

## **ARTICLE 5.1. PUBLIC UTILITY ASSESSMENT**

*NOTE: Reinstated by IC 6-1.1-8-44, effective July 1, 2003.*

### **Rule 1. Definitions**

#### **50 IAC 5.1-1-1 Applicability**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 1. (a) The definition *[sic.]* in this rule apply throughout this article.

(b) Unless otherwise indicated, the definitions contained in 50 IAC 4.2-1-1 also apply to this article. However, if a definition in 50 IAC 4.2-1-1 conflicts with a definition contained in this article, the definition under this article controls with respect to the assessment and taxation of public utility property. *(Department of Local Government Finance; 50 IAC 5.1-1-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 950; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

#### **50 IAC 5.1-1-2 "Annual report" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2; IC 6-1.1-8-19

Sec. 2. "Annual report" means the statement required by IC 6-1.1-8-19. *(Department of Local Government Finance; 50 IAC 5.1-1-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 950; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

#### **50 IAC 5.1-1-3 "Base year value" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 3. "Base year value" means the amount, measured in money, that a willing buyer in an arm's-length transaction would pay to acquire the item of property subject to the lease under consideration at the time the lease or bailment was first consummated. For purposes of applying this definition to a specific factual situation, the amount stated in the agreement as the amount which the lessee would have had to pay to acquire the leased property instead of leasing the property will be deemed to be the base year value, provided that the state board does not determine that such amount is unrealistically low in relation to the other terms contained in the agreement. If the alternative acquisition cost is not shown in the lease agreement, the base year value shall be computed in the following order of preference:

(1) The factory delivered price for the tangible personal property subject to the lease plus freight, installation costs, and a profit factor.

(2) The present value of the lease payments at the inception of the lease computed in accordance with 50 IAC 4.2-15-14.

(3) The insurable value in the year the lease was first consummated.

(4) The capitalized value at eight (8) times the annual lease or rental payments.

*(Department of Local Government Finance; 50 IAC 5.1-1-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 950; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

#### **50 IAC 5.1-1-4 "Bridge company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 4. "Bridge company" means a company that owns or operates a toll bridge or an approach or facility operated in connection with a toll bridge. *(Department of Local Government Finance; 50 IAC 5.1-1-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 950; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

#### **50 IAC 5.1-1-5 "Bus company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 5. "Bus company" means a company (other than a street railway company) that is principally engaged in the business of transporting persons for hire by bus on regularly scheduled routes in or through two (2) or more townships of this state. The term does not include a company that exclusively operates charter buses, which do not have scheduled routes. (*Department of Local Government Finance; 50 IAC 5.1-1-5; filed Dec 15, 1993, 5:00 p.m.: 17 IR 950; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-6 "Capital lease" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 6. "Capital lease" means a lease that should be capitalized by the lessee for federal income tax purposes and meets one (1) or more of the following requirements:

(1) Ownership of the property is transferred to the lessee at or before the end of the lease term.

(2) The lease permits the lessee to purchase the property or renew the lease at a price or rental which is substantially less than the estimated market value or fair rental of the leased property at the time the option to purchase or renew the lease is exercised.

(3) The lease term is equal to seventy-five percent (75%) or more of the estimated economic life of the leased property.

(4) The present value of the minimum lease payments equals or exceeds ninety percent (90%) of the fair market value of the leased property at the inception of the lease.

A capital lease may be a sales-type lease, a direct financing lease, or a leveraged lease. (*Department of Local Government Finance; 50 IAC 5.1-1-6; filed Dec 15, 1993, 5:00 p.m.: 17 IR 950; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-7 "Construction in progress" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 7. "Construction in progress" means tangible personal property that has not been placed in service on the assessment date. Construction in progress has not been depreciated and is not eligible for federal income tax depreciation under Section 167 of the Internal Revenue Code of 1986. Construction in progress does not include the inventory of a contractor that is not a part of the real or personal property under construction. A contractor's inventory must be valued and reported as provided in 50 IAC 4.2-5. Tangible personal property, normally assessed as inventory and held in abeyance or stored temporarily, and which possession may be transferred to another person to be attached to or become a part of an asset subject to assessment for personal property tax purposes, is taxable as inventory as provided in 50 IAC 4.2-5-1 or 50 IAC 5.1-8 and is not construction in progress. (*Department of Local Government Finance; 50 IAC 5.1-1-7; filed Dec 15, 1993, 5:00 p.m.: 17 IR 951; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-8 "Definite situs" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 8. "Definite situs" means a permanent location in one (1) taxing district or a customary location for use in one (1) taxing district. Customary location means the location where property is regularly used. (*Department of Local Government Finance; 50 IAC 5.1-1-8; filed Dec 15, 1993, 5:00 p.m.: 17 IR 951; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-9 "Distributable property" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 9. "Distributable property" means property owned or used by a public utility company that is not locally assessed real property or locally assessed personal property. Distributable property is that property used to furnish the public utility service. The right-of-way of a public utility company is distributable property. It may consist of the public utility company's transportation system, production plant, transmission system, and/or distribution system. The state board distributes to the appropriate taxing districts the assessed value of the public utility company's distributable property. (*Department of Local Government Finance; 50 IAC 5.1-1-9;*

*filed Dec 15, 1993, 5:00 p.m.: 17 IR 951; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-10 "Express company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 10. "Express company" means a company which:

(1) is engaged in the business of transporting property by land, air, or water; and

(2) does not itself operate the vehicles (except for terminal pickup and delivery vehicles) of transportation.

*(Department of Local Government Finance; 50 IAC 5.1-1-10; filed Dec 15, 1993, 5:00 p.m.: 17 IR 951; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-11 "Fixed property" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 11. "Fixed property" means property that is assessed by the township assessor in the taxing district where it is located. The term may include both locally assessed personal property and locally assessed real property. Fixed property is also known as locally assessed property. *(Department of Local Government Finance; 50 IAC 5.1-1-11; filed Dec 15, 1993, 5:00 p.m.: 17 IR 951; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-12 "Inventory" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 12. "Inventory" has the same meaning as set forth in 50 IAC 4.2-5-1. *(Department of Local Government Finance; 50 IAC 5.1-1-12; filed Dec 15, 1993, 5:00 p.m.: 17 IR 951; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-13 "Leased property" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 13. "Leased property" means property that is leased, rented, or otherwise made available to a person other than the owner under a bailment agreement, written or unwritten. The term does not include locally assessed real property, inventory, special tooling, or returnable containers. Leased property may include, but is not limited to:

- (1) business machines;
- (2) postage meters;
- (3) machinery;
- (4) equipment;
- (5) furniture;
- (6) fixtures;
- (7) coin-operated devices;
- (8) tools;
- (9) burglar alarms;
- (10) signs and other advertising devices; and
- (11) motor vehicles;

which are loaned, leased, used, or otherwise held in the possession of a person other than the owner on the assessment date whether or not any fees are charged. *(Department of Local Government Finance; 50 IAC 5.1-1-13; filed Dec 15, 1993, 5:00 p.m.: 17 IR 951; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-14 "Light, heat, or power company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 14. "Light, heat, or power company" means a company that is engaged in the business of furnishing light, heat, or power by electricity, gas, or steam. Light, heat, and power companies may be:

- (1) investor-owned electric and steam heat companies;
- (2) rural electric membership corporations or cooperatives; or
- (3) natural gas distribution companies.

