
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All County Assessors and Auditors
FROM: Micah G. Vincent, Commissioner
RE: Legislative Changes Affecting Property Tax Exemptions
DATE: May 8, 2014

This memorandum addresses several legislative changes concerning property tax exemptions and the corresponding powers and duties of county assessors and auditors. Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law.

I. Early Childhood Education Providers Property Tax Exemption

On March 26, 2014, Governor Pence signed into law Senate Enrolled Act 158 (“SEA 158”), which introduces a property tax exemption for certain early childhood education providers.

Section 1 of SEA 158 amends IC 6-1.1-10-16, effective January 1, 2015, so that a for-profit provider of early childhood education services to children who are at least four but less than six years of age on the annual assessment date may receive an exemption for property used for educational purposes only if all the requirements of IC 6-1.1-10-46 (discussed below) are satisfied. A for-profit provider of early childhood education services that provides the services only to children younger than four may not receive this exemption. Where IC 6-1.1-10-36.3 addresses the applicability of an exemption to property used or occupied for one or more stated purposes, the exemption for early childhood education providers is excluded.

Section 3 adds IC 6-1.1-10-46, effective January 1, 2015, which outlines the eligibility requirements for the exemption. In sum, tangible property owned, occupied, or used by a for-profit provider of early childhood education services to children who are at least four but less than six years of age is exempt from property taxation under IC 6-1.1-10-16 only if all the following requirements are satisfied:

- (1) The primary purpose of the provider is educational.
- (2) The provider is the property owner and the provider also predominantly occupies and uses the tangible property for providing early childhood education services to children who are at least four but less than six years of age.
- (3) The provider participates in the early education evaluation program established under IC 12-17.2-3.8 and meets the standards of quality

recognized by a Level 3 or Level 4 Paths to QUALITY program rating or has a comparable rating from a nationally recognized accrediting body.

If the property owner provides early childhood education services to children who are at least four but less than six years of age and to children younger than four, the amount of the exemption must be on that part of the assessment of the property that bears the same proportion to the total assessment of the property as the percentage of the property owner's enrollment count of children who are at least four but less than six years of age compared to the property owner's total enrollment count of children of all ages.

The annual assessment date or, if the annual assessment date is not a business day for the property owner, the business day closest to the annual assessment date, must be used for the enrollment count. However, a property owner that believes that the enrollment count on this date for a particular year does not accurately represent the property owner's normal enrollment count for that year may appeal to the county assessor for a change in the date to be used for that year. The appeal must be filed on or before the deadline for filing an exemption under IC 6-1.1-10-16.

If the county assessor finds that the property owner's appeal substantiates that the property owner's normal enrollment count is not accurately represented by using the specified date, the assessor must establish an alternate date to be used for that year that represents the property owner's normal enrollment count for that year.

II. Management of Property Tax Exemptions

A. House Enrolled Act 1266

On March 26, 2014, Governor Pence signed into law House Enrolled Act 1266 ("HEA 1266"), Section 6 of which amends IC 6-1.1-11-4 which governs the effect on an exemption of a change in ownership. This amendment, effective July 1, 2014, essentially modifies the statute to conform to existing practice.

Specifically, if, after an assessment date, an exempt property is transferred or its use is changed resulting in its ineligibility for an exemption under IC 6-1.1-10, the county assessor must terminate the exemption for that assessment date. However, if the property remains eligible for an exemption under IC 6-1.1-10 following the transfer or change in use, the exemption must be left in place for that assessment date.

Example: If a church receives a property tax exemption on a parcel on March 1 under IC 6-1.1-10, it sells the property after March 1, and the property no longer qualifies for an exemption under IC 6-1.1-10 following the sale, the exemption is terminated for that assessment date.

For the following assessment date, the person that obtained the exemption or the current owner of the property, as applicable, must, except as otherwise provided, file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. In all cases, the person that obtained the exemption or the current owner of the property must notify (using Form 136-CO/U, as prescribed by the Department of Local

Government Finance) the county assessor for the county where the tangible property is located of the change in ownership or use in the year that the change occurs.

