC 15-5-6</b>
<b>50 IAC 15-3-3</b>	<b>50 IAC 15-5-7</b>
<b>50 IAC 15-3-4</b>	<b>50 IAC 15-5-8</b>
<b>50 IAC 15-3-5</b>	

SECTION 1. 50 IAC 15-1-2.5 IS ADDED TO READ AS FOLLOWS:

**ARTICLE 15. ASSESSOR-APPRAISERS, PROFESSIONAL APPRAISERS, AND TAX REPRESENTATIVES**

**50 IAC 15-1-2.5 “Commissioner” defined**

**Authority:** IC 6-1.1-30-1.1; IC 6-1.1-31-1  
**Affected:** IC 6-1.1-35.5-6

**Sec. 2.5. “Commissioner” means the commissioner of the department of local government finance established under IC 6-1.1-30-1.1. (State Board of Tax Commissioners; 50 IAC 15-1-2.5)**

SECTION 2. 50 IAC 15-1-2.6 IS ADDED TO READ AS FOLLOWS:

**50 IAC 15-1-2.6 “Department” defined**

**Authority:** IC 6-1.1-30-1.1  
**Affected:** IC 6-1.1-35.5-6

**Sec. 2.6. “Department” means the department of local government finance established under IC 6-1.1-30-1.1. (State Board of Tax Commissioners; 50 IAC 15-1-2.6)**

SECTION 3. 50 IAC 15-1-6 IS ADDED TO READ AS FOLLOWS:

**50 IAC 15-1-6 “State board” defined**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8  
**Affected:** IC 6-1.1

**Sec. 6. “State board” means the state board of tax commissioners.** (*State Board of Tax Commissioners; 50 IAC 15-1-6*)

SECTION 4. 50 IAC 15-3-1 IS AMENDED TO READ AS FOLLOWS:

**50 IAC 15-3-1 Level One requirements**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-35.5-8  
**Affected:** IC 6-1.1

Sec. 1. In order to be certified as a Level One assessor-appraiser, an individual must:

- (1) after December 31, 1999, complete six (6) hours of Level One preexamination course work designated by the **state board or the department**;
- (2) pass the Level One examination designated by the **state board or the department**; and
- (3) complete the continuing education requirements specified in section 2 of this rule.

(*State Board of Tax Commissioners; 50 IAC 15-3-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482*)

SECTION 5. 50 IAC 15-3-2, AS AMENDED AT 24 IR 1302, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

**50 IAC 15-3-2 Level One continuing education**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-35.5-8  
**Affected:** IC 6-1.1

Sec. 2. (a) The continuing education requirements for Level One certification are as follows:

- (1) For certification cycles that begin after December 31, 1998, thirty (30) hours of course work approved by the **state board** ~~six (6) hours of which must be evidenced by passage of the associated course examination:~~ **or the department.**
- (2) For certification cycles that begin after December 31, 2002, thirty (30) hours of course work approved by the **state board** ~~twelve (12) hours of which must be evidenced by passage of the associated course examination:~~ **or the department.**
- (3) For certification cycles that begin after December 31, 2006, thirty (30) hours of course work approved by the **state board** ~~fifteen (15) hours of which must be evidenced by passage of the associated course examination:~~ **or the department.**

(b) After eight (8) years of continuous certification, accrued after December 31, 1998, as an assessor-appraiser under section 1 of this rule, the continuing education requirements of subsection (a) are reduced to fifteen (15) hours of course work approved by the **state board or the department**, three (3) hours of which must be evidenced by passage of the associated course examination.

(c) The continuing education requirements specified in this section must be obtained in forty-eight (48) month cycles, beginning:

- (1) if first certified before January 1, 1999, January 1, 1999; or
- (2) if first certified after December 31, 1998, January 1 of the first year following certification.

