
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Civil Political Subdivisions

FROM: Jamie Bolser, Budget Director

DATE: August 22, 2024

SUBJECT: Review of Excess Levy Appeals

The Department of Local Government Finance (“Department”) issues this memorandum to inform civil taxing units (“units”) of the criteria the Department uses in determining whether a unit is eligible for an excess maximum levy appeal (“appeal”). Ind. Code § 6-1.1-18.5-12 allows a qualified unit to appeal to the Department for relief from its levy limitations after the unit has determined that it cannot carry out its governmental functions under those levy limitations for the ensuing calendar year. The Department must then examine the merits of the unit’s claim.

For the pay-2025 budget calendar year, the appeal deadline for all appeals other than a shortfall appeal is October 21, 2024. Late submissions will not be considered. Completed appeals should be submitted directly to the unit’s [Budget Field Representative](#) electronically.

Appeals are fact-sensitive inquiries. Ind. Code § 6-1.1-18.5-12(a) requires a unit to support its claim for an appeal with reasonably detailed statements of fact. In evaluating the merit of an appeal, the Department takes a “need-based” approach based on the information presented and the prescriptions of the Indiana Code. The Department expects a unit submitting an appeal to thoroughly detail the appeal, the basis of the appeal (including circumstances as a result of legal or statutory processes), and the numbers used to arrive at the excess levy requested. The unit’s explanation must be clear and well-documented. The burden of proof rests with the unit. **Simply stating that the unit cannot perform its government functions without an excess levy or that the unit is experiencing continuing growth, absent a substantive explanation, is insufficient and will be grounds for denial.** The Department will rely on the explanations and documentation provided by the unit as submitted. The Department has the authority, under Ind. Code § 6-1.1-18.5-12(c), to require the production of additional evidence and records.

If an appeal is approved, the appeal amount is incorporated into the unit’s maximum levy prior to certification of budgets, property tax rates, and property tax levies for the unit for the ensuing year. A decision by the Department on the appeal is final. **The Department may deny or modify an excess levy appeal on the basis that the unit has sufficient fund balances to allow it to carry out its governmental functions.** The Department also will take circuit breaker credits into consideration when estimating fund balance amounts; however, appeals are not allowed to recover losses due to circuit breaker credits.

General Factors Evaluated by the Department

The Department may consider the following factors in reviewing an appeal:

1. What is the percent increase in the rate due to the appeal?
2. What is the percent increase of the levy due to the appeal?
3. Is the taxing unit affected by circuit breaker credits?
4. Will the appeal result in circuit breaker credits?
5. Has the unit experienced levy excess in recent years?
6. What is the taxing unit's history of excess levy appeals? Has the unit received any other increases to its maximum levy as allowed by law other than through an excess levy appeal?
7. Are there TIF districts located within the unit?
8. What is the unit's fund balance as a percent of its budget?
9. What will be the effect on the unit if the appeal is denied?
10. If the appeal is for a correction of an error, what is the error?
11. If the appeal is due to a three-year growth of assessed value, is the amount of excess levy the unit would be eligible for tied to a specific expense the unit deems essential or necessary?
12. If the appeal is due to an emergency, what is the emergency?
13. If the appeal is due to annexation, consolidation, or extension of services, what is the expected increase in assessed value?
14. What will be the impact on the income tax and excise tax distributions?
15. If the appeal is due to annexation, does the amount of the appeal reflect the fiscal plan as originally submitted? Does the percent increase in maximum levy mirror the percent increase in assessed value?
16. If the appeal is due to three-year growth of assessed value, is the increase in assessed value due to an annexation, consolidation, reorganization, extension of services, or other positive change in the unit's boundaries affecting its tax base?
17. Was there opposition or objection to the appeal?
18. What was the vote by the fiscal body approving the appeal?
19. Was the appeal advertised through the ensuing year's budget advertisement?
20. Is the appeal a permanent or temporary increase to the maximum levy?
21. Overall, what is the tax impact on taxpayers?

Types of Appeals

Indiana Code § 6-1.1-18.5 permits the Department to provide relief for the following types of claims:

1. Annexation, consolidation (reorganization), or extension of services.
2. Three-year growth factor exceeding 2% of the statewide average.
3. Correction of advertising errors, mathematical errors, or errors in data.
4. Shortfall due to erroneous assessed valuation.
5. Emergency.

Please use the appropriate petition form for the type of appeal requested. Further information about how to complete the petition is included with each petition. Failing to complete the petition may result in delays or potential denial of the appeal. If necessary, add any relevant supplemental materials to substantiate claims made in the appeal, including but not limited to claims of the excess levy being necessary to continue government functions.

Questions may be directed to the Department's [Budget Field Representatives](#).