THE STRUCTURE AND FUNCTION OF THE BOARD
OF TAX REVIEW OF THE STATE OF INDIANA

(Note: The legislature abolished the State Board as of December 31, 2001. Effective January 1, 2002, the legislature created the Department of Local Government Finance ("DLGF") and the Indiana Board of Tax Review ("Indiana Board"). See I.C. 6-1.1-30-1.1 and I.C. 6-1.5-1-3. Pursuant to I.C. 6-1.5-5-8, the DLGF is substituted for the State Board in appeals from final determinations of the State Board that were issued before January 1, 2002.)

The Indiana Board of Tax Review, which is established by I.C. 6-1.5-2-1, is composed of three lay members appointed by the Governor, two of which must belong to one of the major political parties and one which must belong to the other major political party. The members of the Indiana Board of Tax Review must elect a chairperson of the board. Each member is to serve a term of four years, but may be removed by the Governor, after a hearing on the matter, due to incompetency, neglect, or inefficiency. See I.C.6-1.5-2-1 and I.C. 6-1.5-2-3. When a vacancy exists on the Indiana Board of Tax Review, a new member is to be appointed by the Governor and is to serve for the unexpired term of the replaced member. See I.C.6-1.5-2-1.

After appointment to the Indiana Board of Tax Review and before performance of any official duties, each member must execute an oath of office, as well as a $10,000 surety bond, payable to the State of Indiana, both of which must be filed in the office of the Secretary of State. See I.C. 6-1.5-2-2. Thereafter, the Indiana Board of Tax Review may commence transacting business. Any two members constitute a quorum for the purpose of transacting business and action may be taken by the board only upon the vote of the majority of the whole board. See I.C. 6-1.5-2-1(f).

The Indiana Board of Tax Review is to meet in continuous session in the city of Indianapolis, Indiana in quarters which are provided by the State of Indiana. See I.C. 6-1.5-2-4. The governing body of a public agency must give public notice of meetings and executive sessions. See I.C. 5-14-1.5-5. However, I.C. 5-14-1.5-5(f) specifically provides that I.C. 5-14-1.5-5 does not apply to any governing body which meets in continuous session with the exception of meetings of these governing bodies in which meetings are required by or held pursuant to statute, ordinance, rule, or regulation. However, it was the general practice of the State Board of Tax Commissioners, which is now the Indiana Board of Tax Review in this situation, to give some type of notice regarding the time at which a specific issue will be discussed when a member of the public inquires about that particular issue.

The Indiana Board of Tax Review must keep a record of its proceeding and orders, which is public record and sufficient evidence in all courts or proceedings to prove an action, a rule, or an order of the board if the copy is certified by a lay member of the board. See I.C. 6-1.5-2-5.

The function of the Indiana Board of Tax Review is to review and possibly conduct hearings on appeals of final determinations made by assessing officials, County Property Tax Assessing Board of Appeals or the Department of Local Government Finance. To properly and efficiently perform its duties, the Indiana Board of Tax Review may hire employees and delegate to an employee the board’s powers with respect to any duty of the board. See I.C. 6-1.5-3-1 and I.C. 6-1.5-3-2. The Indiana Board of Tax Review may, by written order, appoint administrative law judges, which may conduct any hearing that the Indiana Board of Tax Review is required to hold by law. The Indiana Board of Tax Review may have different administrative law judges simultaneously conduct numerous hearings. See I.C. 6-1.5-3-3.

Article 21.5 of Title 4 of the Indiana Code provides for administrative orders and procedures for agencies and does apply to the Indiana Board of Tax Review, among other agencies. See I.C. 4-21.5-2-4. The Indiana Board of Tax Review is also subject to Article 22 of Title 4 of the Indiana Code which provides for administrative rules and procedures for agencies. See I.C. 6-1.5-6-1.