If the county assessor discovers that title to or use of property granted an exemption under IC 6-1.1-10 has changed, the county assessor must notify the persons entitled to a tax statement under IC 6-1.1-22-8.1 for the property of the change in title or use and indicate that the county auditor will suspend the exemption for the property until the persons provide the county assessor with an affidavit, signed under penalties of perjury, that identifies the new owners or use of the property and indicates whether the property continues to meet the requirements for an exemption under IC 6-1.1-10. Upon receipt of the affidavit, the county assessor must reinstate the exemption under IC 6-1.1-15-12. However, a claim under IC 6-1.1-26-1 for a refund of all or a part of a tax installment paid and any correction of error under IC 6-1.1-15-12 must be filed not later than three years after the taxes are first due.

B. Senate Enrolled Act 420

On March 25, 2014, Governor Pence signed into law Senate Enrolled Act 420 (“SEA 420”), effective July 1, 2014. SEA 420 institutes several changes concerning assessment dates and the management of property tax exemptions.

Although the Department of Local Government Finance (“Department”) will issue a separate memorandum addressing SEA 420’s changes to the assessment calendar, the Department will reiterate here that Sections 2 and 3 of SEA 420 provide that the assessment date of tangible property, as specified in the newly-introduced IC 6-1.1-2-1.5, is as follows:

- 1) For non-mobile home properties, the assessment date is March 1 in a year ending *before* January 1, 2016, and January 1 in a year **beginning after** December 31, 2015.
- 2) For mobile home properties subject to assessment under IC 6-1.1-7, the assessment date is January 15 in a year ending *before* January 1, 2017, and January 1 in a year **beginning after** December 31, 2016.

Section 19 of SEA 420 adds IC 6-1.1-11-1.5, which provides that an award of a property tax exemption for a particular assessment date **beginning after December 31, 2015 (or December 31, 2016 for mobile homes assessed under IC 6-1.1-7)** must be based on the property’s eligibility for the exemption on that assessment date. An act occurring after the assessment date, including a change in:

- (1) use, value, character, or ownership of the tangible property; or
- (2) the age, disability, or income of any owner, contract buyer, or possessor of tangible property;

does not affect the eligibility of the tangible property for an exemption for that assessment date.

Example: A property tax exemption is applied to a charitable organization’s building for the January 1, 2016, assessment date. On November 1, 2016, the charitable organization sells the building to a startup, for-profit business. The exemption on that building remains for the January 1, 2016 assessment date.

Section 20 amends IC 6-1.1-11-3 so that, for an assessment date in a year **beginning after December 31, 2015**, the deadline to submit a property tax exemption application to the county assessor is April 1 of the year containing the assessment date. If the county property tax board of appeals denies the application, it has no later than April 25 to provide notice to the taxpayer.

Section 21 amends IC 6-1.1-11-3.5 to provide that, **after December 31, 2015**, a non-profit corporation that receives an exemption for a particular year but which becomes ineligible for the following year must notify the county assessor before April 1 of the year for which it becomes ineligible. Also, **after December 31, 2015**, if part or all of a non-profit corporation's property becomes ineligible due to a change in use, the non-profit corporation must notify the county assessor before April 1.

Section 24 adds IC 6-1.1-11-11, which states that any conflict between a provision of IC 6-1.1-11 added or changed in the 2014 regular session of the General Assembly and a provision in another law is to be resolved in favor of a provision in IC 6-1.1-11.

C. Reconciling HEA 1266 with SEA 420

For 2014 and 2015 (and 2016 for mobile homes), if a property is transferred or its use is changed so that it is no longer eligible for an exemption under IC 6-1.1-10, the exemption is removed for that year's assessment date. Starting in 2016, if non-mobile home property receiving an exemption is transferred or its use changed so that it is no longer eligible for an exemption under IC 6-1.1-10, the exemption will remain in place for that year's assessment date. Starting in 2017, if a mobile home property receiving an exemption is transferred or its use changed so that it is no longer eligible for an exemption under IC 6-1.1-10, the exemption will remain in place for that year's assessment date. If the General Assembly makes any additional changes to these laws in 2015, the Department will distribute information accordingly.

Contact Information

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