LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7829
BILL NUMBER: HB 1767

NOTE PREPARED: Apr 29, 2007
BILL AMENDED: Apr 28, 2007

SUBJECT: Property taxes.

FIRST AUTHOR: Rep. Smith V
FIRST SPONSOR: Sen. Kenley

BILL STATUS: Enrolled

FUNDS AFFECTED: GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Exemption - Building Period:* This bill extends the period during which certain property tax exemptions apply to a tract of land pending construction of a building to be used for exempt purposes. The bill also provides for repayment of property taxes if certain exempt property is sold within four years after purchase.

Levy Appeals: The bill provides that for purposes of determining eligibility for the levy appeal for excessive assessed valuation growth, the first year of the annual adjustment of the assessed valuation of real property ("trending") is excluded.

Exemption - Vermillion County: The bill provides a property tax exemption for certain property in Vermillion County.

Personal Property Returns: The bill validates amended personal property tax returns filed by certain taxpayers.

Exemption Filings: The bill also allows an educational, literary, scientific, religious, or charitable entity that meets certain requirements and that failed to timely file an application for property tax exemption for assessment dates after 2000 to retroactively file for and be granted the property tax exemption.

Effective Date: Upon Passage; January 1, 2001 (Retroactive); January 1, 2007 (Retroactive); July 1, 2007.

Explanation of State Expenditures:

Explanation of State Revenues: *Exemption - Building Period:* The state levies a small tax rate for State Fair and State Forestry. Any change in the assessed value base will change the property tax revenue for these two funds.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Exemption - Building Period:* Under current law, a tract of land is exempt from property taxation if:
(1) The land has been purchased to erect a building that will be exempt because it will be:
 (A) Owned and occupied by a taxpayer for educational, literary, scientific, religious, or charitable purposes;
 (B) Owned, occupied, and used by a town, city, township, or county for educational, literary, scientific, fraternal, or charitable purposes; or
 (C) Acquired for the purpose of developing low-income, single-family residential housing; and
(2) The owner demonstrates substantial progress and active pursuit towards construction within three years of the purchase of the land and each year thereafter.

This bill would give the owner four years, instead of three, to show progress toward building. Some tracts of land that might lose their exemption under current law because of the three-year limit would be able to keep the exemption for at least one additional year under this proposal.

The assessed value of property that loses its exemption is added to the tax base which causes a reduction in the tax rate. This provision would either eliminate that addition to the tax base or delay it for one year. The number of properties that have lost exemptions because of the three-year rule is not known.

Under this bill, if unimproved exempt property is sold, leased, or transferred, then the owner would be liable for the property taxes that would have been due if the property had been taxable beginning on January 1st of the fourth year of ownership and until December 31st of the year of sale, lease, or transfer. The county auditor may establish an installment plan allowing repayment over the same number of years as the years recovered.

Repayments would be distributed as other property tax receipts to the civil taxing units and school corporations that serve the taxpayer. Property tax collections that exceed a taxing unit's levy are deposited into the unit's levy excess fund and are used to reduce the following year's levy.

Levy Appeals: Currently, a civil taxing unit's maximum levy each year equals [the previous year's actual levy PLUS 50% of the unused levy authority in the previous year] plus growth applied at the six-year average growth rate in Indiana nonfarm personal income. The growth factor (AVGQ) is 4.0% in 2007. The AVGQ is appealable to the DLGF if the three-year average growth in assessed value for a unit is at least 2% higher than the AVGQ.

The formula for calculating the three-year AV growth currently excludes the AV growth experienced in years in which a general reassessment takes effect. This bill would also exclude the AV growth experienced in the initial year of trending. The initial trending adjustment reflects six years worth of market changes. After the initial year, each annual trending adjustment will reflect only one year of market change.

Without the exclusion, many taxing units will most likely qualify for maximum levy increases for taxes payable in 2008, 2009, and 2010. By excluding the initial trending year, the effect of the six year adjustment on the AV growth rates for 2008, 2009, and 2010 taxes would be nullified.