*(Department of Local Government Finance; 50 IAC 5.1-1-14; filed Dec 15, 1993, 5:00 p.m.: 17 IR 952; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-15 "Locally assessed personal property" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 15. "Locally assessed personal property" means tangible personal property owned or used by the public utility company (except for a railroad company) that is not used as part of the company's production plant, transmission system, or distribution system. For a railroad company, "locally assessed personal property" means tangible personal property owned or used by the railroad company that is not used in the operation of the railroad. Locally assessed personal property must be reported on the appropriate form by the public utility company to the township assessor where the property is located. In general, locally assessed personal property consists of the following:

- (1) Automotive and other mobile equipment (except that of a bus company or railroad company).
- (2) Office furniture and fixtures.
- (3) Maintenance equipment not used as part of the production, transmission, or distribution system (including general plant related items such as stores, tools, and shop and garage equipment).
- (4) The inventory of materials held for use in production and property held for sale in the ordinary course of trade or business.
- (5) Other tangible personal property which is not used as a part of the public utility company's production plant, transmission system, or distribution system.

*(Department of Local Government Finance; 50 IAC 5.1-1-15; filed Dec 15, 1993, 5:00 p.m.: 17 IR 952; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-16 "Locally assessed property" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 16. "Locally assessed property" means property that is assessed by the township assessor in the taxing district where it is located. The term includes both locally assessed personal property and locally assessed real property. Locally assessed property is also known as fixed property. *(Department of Local Government Finance; 50 IAC 5.1-1-16; filed Dec 15, 1993, 5:00 p.m.: 17 IR 952; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-17 "Locally assessed real property" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 17. "Locally assessed real property" means fixed real property owned or used by a public utility company that is assessed by the township assessor in the taxing district where it is located. Real property may include both land and improvements. It does not include the right-of-way of a public utility company. For a railroad company, it includes only the right-of-way land and buildings leased to commercial tenants, the land adjoining the right-of-way devoted to industrial parks, any abandoned right-of-way, and railroad land and buildings not being used for railroad operations will be locally assessed real property. *(Department of Local Government Finance; 50 IAC 5.1-1-17; filed Dec 15, 1993, 5:00 p.m.: 17 IR 952; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-18 "Materials and supplies" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 18. "Materials and supplies" shall have the meaning *[sic., set]* forth in 50 IAC 4.2-5-1(b)(3). (*Department of Local Government Finance; 50 IAC 5.1-1-18; filed Dec 15, 1993, 5:00 p.m.: 17 IR 952; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-19 "Operating lease" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 19. "Operating lease" means a lease other than a capital lease. (*Department of Local Government Finance; 50 IAC 5.1-1-19; filed Dec 15, 1993, 5:00 p.m.: 17 IR 952; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-20 "Pipeline company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 20. "Pipeline company" means a company that is engaged in the business of transporting or transmitting any gas or fluid (except water) through pipes. (*Department of Local Government Finance; 50 IAC 5.1-1-20; filed Dec 15, 1993, 5:00 p.m.: 17 IR 952; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-21 "Public utility company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8

Sec. 21. "Public utility company" means a company that is subject to taxation under IC 6-1.1-8 regardless of whether the company is operated by an individual, a partnership, an association, a corporation, a fiduciary, or any other entity. (*Department of Local Government Finance; 50 IAC 5.1-1-21; filed Dec 15, 1993, 5:00 p.m.: 17 IR 952; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-22 "Public utility property" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 22. "Public utility property" means property owned or used by a public utility company. (*Department of Local Government Finance; 50 IAC 5.1-1-22; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-23 "Railroad car company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 23. "Railroad car company" means a company (other than a railroad company) which owns or operates cars for the transportation of property on railroads. (*Department of Local Government Finance; 50 IAC 5.1-1-23; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-24 "Railroad company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 24. "Railroad company" means a company that owns or operates:

(1) a steam or electric railroad;

- (2) a suburban or interurban railroad;
- (3) a switching or terminal railroad;
- (4) a railroad station, track, or bridge; or
- (5) a facility that is part of a railroad system.

*(Department of Local Government Finance; 50 IAC 5.1-1-24; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-25 "Returnable containers" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 25. "Returnable containers" means those items of tangible personal property which are used to package inventory or other property while in transit which are reusable. Returnable containers may include, but are not limited to:

- (1) cooperage;
- (2) skids;
- (3) bottles;
- (4) cases;
- (5) pallets; and
- (6) other packaging devices.

*(Department of Local Government Finance; 50 IAC 5.1-1-25; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-26 "Sewage company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 26. "Sewage company" means a company that is engaged in the business of operating a sewage system or a sewage treatment plant. *(Department of Local Government Finance; 50 IAC 5.1-1-26; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-27 "Sleeping car company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 27. "Sleeping car company" means a company (other than a railroad company) which owns or operates cars for the transportation of passengers on railroads. *(Department of Local Government Finance; 50 IAC 5.1-1-27; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-1-28 "Special tooling" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 28. "Special tooling" means tangible personal property, including, but not limited to:

- (1) tools;
- (2) dies;
- (3) jigs;
- (4) fixtures;
- (5) gauges;
- (6) molds; and
- (7) patterns;

acquired or made for the production of products or product models which are of such specialized nature that their utility generally

ceases with the modification or discontinuance of such products or product models. The term does not include those items being manufactured or built for sale or lease to another person. (*Department of Local Government Finance; 50 IAC 5.1-1-28; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-29 "State board" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 29. "State board" means the state board of tax commissioners. (*Department of Local Government Finance; 50 IAC 5.1-1-29; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-30 "Street railway company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 30. "Street railway company" means a company which owns or operates a passenger transportation business principally within one (1) or more municipalities regardless of whether the transportation vehicles operate on tracks, by means of electric power transmitted through wires, or by means of automotive equipment. (*Department of Local Government Finance; 50 IAC 5.1-1-30; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-31 "System" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 31. "System" means all property owned or used by a public utility company or companies and operated as one (1) unit in furnishing a public utility service. (*Department of Local Government Finance; 50 IAC 5.1-1-31; filed Dec 15, 1993, 5:00 p.m.: 17 IR 953; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-32 "Telephone, telegraph, or cable company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 32. "Telephone, telegraph, or cable company" means a company that is principally engaged in the business of communicating by electrical transmission, including the following:

- (1) Cellular telephone companies.
- (2) Local exchange telephone companies.
- (3) Interexchange companies.
- (4) Long distance companies.
- (5) Radio-telephone companies.
- (6) Paging services.

The term does not include a cable television company. (*Department of Local Government Finance; 50 IAC 5.1-1-32; filed Dec 15, 1993, 5:00 p.m.: 17 IR 954; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-33 "Tunnel company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 33. "Tunnel company" means a company which owns or operates a toll tunnel. (*Department of Local Government Finance; 50 IAC 5.1-1-33; filed Dec 15, 1993, 5:00 p.m.: 17 IR 954; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-34 "Unit value" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 34. "Unit value" means the total value of all of the property of a public utility company determined under this article (including all leased property used by the company). (*Department of Local Government Finance; 50 IAC 5.1-1-34; filed Dec 15, 1993, 5:00 p.m.: 17 IR 954; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-1-35 "Water distribution company" defined**

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 35. "Water distribution company" means a company that is engaged in the business of selling or distributing water by pipe, main, canal, or ditch. (*Department of Local Government Finance; 50 IAC 5.1-1-35; filed Dec 15, 1993, 5:00 p.m.: 17 IR 954; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**Rule 2. Introduction; Companies Subject to Assessment**

**50 IAC 5.1-2-1 Purpose**

Authority: IC 6-1.1-8-42

Affected: IC 6-1.1-3-1; IC 6-1.1-8

Sec. 1. (a) The purpose of this rule is to provide rules for the assessment of public utility property. This rule applies to all public utility companies.

(b) Under IC 6-1.1-8, the state board makes an annual assessment of each public utility company.