(*State Board of Tax Commissioners; 50 IAC 15-3-2; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302*)

SECTION 6. 50 IAC 15-3-3, AS AMENDED AT 24 IR 1302, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

**50 IAC 15-3-3 Level Two requirements**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-35.5-8  
**Affected:** IC 6-1.1

Sec. 3. In order to be certified as a Level Two assessor-appraiser, an individual must:

- (1) after December 31, 1999, complete six (6) hours of Level Two preexamination course work designated by the **state board or the department**;
- (2) pass the Level Two examination designated by the **state board or the department**; and
- (3) complete the continuing education requirements specified in section 4 of this rule.

*(State Board of Tax Commissioners; 50 IAC 15-3-3; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483)*

SECTION 7. 50 IAC 15-3-4, AS AMENDED AT 24 IR 1302, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

#### **50 IAC 15-3-4 Level Two continuing education**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-35.5-8

**Affected:** IC 6-1.1

Sec. 4. (a) The continuing education requirements for Level Two certification are as follows:

- (1) For certification cycles that begin after December 31, 1998, forty-five (45) hours of course work approved by the **state board** ~~twelve (12) of which must be evidenced by passage of the associated course examination.~~ **or the department.**
- (2) For certification cycles that begin after December 31, 2002, forty-five (45) hours of course work approved by the **state board** ~~eighteen (18) hours of which must be evidenced by passage of the associated course examination.~~ **or the department.**
- (3) For certification cycles that begin after December 31, 2006, forty-five (45) hours of course work approved by the **state board** ~~twenty-two (22) hours of which must be evidenced by passage of the associated course examination.~~ **or the department.**

(b) After eight (8) years of continuous certification, accrued after December 31, 1998, as an assessor-appraiser under section 3 of this rule, the continuing education requirements of subsection (a) are reduced to eighteen (18) hours of course work approved by the **state board or the department**, six (6) hours of which must be evidenced by passage of the associated course examination.

(c) The continuing education requirements specified in this section must be obtained every forty-eight (48) months, beginning:

- (1) if first certified before January 1, 1999, January 1, 1999; or
- (2) if first certified after December 31, 1998, January 1 of the first year following certification.

*(State Board of Tax Commissioners; 50 IAC 15-3-4; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302)*

SECTION 8. 50 IAC 15-3-5 IS AMENDED TO READ AS FOLLOWS:

#### **50 IAC 15-3-5 Miscellaneous provisions**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-35.5-8

**Affected:** IC 6-1.1-4

Sec. 5. (a) The board may, after proper notice and hearing, ~~revoke an assessor-appraiser certification for noncompliance with:~~

- ~~(1) this article;~~
- ~~(2) the provisions of the contract entered under IC 6-1.1-4; or~~
- ~~(3) assessing laws and rules of the board.~~

~~(b)~~ (a) The **state board or the department** shall maintain, publish, and distribute to each assessor-appraiser, a list of courses that have been accredited as approved assessor-appraiser continuing education courses. Courses that are not included on the list may be submitted for inclusion and will, at the discretion of the **state board or the department**, be accredited.

~~(c)~~ (b) A certified assessor-appraiser that meets the continuing education requirements of section 4 of this rule is not required to meet the continuing education requirements of section 2 of this rule in order to maintain their Level One

certification.

(~~d~~) (c) An assessor-appraiser holding a valid certification on January 1, 1999, shall be deemed certified under this rule. (*State Board of Tax Commissioners; 50 IAC 15-3-5; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483*)

SECTION 9. 50 IAC 15-3-6 IS ADDED TO READ AS FOLLOWS:

**50 IAC 15-3-6 Revocation of certification criteria and procedures**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-4; IC 6-1.1-35.5-6

**Sec. 6. (a) The state board, before January 1, 2002, or the department, after December 31, 2001, may revoke the Level One or Level Two Assessor-appraiser certification of a professional appraiser or employee of a professional appraiser for:**

- (1) conduct proscribed by IC 6-1.1-35.5-6(b);**
- (2) noncompliance with:**
  - (A) the educational provisions of this article;**
  - (B) the provisions of the contract entered under IC 6-1.1-4; or**
  - (C) assessing laws and rules of the state board.**