Exemption - Vermillion County: This provision would restore property tax exemptions for three taxpayers in Vermillion County for taxes payable in 2007. These taxpayers received exemptions in the past but the county auditor has determined for taxes payable in 2007 that the property is not eligible for exemption.

Property tax rates for 2007 have not yet been established for Vermillion County. If rates are not established until after this bill's enactment, then the rates would take these exemptions into account. However, if 2007 tax rates are established before enactment of this bill, then the tax rates will be based on an inflated assessed value base resulting in tax rates that are too low. The low rates would potentially cause a levy shortfall for the taxing units that provide services to these properties.

Personal Property Returns: Under this provision, amended returns that were submitted for filing from January 1, 2007 through February 28, 2007 for the March 1, 2002, 2003, and 2004, assessment dates would be allowed. Taxpayers would be entitled to exemptions claimed on the inventory schedule and on the 103-W (warehouse exemption return).

This provision would also nullify a notice of increased assessed value (AV) from the township assessor. Penalties and interest would not apply to the net increase in taxes resulting from the amended return.

There are at least two known taxpayers that would be affected by this provision. One taxpayer, in Marion County, received an increase in the assessment of inventory due to an audit. The increase in net taxes for all three years combined is about $2.3 M. The taxpayer has claimed exemptions for part of the added inventory on the amended return.

A second taxpayer, in Vanderburgh County, had a reporting error on its 2004 Pay 2005 personal property return where inventory figures were reported on a thousands scale rather than in dollars. This error was uncovered by internal audit. The increase in net taxes based on corrected AV figures is about $1.3 M. The taxpayer has also claimed exemptions for the added inventory on the amended return.

Under current law, these taxpayers do not qualify for the inventory exemptions on the added AV since they were not claimed on timely filed original or amended returns. These taxpayers must pay the entire $2.3 M and $1.3 M additional tax bills, plus interest at 10% per year.

Under this provision, these taxpayers would only be required to pay the portion of the tax bill that applies to the non-exempt portion (if any) of the added AV. This payment would be without interest. The Marion County taxpayer's additional tax liability would be reduced from $2.3 M to $69,000 if the amended return is allowed by this bill. The Vanderburgh County taxpayer would have no additional liability.

Since the additional assessments for the two identified taxpayers are due to audits completed after property tax rates were established for the years in question, the tax rates in those years were not based on this AV. The additional tax that results from the added assessments, therefore, was not a part of the original tax levy. While this provision would result in a reduction of revenues as compared to current law, these revenues are in addition to the normal tax levy. Taxpayers who file amended returns under this provision would not be entitled to any refunds.

It is possible that there are other, unknown, taxpayers in Indiana that could be affected by this bill.

Exemption Filings: Under this provision, a nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes would retroactively receive property exemptions for taxes payable in any year or years from CY 2002 through CY 2008 if:

1) The taxpayer failed to timely file an exemption application;

2) The taxpayer would have qualified for the exemption if the application had been timely filed;

3) The taxpayer owned other property in the same county that was exempt in the year or two prior to the assessment date of the missed filing.

If the taxpayer has already paid the tax, then the taxpayer would be entitled to a refund without interest.

This provision would apply to an unknown number of taxpayers. If a taxpayer has not paid the tax, then the tax liability would be eliminated and the affected taxing units would not receive a part of past or current levies. If a refund of taxes already paid is issued, then the refund could be paid from each affected taxing unit's levy excess fund balance, if any. If insufficient balances exist, the refunds would reduce current property tax collections.

State Agencies Affected: Department of Local Government Finance; Department of Natural Resources; State Fair Board.

Local Agencies Affected: County auditors; Marion, Vanderburgh, and Vermillion Counties; Other local civil taxing units and school corporations.

Information Sources: Joe Smith, Baker & Daniels.

Fiscal Analyst: Bob Sigalow, 317-232-9859.