(c) The valuation made by the state board includes all real, personal, and distributable property of the public utility company, wherever located. The value of locally assessed real and personal property is deducted from the unit valuation to calculate the value of distributable property. The state board subtracts the value of locally assessed property, as reported by the county assessor from the unit valuation. The state board allocates the remainder, the distributable property, to the various taxing districts. (*Department of Local Government Finance; 50 IAC 5.1-2-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 954; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-2-2 Property subject to assessment**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 2. The property owned or used by a public utility company is subject to assessment according to this rule. Property that is used by the public utility company under an agreement whereby the public utility company exercises the beneficial rights of ownership for a major part of a year is assessed to the public utility company. Leased property may be subject to assessment to the public utility company, see 50 IAC 5.1-10. (*Department of Local Government Finance; 50 IAC 5.1-2-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 954; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-2-3 Companies subject to assessment**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 3. Except as provided in section 4 of this rule, the following companies are subject to assessment as public utility companies under this article:

(1) A company engaged in the business of transporting persons or property, including:

(A) bus companies;

(B) express companies;

(C) pipeline companies;



- (D) railroad companies;
- (E) railroad car companies;
- (F) sleeping car companies;
- (G) street railway companies; and
- (H) tunnel companies.

However, aviation companies (including passenger airlines and air freight carriers) and trucking companies are subject to assessment under 50 IAC 4.2, and are not subject to assessment under this article.

(2) A company engaged in the business of selling or distributing electricity, gas, steam, or water.

(3) A company engaged in the business of transmitting messages for the general public by wire or airwaves.

(4) A company engaged in the business of operating a sewage system or a sewage treatment plant.

*(Department of Local Government Finance; 50 IAC 5.1-2-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 954; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

#### **50 IAC 5.1-2-4 Companies excluded**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-2

Sec. 4. The following companies are not subject to assessment as public utility companies under this article:

- (1) Aviation companies.
- (2) Broadcasting companies, including radio and television broadcasting companies and cable television companies.
- (3) Water transportation companies.
- (4) Companies that are operated by a municipality or a municipal corporation, except those utility companies owned or held in trust by a first class city.

*(Department of Local Government Finance; 50 IAC 5.1-2-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 955; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

### **Rule 3. Reporting Requirements**

#### **50 IAC 5.1-3-1 Who must file**

Authority: IC 6-1.1-8; IC 6-1.1-31-1

Affected: IC 6-1.1-8-19

Sec. 1. (a) Each year a public utility company shall file an annual report with the state board concerning the value and description of the property which is either owned or used by the public utility company.

(b) In completing a report or statement, a public utility company shall make a complete disclosure of all information, required by the state board, that is related to the value, nature, and location of property:

- (1) which the public utility company owned; or
- (2) which the public utility company held, possessed, controlled, or occupied.

(c) The public utility company shall certify the truth of all information appearing in the report or statement and all data accompanying the report or statement. *(Department of Local Government Finance; 50 IAC 5.1-3-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 955; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

#### **50 IAC 5.1-3-2 What to file; annual report to state board**

Authority: IC 6-1.1-8; IC 6-1.1-31-1

Affected: IC 6-1.1-8-19; IC 6-1.1-8-21

Sec. 2. (a) The state board has designated Form UD-45, Annual Report of Public Utility Company, as the annual report to be filed with the state board by all public utility companies, other than railroad companies and railroad car companies.

(b) Railroad companies shall annually file Form UD-32, Annual Report of Railroad Company, with the state board.

(c) Railroad car companies shall annually file Form RC-1, Railcar Tax Report, with the state board.

(d) Along with the Form UD-45 or the Form UD-32, a public utility company shall submit to the state board information

requested by the state board, including:

- (1) the most recent financial statements;
- (2) information concerning depreciation records; and
- (3) the most recent annual report to shareholders or members;

to the extent that such reports, records, or statements exist.

(e) Railroad companies shall also submit to the state board the Interstate Commerce Commission Form R-1, if the railroad company is required to file Form R-1 with the Interstate Commerce Commission.

(f) A public utility company may submit a substitute computer or machine generated annual report form or schedule that is a part of the annual report, in lieu of using the actual annual report form or schedule, provided that the report or schedule:

- (1) contains all of the required information as set forth in the actual report or schedule;
- (2) properly and clearly identifies the report or schedule being substituted; and
- (3) is approved by the state board under 50 IAC 4.2-1-6 prior to its use.

*(Department of Local Government Finance; 50 IAC 5.1-3-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 955; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

### **50 IAC 5.1-3-3 What to file; local reporting requirement**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-23

Sec. 3. (a) In addition to Form UD-45, public utility companies shall also file Form 1, Annual Return of Local Personal Property, with the assessor of each township in which the public utility company's locally assessed personal property is subject to assessment. If a public utility company has locally assessed personal property in two (2) or more taxing districts within the same township, the public utility company shall file a separate Form 1 covering the locally assessed personal property in each taxing district.

(b) A substitute computer or machine generated Form 1 may be used in lieu of the actual Form 1, if such form is approved by the state board under 50 IAC 4.2-1-6 prior to its use. *(Department of Local Government Finance; 50 IAC 5.1-3-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 955; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

### **50 IAC 5.1-3-4 Due date**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-19

Sec. 4. (a) A public utility company, except a railroad car company, shall file its annual report with the state board on or before March 1 of that year unless a filing extension has been granted by the state board under section 6 of this rule.

(b) A railroad car company shall file its annual report with the state board on or before May 1 of that year unless a filing extension has been granted by the state board under section 6 of this rule.

(c) A public utility company shall also file Form 1, Annual Return of Local Personal Property, with the assessor of each township in which the public utility company's locally assessed personal property is subject to assessment on or before March 1 of that year unless a filing extension has been granted by the state board under section 6 of this rule. *(Department of Local Government Finance; 50 IAC 5.1-3-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 955; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

### **50 IAC 5.1-3-5 Duty to file**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-19

Sec. 5. (a) It is the responsibility of the public utility company to obtain the necessary report forms and timely file the required reports with the state board.

(b) The state board will furnish each public utility company with the appropriate forms to complete their respective annual reports. However, the obligation to file the required report is not diminished or affected by the failure of the state board to deliver or mail forms to the public utility company. It is the responsibility of the public utility company to obtain the necessary report forms and timely file the required reports with the state board.

(c) It is also the responsibility of the public utility company to file the required report (Form 1) with each of the assessors of the townships in which the public utility company has locally assessed personal property subject to assessment. (*Department of Local Government Finance; 50 IAC 5.1-3-5; filed Dec 15, 1993, 5:00 p.m.: 17 IR 956; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-3-6 Extension of time**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-19

Sec. 6. (a) The state board may extend the due date for the annual report for a public utility company.

(b) The state board may grant a general extension to all public utility companies or classes of public utility companies. The state board will notify the public utility company of any general extension. A written request by the public utility company is not necessary to exercise the general extension.

(c) An extension of the due date, or an extension beyond the general extension granted under subsection (b), shall be considered by the state board if:

- (1) the public utility company submits a written request for an extension at least five (5) days prior to the due date; and
- (2) the public utility company cannot file on or before the due date because of extraordinary and unusual circumstances.

(d) An extension granted by the state board under subsection (c) shall be in writing. A copy of the extension shall accompany the taxpayer's annual report.

(e) An extension granted by the state board under subsection (b) or subsection (c) shall also apply to the report required under section 3 of this rule. (*Department of Local Government Finance; 50 IAC 5.1-3-6; filed Dec 15, 1993, 5:00 p.m.: 17 IR 956; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-3-7 Liability for taxes**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-2-4; IC 6-1.1-8-1

Sec. 7. (a) The owner of any tangible property on the assessment date of a year is liable for the taxes imposed on the property for that year.

(b) A public utility company holding, possessing, controlling, or occupying any tangible property on the assessment date of a year is liable for the taxes imposed on the property for that year unless:

- (1) the public utility company establishes that the property is being assessed and taxed in the name of the owner; or
- (2) the owner is liable for the taxes under a contract with that person.