A taxpayer is entitled to a review by the Indiana Board of Tax Review of final determinations made by the Department of Local Government Finance with respect to I.C.6-1.1-8 Taxation of Utility Companies, I.C. 6-1.1-12.1 Assessed Value Deductions and Deduction Procedures, I.C. 6-1.1-14 Review of Assessments by the Department of Local Government Finance, I.C. 6-1.1-16 Limitations on the Powers of Officials and Boards to Change Personal Property Assessments, and I.C. 6-1.1-26-2 Review of Claim by Department of Local Government Finance. See 6-1.5-5-1(a). In order to obtain a review by the Indiana Board of Tax Review, the taxpayer must file a petition for review with the appropriate county assessor within forty-five days after the notice of the Department of Local Government Finance's action is given to the taxpayer. The Indiana Board of Tax Review must prescribe and issue instructions for completion of a form for use in processing petitions for review of actions by the Department of Local Government Finance. See I.C. 6-1.5-5-3. The county assessor must transmit the petition for review to the Indiana Board of Tax Review within ten days after it is filed. See 6-1.5-5-1. After receiving the petition for review, the Indiana Board of Tax Review must, at its earliest opportunity, either conduct a hearing or cause a hearing to be conducted by an administrative law judge. See I.C. 6-1.5-5-2(a). The Indiana Board of Tax Review must conduct a hearing within six months after a petition in proper form is filed with the Indiana Board of Tax Review, excluding any time due to a delay reasonably caused by the
The Indiana Board of Tax Review must make a final determination in forty-five days after the hearing or the date set in an extension order issued by the Indiana Board of Tax Review, whichever is later. However, the Indiana Board of Tax Review may not extend the final determination date by more than one hundred eighty days. The failure of the Indiana Board of Tax Review to make a final determination within the time allowed will be treated as a final determination of the Indiana Board of Tax Review to deny the petition. See I.C. 6-1.5-5-6. The hearing may be conducted by an administrative law judge on behalf of the Indiana Board of Tax Review. See I.C. 6-1.5-5-4. The administrative law judge has the same rights as the Indiana Board of Tax Review to receive information and other data, and has subpoena power to compel the production of books and records. See I.C. 6-1.5-5-9. The Indiana Board of Tax Review can force the production of books and records by initiating proceedings to hold a person in contempt of court for failure to produce the requested information. See I.C. 6-1.5-5-10. After reviewing the report of the administrative law judge, the Indiana Board of Tax Review may take additional evidence or hold additional hearings. The Indiana Board of Tax Review must base its final determination on the report of the administrative law judge or evidence received at a hearing conducted by the Indiana Board of Tax Review; any additional evidence taken by the Indiana Board of Tax Review; and any records that the Indiana Board of Tax Review considers relevant. See I.C. 6-1.5-5-4.

After the hearing, the Indiana Board of Tax Review must give the petitioner, the township assessor, the county assessor, the county auditor, and the Department of Local Government Finance notice, by mail, of its final determination, findings of fact, and conclusions of law. The Indiana Board of Tax Review must also give notice of the procedures the petitioner or the Department of Local Government Finance must follow in order to obtain court review of the final determination of the Indiana Board of Tax Review. See I.C. 6-1.5-5-5. A final determination of the Indiana Board of Tax Review is subject to judicial review under I.C. 6-1.1-15 et seq. The local government official who made the original determination under judicial review and Department of Local Government Finance are parties to a judicial review initiated under I.C. 6-1.5-5. See I.C. 6-1.5-5-7. A person may petition for judicial review of the final determination of the Indiana Board of Tax Review to the Indiana Tax Court under I.C. 6-1.1-15 et seq. See I.C. 6-1.5-5-7 and I.C. 6-1.1-15 et seq.