**(b) The revocation procedure shall be initiated by the state board's or the department's issuance of a notice to the respondent by certified mail, return receipt requested, containing a clear and concise statement detailing the alleged misconduct and stating the time and place for a hearing thereon; provided, however, that the hearing date cannot be less than ninety (90) days from the initial date of mailing of the notice to the respondent. The notice shall inform respondent of the information contained in subsections (d) and (g), and shall further inform respondent that the failure to attend the hearing without good reason cause may constitute grounds for default entered in favor of the state board or department, as well as the sanction imposed.**

**(c) The state board or the department shall appoint a hearing officer to serve as an administrative law judge for purposes of these proceedings. The hearing officer, once appointed, may, with notice to the parties, conduct any prehearing proceedings requested by either party, or which the hearing officer determines may aid in the ultimate resolution of the proceedings. Informal discovery may be allowed subject to any terms and conditions the hearing officer determines to be appropriate.**

**(d) The revocation hearing shall be conducted on the record. The respondent may be represented by counsel, and shall have the right to present evidence on the respondent's own behalf and to cross-examine the state board's or department's witnesses or evidence. The burden of proof shall be on the state board or the department to prove the violation or violations alleged by a preponderance of the evidence. No continuance shall be granted except upon a showing of good cause.**

**(e) The hearing officer may consider any of the following in determining whether to recommend to the commissioner whether respondent's Level One or Level Two assessor-appraiser certification should be revoked:**

- (1) The seriousness of the violation that gave rise to these proceedings.**
- (2) Whether the violation is likely to recur.**
- (3) Respondent's character, including remorse, if any, expressed.**
- (4) Whether respondent's continued status as a Level One or Level Two assessor-appraiser would pose an undue risk to the public.**
- (5) Any other factor the hearing officer determines to be appropriate under the circumstances.**

**(f) The hearing officer shall submit a recommendation for final action to the state board or the commissioner. The recommendation shall contain the reasons for the hearing officer's determination of the sanction, if any, to be imposed. The state board or the commissioner is not bound by the hearing officer's recommendation.**

**(g) Upon receipt of the hearing officer's recommendation, if the state board or the commissioner determines**

that a violation of section 2(a) of this rule has occurred, the state board or the commissioner may take any of the following remedies with respect to the respondent:

- (1) Decline to issue any sanction.
- (2) Issue a written reprimand, either public or private, admonishing the respondent for the violation.
- (3) Issue a period of suspension of the respondent's Level One or Level Two assessor-appraiser certification for a period of up to one (1) year, at the conclusion of which the respondent shall be automatically reinstated, provided that respondent meets all educational requirements for a Level One or Level Two assessor-appraiser certification, as applicable to the proceedings.

The determination of the state board or the commissioner constitutes a final appealable order of the state board or the department, respectively.

(h) Any proceedings initiated by the state board in which a final appealable order has not been issued as of January 1, 2002, shall automatically transfer to the department on that date. A matter so transferred under this section shall not require repetition of the proceedings to-date. (*State Board of Tax Commissioners; 50 IAC 15-3-6*)

SECTION 10. 50 IAC 15-4-1 IS AMENDED TO READ AS FOLLOWS:

#### **50 IAC 15-4-1 Certification requirements**

Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3

Affected: IC 6-1.1-4-19; IC 6-1.1-31.7; IC 6-1.1-35.5

Sec. 1. (a) Professional appraisers who are individuals must:

- (1) be a certified Level Two assessor-appraiser under IC 6-1.1-35.5;
- (2) enter a contract that contains all applicable standard contract provisions developed by the board under IC 6-1.1-4-19;
- (3) specify in the contract entered under IC 6-1.1-4-19 that the contract is void if the individual's appraiser certification, issued under IC 6-1.1-31.7, is revoked; and
- (4) specify in the contract entered under IC 6-1.1-4-19 the precise contractual duties that:
  - (A) the professional appraiser will personally fulfill;
  - (B) the professional appraiser will personally review, direct, administer, supervise, or oversee;
  - (C) will be conducted by an administrative assistant or any person other than the professional appraiser; and
  - (D) will remain the responsibility of the township or county.