(c) When a person other than the owner pays any property taxes as required by this section, that person may recover the amount paid from the owner, unless the parties have agreed to other terms in a contract. (*Department of Local Government Finance; 50 IAC 5.1-3-7; filed Dec 15, 1993, 5:00 p.m.: 17 IR 956; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-3-8 Disclosure of information**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-2-4; IC 6-1.1-3-9; IC 6-1.1-8-21

Sec. 8. (a) In completing the annual report, a public utility company shall make a complete disclosure of all information required by the state board.

(b) A public utility company that holds, possesses, controls, or occupies property that it does not own must make a full disclosure, on the forms provided by the state board, of the not-owned property and information relating to that property. The required information shall include the name and address of the owner, model, description, location, quantities on hand, date of installation, value (if known) as required by this article, and any other information requested on the appropriate form. (See special instructions in 50 IAC 5.1-10-3 for reporting leased personal property.)

(c) Failure to properly disclose property that a public utility company holds, possesses, or controls shall result in the assessment of the property to the public utility company. See, *State Board of Tax Commissioners v. Jewell Grain Company*, 556 N.E.2d 920 (Ind. 1990).

(d) Information is required to be submitted by the holder, possessor, or controller even if the owner is liable for the taxes under

a contract to ensure that the assessing official has the necessary information to correctly assess the property in question. (*Department of Local Government Finance; 50 IAC 5.1-3-8; filed Dec 15, 1993, 5:00 p.m.: 17 IR 956; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-3-9 Penalty**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-2-4; IC 6-1.1-8-20

Sec. 9. (a) If a public utility company does not file the annual report required under section 2 of this rule with the state board on or before the due date, the company will incur a penalty of one hundred dollars (\$100) per day for each day that the annual report is late.

(b) An annual report is not considered to be complete unless the report contains the information required by the state board and is signed under the penalty for perjury by an authorized person.

(c) A public utility company that does not file a complete annual report is subject to the penalty provided in subsection (a) for each day that the annual report is not complete. (*Department of Local Government Finance; 50 IAC 5.1-3-9; filed Dec 15, 1993, 5:00 p.m.: 17 IR 957; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**Rule 4. Assessment, Appeal, and Review**

**50 IAC 5.1-4-1 Tentative assessment**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-12

Sec. 1. (a) Each year the state board shall determine the true tax value of the property of each public utility company. Except for railroad car companies, the state board shall determine the true tax value by first determining the approximate unit value of each public utility company. The value of the distributable property of a public utility company, other than a railroad car company, equals the remainder of:

(1) the unit value of the company; minus

(2) the value of the company's fixed property.

(b) The value of the distributable property of a railroad car company equals the value of all of the company's distributable property multiplied by the allocation factor provided in IC 6-1.1-8-12(b).

(c) In order to determine the unit value of a public utility company, the state board may consider the following:

(1) Book value.

(2) The cost of replacement or reproduction, less depreciation.

(3) The cost of establishing and developing the business.

(4) The amount and market value or sales price of outstanding securities.

(5) Valuations determined by another governmental agency or indicated by a judicial decision, including, but not limited to, determinations made for rate making purposes.

(6) Statistics and reports prepared or filed by the company.

(7) Statistics and reports prepared by another governmental agency or by a private organization if the organization is considered reliable by investors and investment dealers.

(8) Earnings capitalized at a reasonable rate.

(9) Any other information which the state board considers relevant.

(d) Except for railroad car companies, the state board shall notify each public utility company of its tentative assessment on or before June 1. The state board shall notify each railroad car company of its tentative assessment on or before September 1. (*Department of Local Government Finance; 50 IAC 5.1-4-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 957; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-4-2 Assessment by state board**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-22

Sec. 2. (a) The state board shall assess the property of a public utility company based upon the information available to the state board if the public utility company:

- (1) does not file a statement which is required under 50 IAC 5.1-3-2;
- (2) does not permit the state board to examine the public utility company's property, books, or records; or
- (3) does not comply with a summons issued by the state board.

(b) An assessment which is made by the board under this section is final unless the public utility company establishes that the board committed actual fraud in making the assessment. (*Department of Local Government Finance; 50 IAC 5.1-4-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 957; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-4-3 Tentative assessment; notice; objection; hearings**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-22; IC 6-1.1-8-28

Sec. 3. (a) Each year the state board shall notify each public utility company of:

- (1) the board's tentative assessment of the company's distributable property; and
- (2) the value of the company's distributable property used by the board to determine the tentative assessment.

(b) The state board shall give the notice on or before September 1, in the case of railroad car companies, and shall give the notice on or before June 1, in the case of all other public utility companies.

(c) Within ten (10) days after a public utility company receives notice of the state board's tentative assessment, the company may:

- (1) file with the state board its objections to the tentative assessment; and
- (2) demand that the state board hold a hearing on the tentative assessment.

(d) If the public utility company does not file with the state board its objections to the tentative assessment within the time allowed, the tentative assessment is final and may not be appealed. (*Department of Local Government Finance; 50 IAC 5.1-4-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 958; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-4-4 Hearing; final assessment; notice**

Authority: IC 6-1.1-8; IC 6-1.1-31-1

Affected: IC 6-1.1-8-29

Sec. 4. If a public utility company files its objections to, and demands a hearing on, a tentative assessment within the time allowed, the state board shall hold a hearing on the tentative assessment at a time and place fixed by the state board. After the hearing, if any, the state board shall make a final assessment of the company's distributable property and shall notify the company of the final assessment. However, the state board must give notice of the final assessment before September 30, in the case of railroad car companies, and before June 30 in the case of all other public utility companies. (*Department of Local Government Finance; 50 IAC 5.1-4-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 958; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-4-5 Appeal of final assessment**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-30

Sec. 5. If a public utility company files its objections to the state board's tentative assessment of the company's distributable property in the manner prescribed in section 4 of this rule, the company may appeal the state board's final assessment of that property to the tax court. However, the company must initiate the appeal within twenty (20) days after the date of the notice of the state board's final assessment. (*Department of Local Government Finance; 50 IAC 5.1-4-5; filed Dec 15, 1993, 5:00 p.m.: 17 IR 958; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-4-6 Appeal of township assessor's assessment of fixed property**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-33; IC 6-1.1-15

Sec. 6. A public utility company may appeal a township assessor's assessment of locally assessed property in the manner provided in IC 6-1.1-15. (*Department of Local Government Finance; 50 IAC 5.1-4-6; filed Dec 15, 1993, 5:00 p.m.: 17 IR 958; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-4-7 Omitted property**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-39

Sec. 7. The annual assessments of a public utility company's property are presumed to include all the company's property which is subject to taxation. However, this presumption does not preclude the subsequent assessment of a specific item of tangible property which is clearly shown to have been omitted from the assessments for that year. The appropriate township assessor shall make assessments of omitted fixed property. The state board shall make assessments of omitted distributable property. However, the state board may not assess omitted distributable property after the expiration of ten (10) years from the last day of the year in which the assessment should have been made. (*Department of Local Government Finance; 50 IAC 5.1-4-7; filed Dec 15, 1993, 5:00 p.m.: 17 IR 958; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-4-8 Omitted property; rate of assessment; interest**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-40

Sec. 8. When the state board assesses distributable property which was omitted from the assessment for a particular year, the state board shall, as nearly as possible, assess the omitted distributable property in the same manner that the state board assesses other distributable property. The taxes due on the omitted distributable property shall be calculated by using the same tax rates which were applicable for the tax year that the distributable property was omitted from the assessment. The public utility company shall pay interest on the taxes due on the omitted distributable property at the rate of two percent (2%) per month or fraction of a month. The interest due shall be calculated on the period of time beginning with January 1 of the year following the year in which the property was omitted from the assessment and ending with the day the taxes are paid. However, the state board may waive any portion of the interest due under this section at the time the state board makes its final assessment of the omitted distributable property. (*Department of Local Government Finance; 50 IAC 5.1-4-8; filed Dec 15, 1993, 5:00 p.m.: 17 IR 958; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**Rule 5. Valuation of Real Property and Use of Other Factors**

**50 IAC 5.1-5-1 Valuation of real property**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8

Sec. 1. (a) Under IC 6-1.1-8, the state board shall make an annual assessment of each utility and railroad. The valuation made by the state board includes all real, personal, and distributable property, wherever located. Since locally assessed real property and locally assessed personal property are contained within the unit valuation, this property is subtracted from the unit value, and the remainder, the distributable property, is distributed by the state board.

