

The property tax has long been unpopular and viewed by many taxpayers as unfair. This is particularly true for older Hoosiers, who often live on fixed incomes and own their homes. In the last three decades, home values have risen at unprecedented rates, and local government services also have expanded over time, requiring even more revenues. This has often meant even higher property taxes and prompted taxpayer-led property-tax revolts.

Taxpayers and policymakers sometimes confuse the process of valuing property with the process of determining tax rates. A local assessing official must accurately determine the value of a parcel of property in monetary terms. This process is critical to determining the amount of tax applied to a particular assessed valuation. If a taxpayer believes the assessment is inaccurate, biased, or not related to a clear and understandable standard, the taxpayer (whether a business or natural person) can appeal the property's assessed value.

This article is intended as a primer for taxpayers wanting to appeal the assessed value of a parcel of real property.

Appeal of an Unfavorable Property Tax Assessment

By Mark Palmer & Gretchen Gutman

This year, several counties in Indiana experienced unprecedented residential property tax increases. This article advises taxpayers on the basic procedures for appealing an assessment.

In general, a taxpayer's right to appeal an unfavorable property tax assessment begins with the taxpayer's receipt of a notice of assessment or reassessment. The notice of assessment will be issued using one of three forms:

- Form 11 – Notice of Assessment of Land and Structures
- Form 113 - Notice of Assessment by Assessing Officer, or
- Form 122 – Report of Assessment for Omitted or Undervalued Property

If the assessing official fails to provide the taxpayer with any of the notices described above, the right to appeal begins when the taxpayer receives a property tax bill.

In general, the taxpayer may initiate an appeal by filing a notice for review with the county or township assessing official who issued the assessment notice within 45 days after the date of the notice. There is no current official form available that the taxpayer may use to file an appeal. However, the taxpayer may consider using Form 130, previously used to file appeals. In the absence of using a Form 130, the law states that the taxpayer must include the following information:

- Name of the taxpayer
- Address and parcel or key number of the property
- Address and telephone number of the taxpayer

It is always wise for the taxpayer to personally deliver the notice for review to the appropriate assessing official and have a copy of the notice time and date stamped. Alternatively, the taxpayer should send a certified letter (with return receipt requested) containing the notice for review and request that a time and date stamped copy be returned in an included pre-posted, self-addressed envelope.

When the county or township official receives the notice for review, the notice must be immediately forwarded by the official to the county's Property Tax Assessment Board of Appeal (PTABOA, pronounced pee-tuh-bo-uh and rhymes with "cheetah Noah"). Although not mandatory, the taxpayer may also request a meeting with the assessing official during which the two may attempt to come to an agreement on the issues around the assessment.

It is advisable for the taxpayer, before meeting with the assessing official, to begin the process of collecting data to present as objective evidence of the improperly assessed property. First and foremost, the taxpayer should obtain a copy of the property card from the assessing official. The property card is the most important document for establishing the accuracy of the information used by the assessing official in determining the assessment. Simple errors - such as a transposed number resulting in the incorrect calculation of square footage - can lead to significant increase in a taxpayer's assessment.

Assuming the property card is accurate, the taxpayer should then focus on obtaining other objective evidence to present to the assessing official. Such evidence may consist of appraisals of the subject property by qualified consultants, sales of comparable property (preferably) in the area where the taxpayer resides or income data which may demonstrate that the taxpayer's property is not as valuable as determined by the assessor.

If the taxpayer and the assessing official reach a satisfactory agreement on the assessment, there is no need to proceed further with the hearing before the PTABOA. However, if partial issues remain or an agreement is not reached, then the taxpayer may proceed with the hearing before the PTABOA.

The PTABOA must provide the taxpayer with a notice of the hearing date. In addition, the PTABOA must conduct the hearing on the taxpayer's notice for review within 180 days of the filing of the notice.

At the hearing before the PTABOA, general assertions of unfairness will not prevail. Instead, the taxpayer must build a record and demonstrate, through objective evidence, the inaccuracy of the assessment. Again, such objective evidence may be shown through appraisals, comparable sales and income data. It is important to note that the prior determination of assessed value by the assessing official is presumed to be correct. Therefore, the burden is on the taxpayer to present sufficient evidence necessary to overturn the prior determination. It is also important to realize that the PTABOA has the ability, if substantiated by the evidence, to increase the assessment of the property in question.

At the hearing, the assessing official with whom the taxpayer filed the notice for review must present the (A) basis for the “assessment decision and (B) the reasons why the taxpayer’s contentions should be denied.

The PTABOA is required to issue its written decision resolving all of the issues under review within 120 days after the hearing. The PTABOA must also notify the taxpayer of the right for a review of the decision before the Indiana Board of Tax Review.

A taxpayer dissatisfied with the decision of the PTABOA has 45 days from the date of the notice of decision to file an appeal with the Indiana Board of Tax Appeals (IBTA). A petition for review with the IBTA is filed using Form 131 and it is a de novo proceeding. This means that unlike an appeal from a trial court determination, both the taxpayer and assessing official start the proceedings afresh and may introduce new evidence and argue new points of law before the IBTA. If the taxpayer is dissatisfied with the decision issued by the IBTA, the taxpayer may, at its option, petition for rehearing or seek judicial review. If the taxpayer seeks a rehearing, it must file its petition no later than 15 days after the IBTR gives notice of its final determination. Unless the IBTR grants the petition for rehearing, that petition does not toll the time for seeking judicial review before the Indiana Tax Court. A party seeking judicial review must follow the procedures under applicable statutes and the Indiana Tax Court’s rules. Should a taxpayer seeking judicial review by the Indiana Tax Court remain dissatisfied with its ruling, the taxpayer may ultimately seek redress before the Indiana Supreme Court following its applicable rules governing appeals.

Finally, while the local appeal procedures appear simple on their face, the battle to determine the correct assessment begins and ends with a thorough review of the documents used by the assessor in reaching the initial assessment and in compiling and presenting sufficient objective documentation to produce a favorable result.