(b) Professional appraisers that are firms must:

- (1) employ a certified Level Two assessor-appraiser under IC 6-1.1-35.5;
- (2) enter a contract that contains all applicable standard contract provisions developed by the **state board or the department** under IC 6-1.1-4-19, including, specifically, provisions for sanctions;
- (3) specify in the contract entered under IC 6-1.1-4-19 that the contract is void if the firm's appraiser certification, issued under IC 6-1.1-31.7, is revoked; and
- (4) specify in the contract entered under IC 6-1.1-4 the precise contractual duties that:
  - (A) a certified Level Two assessor-appraiser will personally fulfill;
  - (B) a certified Level Two assessor-appraiser will personally review, direct, administer, supervise, or oversee;
  - (C) will be conducted by administrative personnel or any person other than a certified Level Two assessor-appraiser; and
  - (D) will remain the responsibility of the township or county.

(c) The board may revoke the Level Two assessor-appraiser certification of a professional appraiser or employee of a professional appraiser for noncompliance with:

- (1) this article;
- (2) the provisions of the contract entered under IC 6-1.1-4; or
- (3) assessing laws and rules of the board.

(*State Board of Tax Commissioners; 50 IAC 15-4-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483*)

SECTION 11. 50 IAC 15-5-1, AS ADDED AT 24 IR 947, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

#### **50 IAC 15-5-1 Definitions**

Authority: IC 6-1.1-31-1; IC 6-1.1-31-11

Affected: IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-28-1; IC 6-1.1-30-11

Sec. 1. The following definitions apply throughout this rule:

(1) "Division of appeals" means the division of appeals of the **state** board established under IC 6-1.1-30-11.

(2) "Practice before the property tax assessment board of appeals, the division of appeals, or the **state** board" means participation in any matters connected with a presentation to the property tax assessment board of appeals, the division of appeals, the board, or any of their officers, or employees relating to a client's rights, privileges, or liabilities under Indiana's property tax laws or rules **before January 1, 2002**. "**Practice before the property tax assessment board of appeals, the department, or the Indiana board**" means participation in any matter connected with a presentation to the property tax assessment board of appeals, the department, or the Indiana board, or any of their officers, or employees relating to a client's rights, privileges, or liabilities under Indiana's property tax laws or rules **after December 31, 2001**. Such presentations include, but are not limited to, the following:

(A) Preparing and filing necessary documents, except personal property returns.

(B) Corresponding and communicating with the property tax assessment board of appeals, the division of appeals, or the **state** board **before January 1, 2002, and the property tax assessment board of appeals, the department or the Indiana board after December 31, 2001**.

(C) Representing a client at hearings, on-site inspections, and meetings.

Practice before the property tax assessment board of appeals, the division of appeals, or the **state** board **before January 1, 2002, and before the property tax assessment board of appeals, the department or the Indiana board after December 31, 2001**, does not include the activities of any local unit of government participating before the property tax assessment board of appeals, the division of appeals, or the **state** board **before January 1, 2002, or the property tax assessment board of appeals, the department or the Indiana board after December 31, 2001, respectively**.

(3) "Property tax assessment board of appeals" means the county property tax assessment board of appeals established under IC 6-1.1-28-1.

(4) "Tax representative" means a person who represents another person at a proceeding before the property tax assessment board of appeals, the division of appeals, or the board under IC 6-1.1-15, **before January 1, 2002; and before the department of local government finance, or the Indiana board, after December 31, 2001**. The term does not include:

(A) 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;

(B) 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;

(C) representatives of local units of government appearing on behalf of the unit;

(D) a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or

(E) an attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar and who has been granted leave by the **state** board **or the Indiana board** to appear pro hac vice.