(b) The township assessor shall value locally assessed real property under 50 IAC 2.2.

(c) In determining whether property is locally assessed real property, locally assessed personal property, or distributable property, the examples provided in 50 IAC 2.2-14-3 are instructive. (*Department of Local Government Finance; 50 IAC 5.1-5-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 959; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-5-2 Value as a going concern; adjustments; use of other factors**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 2. (a) The state board, on its own motion or on petition of a public utility company, may, in determining the just value of a public utility company, authorize or require the use of factors other than those normally used in determining a unit value of a

company as a going concern.

- (b) The use of other factors is permitted only in situations where the use of other factors is necessary to:
  - (1) ensure equal and nondiscriminatory treatment of all public utility companies within the same classification; or
  - (2) provide for a unit value that is not clearly unreasonable or unfair to the state or the public utility company.

*(Department of Local Government Finance; 50 IAC 5.1-5-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 959; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-5-3 Readily ascertainable values**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 3. (a) In order to establish uniformity, the state board may determine the standard true tax value per unit of certain types of personal property that have a readily ascertainable value.

(b) The standard unit true tax values are published under 50 IAC 4.2-1-5.

(c) The types of personal property valued under this section are designated in 50 IAC 4.2-15 or an instructional bulletin. The types of personal property for which a standard unit value is determined may include, but are not limited to, the following:

- (1) Agricultural commodities.
- (2) Certain livestock.
- (3) Certain types of petroleum products.
- (4) Recreational vehicles.
- (5) Used motor vehicles held for sale.
- (6) Used farm implements held for sale.
- (7) Railroad cars.
- (8) Gas and fluid pipelines.
- (9) Any other tangible personal property which the state board determines has a readily ascertainable value.

*(Department of Local Government Finance; 50 IAC 5.1-5-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 959; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-5-4 Uniform useful life**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 4. (a) The state board may prescribe the useful life of certain items of personal property if the state board determines that a uniform useful life should be required for all affected public utility companies in order to obtain uniformity of assessment.

(b) If the state board prescribes a uniform useful life for a certain item of personal property, the state board shall notify all affected taxpayers. *(Department of Local Government Finance; 50 IAC 5.1-5-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 959; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**Rule 6. Valuation of Depreciable Personal Property**

**50 IAC 5.1-6-1 Definitions**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26; IC 6-6-6.5

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Adjusted cost of depreciable personal property" means the cost of depreciable personal property adjusted for the cost of the following:

- (1) Air pollution control systems, exempted under 50 IAC 5.1-12-2.
- (2) Industrial waste control facilities, exempted under 50 IAC 5.1-12-4.
- (3) Special tooling, described in 50 IAC 5.1-9-3.
- (4) Aircraft subject to excise tax under IC 6-6-6.5.

(c) "Cost of depreciable personal property" means the sum of direct costs and an appropriate portion of indirect costs attributable to the production or acquisition of depreciable personal property and its preparation for use. The cost of machinery, furniture, tools, computers (excluding application software), and other plant assets include all costs necessary to place the asset in condition and in place, ready for use. These costs include, but are not limited to, the purchase price, transportation costs to the place of use, installation costs, foundations, electrical wiring, interest incurred during construction and installation, and sales tax. If the asset is constructed by the company, the original cost must be made up of, but not limited to, the following costs:

- (1) Direct and indirect labor costs and fringe benefits.
- (2) Direct material costs.
- (3) Designing.
- (4) Supervision.
- (5) Insurance.
- (6) Depreciation of equipment used in construction.
- (7) Claims for damage during construction not compensated for by insurance.
- (8) Taxes and insurance during construction.
- (9) Interest incurred during construction.
- (10) Sales taxes.
- (11) Other costs directly chargeable to construction.

No profit may be added to the actual costs because the company cannot make a profit on itself. Any credits in the form of sales of scrap materials, discounts received on purchases of materials, and return premiums on surrender of insurance policies must be subtracted from the gross costs of construction to determine the actual cost of the asset.

(d) "Depreciable personal property" means the tangible property, other than locally assessed real property, of a public utility company that is subject to or should be subject to depreciation for federal income tax purposes. The term includes both locally assessed personal property (excluding inventory) and distributable property.

(e) "Permanently retired depreciable personal property" means depreciable personal property that has been removed from the manufacturing process on the assessment date, or has been removed from service other than manufacturing on the assessment date, and is awaiting disposition. It must be scheduled to be scrapped, removed, or disposed of and will be considered to be permanently retired providing the taxpayer actually scraps or sells such property. (*Department of Local Government Finance; 50 IAC 5.1-6-1; filed Dec 15, 1993, 5:00 p.m.; 17 IR 959; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

#### **50 IAC 5.1-6-2 Book cost determinative**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26; IC 6-1.1-31

Sec. 2. (a) The cost of depreciable property, both real and personal, as recorded on the public utility company's books and records, must be utilized in determining the value of the depreciable personal property subject to assessment.

(b) The cost of all depreciable personal property of a public utility company shall be the total amount reflected on the books and records of the company as of the assessment date except as provided in section 3 of this rule.

(c) Property may be depreciable personal property regardless of the account in which the property is carried on the books and records of the public utility company. For example, property classified on the public utility company's books and records as real property may nevertheless be depreciable personal property within the meaning of this article. This treatment is necessary to ensure the proper assessment of property, regardless of the accounting system used by the public utility company.

(d) Except as otherwise provided in this article, property is deemed to be depreciable personal property when a depreciation deduction is allowable for federal income tax purposes.

(e) The cost of additions and betterments is added to the original cost of the depreciable personal property. If an additional part is added or some other change is made in the fixed asset that increases its estimated useful life, production, or efficiency, or converts the property to a different use, it is a betterment. The expenditure is capitalized by adding it to the original cost of the asset. If a part is replaced with a similar part, the new part is shown as a new acquisition while the part replaced is deducted from the original cost of the asset.

(f) In the event a taxpayer cannot determine from its books and records the cost of the depreciable property on the assessment date, it must use:

- (1) the cost per books as of the close of its annual financial period immediately prior to the assessment date and so indicate



on its return;

(2) the book cost as of the close of its last financial period will then be adjusted to reflect all acquisitions and disposals of depreciable property which have occurred between the acquisition or disposal date and the assessment date; and

(3) installation costs and foundations applicable to machinery and equipment shall be reported and assessed on the same basis as the asset to which they apply.

*(Department of Local Government Finance; 50 IAC 5.1-6-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 960; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-6-3 Mandatory adjustment**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26; IC 6-1.1-31

Sec. 3. (a) The cost of depreciable personal property as computed in section 2 of this rule must be reported at the tax basis of such property as defined in Section 1012 of the Internal Revenue Code of 1986. The cost of depreciable personal property shall not be reduced by Sections 167 (depreciation) or 179 (expense election deduction) of the Internal Revenue Code or any credits (such as investment tax credit) which would otherwise diminish the cost basis of the property.