A taxpayer is entitled to a review by the Indiana Board of Tax Review of final determinations made by a County Property Tax Assessment Board of Appeals with respect to: the assessed valuation of tangible property; property tax deductions; property tax exemptions; or property tax credits; that are made from a determination by an assessing official or a County Property Tax Assessment Board of Appeals, in accordance with I.C. 6-1.1-15 et seq. See I.C. 6-1.5-4-1. A taxpayer may obtain a review by the Indiana Board of Tax Review of a County Property Tax Assessment Board of Appeals’ action with respect to the assessment of that taxpayer's tangible property, in cases where a County Property Tax Assessment Board of Appeals’ action required the giving of notice to the taxpayer. See I.C. 6-1.1-15-3. Also, a township assessor or county assessor may obtain a review by the Indiana Board of Tax Review of any assessment made by, passed upon, or made over the protest of the assessor. See I.C. 6-1.1-15-3.

To obtain review by the Indiana Board of Tax Review a party must file a petition for review with the appropriate county auditor within thirty days after notice of a County Property Tax Assessment Board of Appeals’ action is given to the taxpayer. See I.C. 6-1.1-15-3. The Indiana Board of Tax Review must prescribe the form and issue instructions for the petition for review, which must include the physical characteristics of the property at issue; the reasons why the petitioner believes the assessment by a County Property Tax Assessment Board of Appeals is erroneous; and all other relevant facts to the assessment determination. The county assessor must transmit the petition for review to the Indiana Board of Tax Review within ten days after it is filed. See I.C. 6-1.1-15-3. After receiving the petition for review, the Indiana Board of Tax Review must conduct a hearing at its earliest opportunity. See I.C. 6-1.1-15-4.

At the hearing, the Indiana Board of Tax Review must assess the property in question and correct any errors which have been made. See I.C. 6-1.1-15-4. Again, the Indiana Board of Tax Review must give the taxpayer, the appropriate township assessor and the county auditor notice, by mail, of the date set for the hearing, at least ten days before the hearing date. See I.C. 6-1.1-15-4. After the hearing, the Indiana Board of Tax Review is required to give the same parties notice, by mail, of its final determination; the reasons, in writing, on which its final determination is based; and, the procedures the parties must follow in order to obtain judicial review by the Indiana Tax Court. See I.C. 6-1.1-15-4.

Within fifteen days after the Indiana Board of Tax Review gives notice of its final determination or the maximum time allowed for issuance of a final determination expires, a party to the proceeding may request a rehearing.
before the Indiana Board of Tax Review. The Indiana Board of Tax Review may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as is required by I.C. 6-1.1-15-4. The Indiana Board of Tax Review has fifteen days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing within fifteen days will be treated as a denial of the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the Indiana Board of Tax Review determines to rehear a final determination, the Indiana Board of Tax Review may conduct necessary additional hearings or review the written record without additional hearings; and must issue a final determination within ninety days after notifying the parties that the Indiana Board of Tax Review will rehear the final determination. Failure of the Indiana Board of Tax Review to make a final determination within the time allowed must be treated as a final determination affirming the original decision of the Indiana Board of Tax Review. See I.C. 6-1.1-15-5.

A person may petition for judicial review of the final determination of the Indiana Board of Tax Review regarding the assessment of that person's tangible property. The action must be taken to the Tax Court under I.C. 4-21.5-5. Unlike most cases which arise from a final determination made by the Indiana Department of State Revenue, the taxpayer will not have paid the property tax in question nor will the taxpayer have filed a claim for refund of the tax. Instead, the taxpayer will file an original tax appeal from the initial property tax assessment. The petition for judicial review must be filed within forty-five days, or within thirty days if a rehearing is conducted or the maximum time allowed for issuance of a final determination expires. See I.C. 6-1.1-15-5(b) & (c). Failure of the Indiana Board of Tax to conduct a hearing within the time prescribed does not constitute notice to the person of an Indiana board final determination. See I.C. 6-1.1-15-5(d). This is the primary procedural route in the Indiana Tax Court in a dispute over either tangible personal property tax or real property tax assessments made by the Indiana Board of Tax Review. In addition, a taxpayer can file a petition for injunctive relief in order to prevent collection of the tax pending the original tax appeal. See I.C. 33-3-5-11.