(5) "**Indiana board**" means the **Indiana board of tax review established under IC 6-1.5, et seq.**

*(State Board of Tax Commissioners; 50 IAC 15-5-1; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947)*

SECTION 12. 50 IAC 15-5-2, AS ADDED AT 24 IR 947, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

#### **50 IAC 15-5-2 Practice requirements**

Authority: IC 6-1.1-31-1; IC 6-1.1-31-11

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

Sec. 2. (a) In order to practice before the property tax assessment board of appeals, the division of appeals, ~~or the state~~ board, **the department, or the Indiana board**, a tax representative must:

(1) beginning July 1, 2001, be ~~properly~~ **certified in writing** by the **state** board **or the department**; and

(2) have a copy of a properly executed power of attorney from the taxpayer on the form prescribed by the **state** board **or the department** on file with the entity conducting the hearing before a hearing will be scheduled.

(b) Property tax representatives may not be certified to practice before the property tax assessment board of appeals,

the division of appeals, ~~or~~ the **state board, the department, or the Indiana 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 Form 133 pursuant to IC 6-1.1-15-12(a)(6), on a Form 17-T pursuant to IC 6-1.1-26-1(4), a Form 130 pursuant to IC 6-1.1-15-1, or otherwise;
- (3) claims regarding the constitutionality of an assessment; or
- (4) any other representation that involves the practice of law.

(c) Individuals who apply for certification or recertification as a tax representative must furnish evidence to the **state board or the department** that they:

- (1) are at least eighteen (18) years of age;
- (2) hold a high school diploma or equivalent credential;
- (3) are a certified Level Two assessor-appraiser;
- (4) have completed the educational course requirements of all rules adopted by the **state board before January 1, 2002, or the department after December 31, 2001**, related to procedures for practice before the property tax assessment board of appeals, the division of appeals, ~~or~~ the **state board, the department, or the Indiana board**;
- (5) have fully complied with all rules adopted by the **state board before January 1, 2002, and the Indiana board after December 31, 2001**, regarding professional conduct and ethical considerations; and
- (6) have fully complied with all rules adopted by the **state board before January 1, 2002, and the Indiana board after December 31, 2001**, regarding client solicitation.

**(d) A person who fulfills the requirements of subsection (c) shall be granted a written certification that shall be effective upon issuance by the state board or the department.** (*State Board of Tax Commissioners; 50 IAC 15-5-2; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947*)

SECTION 13. 50 IAC 15-5-4, AS ADDED AT 24 IR 948, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

#### **50 IAC 15-5-4 Course work**

**Authority:** IC 6-1.1-31-11

**Affected:** IC 6-1.1

Sec. 4. Beginning January 1, 2002, a tax representative must, within each forty-eight (48) month continuing education certification cycle under 50 IAC 15-3-4, complete twelve (12) hours of course work that has been designated as tax representative practice course work approved by the **state board before January 1, 2002, or the department after December 31, 2001**. Of the twelve (12) hours of tax representative practice course work:

- (1) six (6) hours must be evidenced by passage of the associated course work examination; and
- (2) three (3) hours must relate to professional conduct, ethical considerations, or client communications.

The course work completed under this section will be credited toward the total continuing education course work required to maintain a Level Two assessor-appraiser certification under 50 IAC 15-3-4. (*State Board of Tax Commissioners; 50 IAC 15-5-4; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948*)

SECTION 14. 50 IAC 15-5-5, AS ADDED AT 24 IR 948, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

#### **50 IAC 15-5-5 Communication with client or prospective client**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11

**Affected:** IC 6-1.1-2-4

Sec. 5. (a) No certified property tax representative shall, with respect to any matter relating to practice before the property tax assessment board of appeals, the division of appeals, or the **state board before January 1, 2002, and the property tax assessment board of appeals, the department, or the Indiana board after December 31, 2001**, 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) Beginning January 1, 2001, a property tax representative shall advise the client or prospective client in writing, using a typeface of not less than 12-point, either on the power of attorney or 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 following:

“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 property tax assessment board of appeals, the division of appeals of the state board of tax commissioners, or the state board of tax commissioners **before January 1, 2002, and with the property tax assessment board of appeals, the department of local government finance, or the Indiana board of tax review after December 31, 2001**, and that I may be compelled to appear at a hearing before any or all of these boards.