(b) If the tax basis of the depreciable personal property is different from the cost reflected on the books and records of the taxpayer, an adjustment must be made to the cost per books of the assessable depreciable personal property. The cost reflected on the books and records must be adjusted to the tax basis of the property.

(c) The adjustment of the cost of depreciable personal property to its tax basis is required to be made regardless of whether it is an increase or decrease to the cost recorded on the books and records. *(Department of Local Government Finance; 50 IAC 5.1-6-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 961; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-6-4 Fully depreciated property**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 4. Depreciable personal property that has not been retired from use is reported for assessment purposes whether or not the cost of the property has been removed from the taxpayer's books and records. *(Department of Local Government Finance; 50 IAC 5.1-6-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 961; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-6-5 Nominally valued depreciable personal property**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 5. Depreciable personal property recorded on the books and records at a nominal value or at no value must be valued at its actual acquisition cost determined by reference to the insurable value in the year of acquisition for Indiana property tax assessment purposes. This category of property includes, but is not limited to:

(1) bulk purchases; or

(2) the acquisition of a going business concern.

*(Department of Local Government Finance; 50 IAC 5.1-6-5; filed Dec 15, 1993, 5:00 p.m.: 17 IR 961; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-6-6 Computer software**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 6. (a) As used in this section, "application software" means a written sequence of instructions which details the operations the equipment is to perform in order to achieve a specific objective of the user.

(b) As used in this section, "operational software" means the operational program that controls the hardware and actually makes the machine operational. It is fundamental and necessary to the functioning of the computer hardware itself and performs such

functions as loading, scheduling, supervision, and data management. It represents the internalized instruction codes that translate information into a form usable by the equipment and controls the basic operations of the central processing unit to perform arithmetic and/or logical operations automatically by means of programmed instructions. It is not normally accessible or modifiable by the user.

(c) If the cost of depreciable personal property recorded on the books and records reflects charges for customer support services such as educational services, maintenance, or application software that relate to future periods and not to the value of the depreciable personal property, those charges may be deducted from the cost of depreciable personal property, to the extent that a separate charge or value can be identified. (*Department of Local Government Finance; 50 IAC 5.1-6-6; filed Dec 15, 1993, 5:00 p.m.: 17 IR 961; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

#### **50 IAC 5.1-6-7 Valuation**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 7. (a) Except as provided in section 9 of this rule, the value of depreciable personal property is computed by subtracting federal depreciation from the adjusted cost of the depreciable personal property. The value of depreciable personal property is the depreciated value of the depreciable personal property as computed for federal income tax purposes.

(b) Depreciation shall be computed using the method or methods of depreciation that the public utility company has used for federal income tax purposes for that property. If depreciable personal property is acquired prior to the establishment of the first reporting year for federal income tax purposes, depreciation shall be computed in the same manner as the public utility contemplates using for federal income tax purposes.

(c) The amount of depreciation computed in subsection (b) shall be increased by any expense election deduction (Section 179 of the Internal Revenue Code of 1986) or investment tax credit claimed on the property by the public utility company for federal income tax purposes. (*Department of Local Government Finance; 50 IAC 5.1-6-7; filed Dec 15, 1993, 5:00 p.m.: 17 IR 961; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

#### **50 IAC 5.1-6-8 Deduction for gross additions**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 8. Except as provided in section 9 of this rule, the value of depreciable personal property is computed by deducting an allowance for gross additions in addition to the adjustment for depreciation computed under section 7 of this rule. The deduction for gross additions is computed as:

(1) sixty percent (60%) of the adjusted cost of depreciable personal property placed in service during the immediately preceding twelve (12) months; minus

(2) the depreciation computed on the adjusted cost of depreciable personal property, as computed under section 7 of this rule, placed in service during the immediately preceding twelve (12) months.

(*Department of Local Government Finance; 50 IAC 5.1-6-8; filed Dec 15, 1993, 5:00 p.m.: 17 IR 962; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

#### **50 IAC 5.1-6-9 Minimum value**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 9. (a) The total value of the distributable depreciable personal property cannot be less than thirty percent (30%) of the adjusted cost of the distributable personal property.

(b) The total value of the locally assessed depreciable personal property in a single taxing district cannot be less than thirty percent (30%) of the adjusted cost of the locally assessed personal property in that taxing district.

(c) The thirty percent (30%) minimum value test shall be applied prior to any special adjustment for abnormal obsolescence or permanently retired depreciable personal property. The limitation does not apply to construction in progress under 50 IAC 5.1-9-1(a) or special tooling under 50 IAC 5.1-9-1(b). (*Department of Local Government Finance; 50 IAC 5.1-6-9; filed Dec 15, 1993, 5:00 p.m.: 17 IR 962; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-6-10 Permanently retired depreciable personal property**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 10. (a) Permanently retired depreciable personal property that is on hand on the assessment date is subject to an adjustment at the election of the taxpayer.

(b) The value of permanently retired depreciable personal property is the net scrap or net sale value of the depreciable personal property retired.

(c) In order to qualify for this adjustment, a taxpayer will need to substantiate that the depreciable personal property was permanently retired and not in use.

(d) The adjustment for permanently retired depreciable personal property is computed as the difference between the true tax value of the depreciable personal property retired (computed under sections 7 through 9 of this rule) and the net scrap or net sale value of the depreciable personal property retired.

(e) The adjustment for permanently retired depreciable personal property may not exceed the true tax value of the depreciable personal property retired. (*Department of Local Government Finance; 50 IAC 5.1-6-10; filed Dec 15, 1993, 5:00 p.m.: 17 IR 962; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-6-11 Abnormal obsolescence**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 11. (a) An adjustment for abnormal obsolescence, as defined in 50 IAC 5.1-11-1(3), may be permitted in accordance with 50 IAC 5.1-11-3.

(b) No adjustment will be allowed for normal obsolescence as defined in 50 IAC 5.1-11-1(2).

(c) The dollar amount of the adjustment for the depreciable personal property under this section may not exceed the tentative true tax value as computed in sections 7 and 8 of this rule for the specific unit or units of depreciable personal property on which the taxpayer claims the adjustment. (*Department of Local Government Finance; 50 IAC 5.1-6-11; filed Dec 15, 1993, 5:00 p.m.: 17 IR 962; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**Rule 7. Valuation of Nondepreciable Property**

**50 IAC 5.1-7-1 Definitions**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Contributions in aid of construction" or "CIAC" means property, other than locally assessed real property, of a public utility company that is used by the public utility company in providing the utility service and which is donated or contributed.

(c) "Nondepreciable personal property" means the property, other than locally assessed real property, of a public utility company that is not subject to depreciation for federal income tax purposes. It does not include inventory, but may include both locally assessed personal property (excluding inventory) and distributable property. (*Department of Local Government Finance; 50 IAC 5.1-7-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 962; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-7-2 Book cost determinative**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 2. (a) The cost of nondepreciable property, both real and personal, as recorded on the public utility company's books and records, must be utilized in determining the value of the nondepreciable property subject to assessment.

(b) A public utility company is subject to assessment for property owned or used by it. Contributions in aid of construction are used by the public utility company to deliver its service. Therefore, contributions in aid of construction are subject to assessment.

The public utility company may not reduce the cost of property shown on its books and records by the amount of contributions in aid of construction or customer advances. (*Department of Local Government Finance; 50 IAC 5.1-7-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 963; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-7-3 Mandatory adjustment**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1  
Affected: IC 6-1.1-8-26

Sec. 3. The cost of nondepreciable property as computed under section 2 of this rule must be reported at the tax basis of such property as defined in Section 1012 of the Internal Revenue Code of 1986. (*Department of Local Government Finance; 50 IAC 5.1-7-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 963; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-7-4 Valuation**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1  
Affected: IC 6-1.1-8-26

Sec. 4. (a) Except as provided in subsection (b), the value of nondepreciable property shall be the tax basis of such property as defined in Section 1012 of the Internal Revenue Code of 1986.

(b) Contributions in aid of construction that would be subject to depreciation for federal income tax purposes if owned by the public utility company are eligible for depreciation. Depreciation for contributions in aid of construction shall be computed using the method of depreciation that the owner would have used for federal income tax purposes. Depreciation is computed over the useful life of the contributions in aid of construction. For purposes of this subsection, useful life is the life that would have been used for federal income tax purposes by the owner. (*Department of Local Government Finance; 50 IAC 5.1-7-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 963; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**Rule 8. Valuation of Inventories**

**50 IAC 5.1-8-1 Valuation**

Authority: IC 6-1.1-8; IC 6-1.1-31-1  
Affected: IC 6-1.1-8-26

Sec. 1. Inventory, materials, and supplies shall be valued in accordance with 50 IAC 4.2-5. (*Department of Local Government Finance; 50 IAC 5.1-8-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 963; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**Rule 9. Valuation of Other Tangible Personal Property**

**50 IAC 5.1-9-1 Construction in progress**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1  
Affected: IC 6-1.1-8-26

Sec. 1. (a) The starting point for the valuation of construction in progress is the cost recorded on the public utility company's books and records which is attributable to such property, excluding locally assessed real property, including all expenses incurred in acquiring or producing the assets not yet placed in service.

(b) In the event the cost as recorded on the regular books and records of the public utility company does not reflect acquisitions and transfers since the end of the financial period immediately preceding the assessment date, such acquisitions and transfers are required to be included.

(c) If the cost as recorded on the regular books and records of the public utility company reflects advance payments or deposits, and if such amounts were attributable to property other than locally assessed real property, such amounts shall be allowed as a deduction from book cost.

(d) The true tax value of construction in progress is ten percent (10%) of the cost of such property. (*Department of Local Government Finance; 50 IAC 5.1-9-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 963; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-9-2 Special tooling**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 2. (a) Special tooling must be reported for Indiana property assessment purposes at the tax situs where located on the assessment date, regardless of whether such special tooling is capitalized or expensed.

(b) The owner of any personal property subject to assessment and taxation on the assessment date has the responsibility for reporting such property for assessment and taxation. Special tooling must be reported on the appropriate form on the public utility company's annual report to the state board. If the special tooling is locally assessed personal property, the special tooling must also be reported to the township assessor.

(c) The possessor of not-owned special tooling has the responsibility for disclosing such property to the local assessing officials and the state board.

(d) The total cost of special tooling is allocated into two (2) groups. The total cost of the special tooling acquired between the immediately preceding assessment date and the current assessment date is allocated into one (1) group (Group I), and the balance of the total cost of the special tooling on hand which was acquired prior to the immediately preceding assessment date is allocated into a second group (Group II). Expenditures incurred by a taxpayer to refurbish existing special tooling are deemed to be special tools acquired during the period in which such special tooling was refurbished.

(e) The total cost of special tooling that is not owned by the possessor must be based on the original cost to the owner of such special tooling, if available. If the original cost to the owner is not available, the cost shall be based upon the best information available; however, the true tax value of the not-owned special tooling shall not be less than the insured value of such property.

(f) The true tax value of special tooling is computed as the sum of:

(1) the cost of Group I multiplied by thirty percent (30%); and

(2) the cost of Group II special tooling multiplied by three percent (3%).

*(Department of Local Government Finance; 50 IAC 5.1-9-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 963; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-9-3 Leasehold improvements**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 3. (a) Whenever a public utility company makes any expenditure for an improvement to locally assessed real property, locally assessed personal property, or distributable property not owned by the public utility company, such expenditure shall be assessable as locally assessed personal property or distributable property to the extent it is not locally assessed real property.

(b) The following are examples of leasehold improvements which are personal property:

(1) Foundations and pilings related to the installation and use of personal property.

(2) Personal property attached to the real property, if such items are related to activities or processes conducted in or on the real property, if the personal property is an integral part of such activity. For example, improvements to real property that would be assessable as either locally assessed personal property or as distributable property may include:

(A) shelving, bins, counters, and related items;

(B) nonpermanent partitions;

(C) supplemental heating and air conditioning;

(D) extraordinary lighting;

(E) extraordinary electrical and plumbing facilities; and

(F) carpeting and draperies.

(c) Leasehold improvements are reported and valued in the same manner as other locally assessed personal property or distributable property which the public utility company may own. *(Department of Local Government Finance; 50 IAC 5.1-9-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 964; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

**50 IAC 5.1-9-4 Returnable containers**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 4. (a) Returnable containers must be reported for property assessment purposes at the tax situs where located on the assessment date by the person owning the returnable containers.

(b) The owner of any personal property subject to assessment and taxation on the assessment date has the responsibility for reporting such property for assessment and taxation. Returnable containers must be reported on the appropriate form on the public utility company's annual report to the state board. If the returnable containers are locally assessed personal property, the returnable containers must also be reported to the township assessor.

(c) The possessor of not-owned returnable containers has the responsibility for disclosing such property to the local assessing officials and the state board.

(d) The cost of returnable containers is computed by extending the quantity of such property on hand by:

(1) the amount of deposit required for such item;

(2) the refund entitled thereto when such returnable containers are returned to the owner;

(3) the sales price of the returnable property; or

(4) the cost of such returnable containers in the hands of the owner since the owner is liable for assessment.

(e) The value of returnable containers is computed in the same manner as other locally assessed personal property or distributable property which the public utility company may own. (*Department of Local Government Finance; 50 IAC 5.1-9-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 964; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

## **Rule 10. Valuation of Leased Property**

### **50 IAC 5.1-10-1 Valuation**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 1. (a) Leased property reported for assessment by a public utility company shall be valued in the same manner as property owned by the public utility company. The value is computed by subtracting depreciation from the base year value.

(b) Depreciation for leased property shall be computed using the method of depreciation that the owner would have used for federal income tax purposes. Depreciation is computed over the useful life of the leased property. For purposes of this subsection, useful life is that useful life that would have been used for federal income tax purposes by the owner. (*Department of Local Government Finance; 50 IAC 5.1-10-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 964; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

### **50 IAC 5.1-10-2 General reporting requirements**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 2. (a) In completing the annual report, a public utility company shall make a complete disclosure of all information relating to leased property that it owns, holds, possesses, or controls.

(b) If a public utility company holds, possesses, controls, or occupies leased property, the public utility company shall make a full disclosure, on the forms provided by the state board, of such property and information relating to that property. The required information shall include the name and address of the owner, model, description, location, quantities on hand, date of installation, value (if known) as required by this article, and any other information requested on the appropriate form. If the leased property is:

(1) distributable property, the public utility company shall disclose such property on the appropriate form in its annual report to the state board; or

(2) locally assessed personal property, the public utility company shall disclose such property on the appropriate form in its annual report to the state board and shall also disclose such property on Form 1, Annual Report of Local Personal Property.

(c) Failure by a public utility company to properly disclose property that it holds, possesses, or controls will result in the assessment of the property to the public utility company. See, *State Board of Tax Commissioners v. Jewell Grain Company*, 556 N.E.2d 920 (Ind. 1990).

(d) Information is required to be submitted by the holder, possessor, or controller even if the owner is liable for the taxes under a contract to assure that the assessing official has the necessary information to correctly assess the property in question.

(e) Both the lessor (the owner) and the lessee (the holder, possessor, or controller) have specific reporting requirements. The purpose of these dual reporting requirements is to assure that property is disclosed to the local assessing officials who will ensure

that the property is assessed. (*Department of Local Government Finance; 50 IAC 5.1-10-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 965; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-10-3 Leased distributable property; specific reporting requirements**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 3. (a) The public utility company is primarily responsible for the reporting of the leased distributable property for assessment and taxation, whether such lease is a capital lease or an operating lease.