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 **property tax assessment board division of appeals of the state board of tax commissioners or the Indiana board of tax review** may not be raised at a later stage of my assessment appeal.”.

The disclosure shall be signed by the taxpayer. The certified property 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 property tax assessment board of appeals, the division of appeals, ~~or~~ the **state board, the department, or the Indiana board** upon request. Failure to provide a signed copy of disclosure upon request may be grounds for dismissal of the appeal. (*State Board of Tax Commissioners; 50 IAC 15-5-5; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948*)

SECTION 15. 50 IAC 15-5-6, AS ADDED AT 24 IR 948, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

#### **50 IAC 15-5-6 Prohibitions; obligations**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11

**Affected:** IC 6-1.1-2-4

Sec. 6. 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 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 property tax assessment board of appeals, the division of appeals, ~~or~~ the **state board, the department, or the Indiana board**, including, but not limited to, the following:

(A) The tax representative's filing of all necessary documents, correspondence, and communications with the division of appeals **or the Indiana board**.

(B) The dates and substance of all hearings, on-site inspections, and meetings.

(*State Board of Tax Commissioners; 50 IAC 15-5-6; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948*)

SECTION 16. 50 IAC 15-5-7, AS ADDED AT 24 IR 949, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

#### **50 IAC 15-5-7 Contingent fees**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11

**Affected:** IC 6-1.1

Sec. 7. (a) In the event a tax representative charges a contingent fee for any matter relating to practice before the property tax assessment board of appeals, the division of appeals, ~~or~~ the **state board, the department, or the Indiana board**, the tax representative may not testify at hearings or on-site inspections without first disclosing the existence of the contingent fee arrangement.

(b) Failure to disclose the existence of a contingent fee arrangement may result in the exclusion of the certified tax representative's testimony or in dismissal of the appeal.



(c) As used in this section, "contingent fee" includes a fee that is based on:

- (1) a percentage of the refund obtained;
- (2) a percentage of the taxes saved; or
- (3) a percentage of the reduction in property value.

*(State Board of Tax Commissioners; 50 IAC 15-5-7; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949)*

SECTION 17. 50 IAC 15-5-8, AS ADDED AT 24 IR 949, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

**50 IAC 15-5-8 Revocation of certification criteria and procedure**

Authority: IC 6-1.1-31-1; IC 6-1.1-31-11

Affected: IC 6-1.1

Sec. 8. (a) ~~After a hearing, the board may deny, suspend, or revoke the certification of a property tax representative on the following grounds~~ **The state board, before January 1, 2002, or the department, after December 31, 2001, may revoke the tax representative certification of a professional appraiser or employee of a professional appraiser for the following:**

- (1) Violation of any rule applicable to certification **or practice.**
- (2) Gross incompetence in the performance of practicing before the property tax assessment board of appeals, the division of appeals, ~~or the state board, the department, or the Indiana board.~~
- (3) Dishonesty or fraud committed while practicing before the property tax assessment board of appeals, ~~or the division of appeals, or the state board, the department, or the Indiana board.~~
- (4) Violation of the standards of ethics or rules of solicitation adopted by the **state board or the department.**

(b) ~~A hearing under subsection (a) will be conducted in a manner that affording the tax representative or applicant due process: Specifically, the tax representative or applicant will be given the opportunity to participate in the hearing process and may be represented by counsel, if desired. It shall be the burden of the board to show, by a preponderance of the evidence, that the denial, suspension, or revocation is justified under this rule.~~

(c) ~~A certification may be suspended under this rule for a period of up to one (1) year. An applicant that has been denied certification, or a tax representative whose certification has been revoked, may reapply after one (1) year from the date the certification was denied or revoked.~~

(b) **The revocation procedure shall be initiated by the state board's or the department's issuance of a notice to the respondent by certified mail, return receipt requested, containing a clear and concise statement detailing the alleged misconduct and stating the time and place for a hearing thereon; provided, however, that the hearing date cannot be less than ninety (90) days from the initial date of mailing of the notice to the respondent. The notice shall inform respondent of the information contained in subsections (d) and (g), and shall further inform respondent that the failure to attend the hearing without good reason cause may constitute grounds for default entered in favor of the state board or the department, as well as the sanction imposed.**

(c) **The state board or the department shall appoint a hearing officer to serve as an administrative law judge for purposes of these proceedings. The hearing officer, once appointed, may, with notice to the parties, conduct any prehearing proceedings requested by either party, or which the hearing officer determines may aid in the ultimate resolution of the proceedings. Informal discovery may be allowed subject to any terms and conditions the hearing officer determines to be appropriate.**

(d) **The revocation hearing shall be conducted on the record. The respondent may be represented by counsel, and shall have the right to present evidence on the respondent's own behalf and to cross-examine the state board's or the department's witnesses or evidence. The burden of proof shall be on the state board or the department to prove the violation or violations alleged by a preponderance of the evidence. No continuance shall be granted except upon a showing of good cause.**

(e) **The hearing officer may consider any of the following in determining whether to recommend to the state board or the commissioner whether respondent's tax representative certification should be revoked:**

- (1) The seriousness of the violation that gave rise to these proceedings.**
- (2) Whether the violation is likely to recur.**
- (3) Respondent's character, including remorse, if any, expressed.**
- (4) Whether respondent's continued status as a tax representative would pose an undue risk to the public.**
- (5) Any other factor the hearing officer determines to be appropriate under the circumstances.**

**(f) The hearing officer shall submit a recommendation for final action to the state board or the commissioner. The recommendation shall contain the reasons for the hearing officer's determination of the sanction, if any, to be imposed. The state board or the commissioner is not bound by the hearing officer's recommendation.**

**(g) Upon receipt of the hearing officer's recommendation, if the state board or the commissioner determines that a violation of subsection (a) has occurred, the state board or the commissioner may take any of the following remedies with respect to the respondent:**

**(1) Decline to issue any sanction.**

**(2) Issue a:**

**(A) written reprimand, either public or private, admonishing the respondent for the violation; or**

**(B) period of suspension of the respondent's Level One assessor-appraiser certification for a period of up to one (1) year, at the conclusion of which the respondent shall be automatically reinstated, provided that respondent meets all educational requirements for a tax representative certification.**

**(3) Revoke the certification of a tax representative for a period of not less than one (1) year, and not more than three (3) years, at the conclusion of which respondent may petition the department for reinstatement provided that respondent meets all of the criteria for certification under this rule.**

**The determination of the state board or the commissioner constitutes a final appealable order of the state board or the department, respectively. (State Board of Tax Commissioners; 50 IAC 15-5-8; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949)**

SECTION 18. THE FOLLOWING ARE REPEALED: 50 IAC 15-1-3; 50 IAC 15-1-5.

### ***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on November 29, 2001 at 4:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Auditorium, Indianapolis, Indiana the State Board of Tax Commissioners will hold a public hearing on proposed amendments concerning the certification of assessor-appraisers, professional appraisers, and tax representatives under 50 IAC 15.*

*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 which 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 Mark Webb, Director, Communications and Public Affairs Division, State Board of Tax Commissioners, at (317) 233-9222.*

*Copies of these rules are now on file at the ISTA Building, 150 West Market Street, Suite 710 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Jon Laramore  
Chairman  
State Board of Tax Commissioners