(b) The holder, possessor, or controller of leased distributable property (lessee) shall disclose the leased property on the designated form included with its annual report to the state board. In completing the designated form, the holder, possessor, or controller shall include all of the information required by the form.

(c) The owner (lessor) of leased distributable property is required to disclose the existence of the leased property to the state board. In completing the form designated for such disclosure, the owner shall include all of the information required by the form. (*Department of Local Government Finance; 50 IAC 5.1-10-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 965; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-10-4 Locally assessed property subject to operating leases; specific reporting requirements**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 4. (a) The owner (lessor) of locally assessed leased property subject to an operating lease is primarily responsible for the reporting of the locally assessed leased property for assessment and taxation.

(b) If the owner of the locally assessed leased property is a public utility company and the locally assessed leased property is subject to an operating lease, the locally assessed leased property shall be assessed in the following manner:

(1) The owner shall disclose and report the locally assessed leased property on the designated form included with its annual report to the state board. In completing the designated form, the owner shall include all of the information required by the form. The owner shall also complete Form 1, Annual Report of Local Personal Property, disclosing and reporting the locally assessed leased property for assessment and taxation.

(2) The holder, possessor, or controller (lessee) of locally assessed leased property subject to an operating lease is required to disclose the existence of the leased property to the state board and local assessing officials. The holder, possessor, or controller shall disclose the locally assessed leased property on the designated form included with its annual report to the state board. In completing the designated form, the holder, possessor, or controller shall include all of the information required by the form. The holder, possessor, or controller shall also disclose the locally assessed leased property on Form 1, Annual Report of Local Personal Property.

(*Department of Local Government Finance; 50 IAC 5.1-10-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 965; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-10-5 Locally assessed property subject to capital leases; specific reporting requirements**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 5. (a) The holder, possessor, or controller (lessee) of locally assessed leased property subject to a capital lease is primarily responsible for the reporting of the locally assessed leased property for assessment and taxation.

(b) If the holder, possessor, or controller of the locally assessed leased property is a public utility company and the locally assessed leased property is subject to a capital lease, the locally assessed leased property shall be assessed in the following manner:

(1) The holder, possessor, or controller shall disclose and report the locally assessed leased property on the designated form included with its annual report to the state board. In completing the designated form, the holder, possessor, or controller shall include all of the information required by the form. The holder, possessor, or controller shall also complete Form 1, Annual Report of Local Personal Property, disclosing and reporting the locally assessed leased property for assessment and taxation.

(2) The owner (lessor) of locally assessed leased property subject to a capital lease is required to disclose the existence of the

leased property to the state board and local assessing officials. The owner shall disclose the locally assessed leased property on the designated form. In completing the designated form, the owner shall include all of the information required by the form. (Department of Local Government Finance; 50 IAC 5.1-10-5; filed Dec 15, 1993, 5:00 p.m.: 17 IR 966; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)

## **Rule 11.    Obsolescence**

### **50 IAC 5.1-11-1   Definitions**

Authority:   IC 6-1.1-8-42; IC 6-1.1-31-1

Affected:    IC 6-1.1-8-26

Sec. 1. The following definitions apply throughout this section:

(1) "Abnormal obsolescence" means that obsolescence which occurs as a result of factors over which the taxpayer has no control and is unanticipated, unexpected, and cannot reasonably be foreseen by a prudent businessperson prior to the occurrence. Abnormal obsolescence is of a nonrecurring nature and includes:

- (A) unforeseen changes in market values;
- (B) adverse governmental action;
- (C) exceptional technological obsolescence; or
- (D) destruction by catastrophe;

that have a direct effect upon the value of the property of the taxpayer at the tax situs in question on a going concern basis.

(2) "Normal obsolescence" means the anticipated or expected reduction in the value of property that can be foreseen by a reasonable, prudent businessperson when property is acquired and placed into service. In general, it includes the:

- (A) expected, declining value through use;
- (B) gradual decline in value because of expected technological improvements;
- (C) gradual deterioration or obsolescence through the mere passage of time; and
- (D) general assumption that such property will have a minimum value at the end of its useful life.

Normal obsolescence is considered through the use of historical cost, short useful life, and accelerated federal tax depreciation in computing true tax value.

(3) "Obsolescence" means the reduction in value of property that occurs through use, technological improvements, passage of time, changes in market values, and physical deterioration or destruction.

(Department of Local Government Finance; 50 IAC 5.1-11-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 966; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)

### **50 IAC 5.1-11-2   Examples**

Authority:   IC 6-1.1-8-42; IC 6-1.1-31-1

Affected:    IC 6-1.1-8-26

Sec. 2. Examples of abnormal obsolescence include the following:

(1) An example of an unforeseen change in market value would be a government ban on the sale of a drug or chemical due to a new discovery or determination which may cause that item or the production equipment used to produce it to be abnormally obsolete. A specific example of this would be cyclamate. In this case, the property used to produce it may be eligible for abnormal obsolescence, while the inventory (cyclamate) should be valued at the lower of cost or market as provided in 50 IAC 4.2-5-3 through 50 IAC 4.2-5-8.

(2) Abnormal obsolescence due to exceptional technological obsolescence should be recognized to the extent that it causes the subject property to be incapable of use for current production or adaptation to a different use. The invention of a newer, more productive piece of equipment which would produce a better quality item or utilization of state of the art technology that produces more efficiently at a lower cost of production does not cause an older, currently used asset to be considered abnormally obsolete. If the asset is still capable of performing the function for which it was acquired and is producing both on and before the assessment date, no adjustment shall be allowed. The use of historical cost, short useful life, and accelerated federal tax depreciation result in an equitable assessment on the property in question.

(3) Abnormal obsolescence due to catastrophe should be recognized to the extent that it has a direct effect on the value of a



particular item. Property which has been destroyed or damaged by catastrophe as of the assessment date would qualify for such an adjustment. A chemical or production process which, due to an irreparable malfunction, emits a toxic gas or deadly chemical into the outside atmosphere would qualify for such an adjustment to the extent the property is incapable of use.

(4) A government order to shut down certain production equipment due to improper emission levels may result in abnormal obsolescence if the cost to cure the delinquent equipment results in incurable obsolescence, that is, the cost-to-cure exceeds the contribution or increase in value of the impaired item or the impairment cannot be corrected.

*(Department of Local Government Finance; 50 IAC 5.1-11-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 966; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

#### **50 IAC 5.1-11-3 Abnormal obsolescence claim**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8

Sec. 3. (a) An adjustment for abnormal obsolescence will be permitted to the extent that the property qualifies for the adjustment and the public utility company is able to substantiate the facts, circumstances, and amount of the claim in order to properly determine the true tax value of the subject property.

(b) A taxpayer wishing to claim an adjustment for abnormal obsolescence must provide documentation of the resulting valuation of the personal property at the tax situs in question on the assessment date on a going concern basis.

(c) The books and records of the public utility company must not have reflected the abnormal obsolescence on the assessment date.

(d) The adjustment for abnormal obsolescence may not exceed the true tax value of the property without consideration of the abnormal obsolescence adjustment. *(Department of Local Government Finance; 50 IAC 5.1-11-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 967; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

#### **50 IAC 5.1-11-4 Full disclosure**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 4. A public utility company shall disclose any claim for an adjustment for abnormal obsolescence in the annual report filed with the state board under 50 IAC 5.1-3-2. *(Department of Local Government Finance; 50 IAC 5.1-11-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 967; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

#### **50 IAC 5.1-11-5 Administrative adjudication on adjustment for abnormal obsolescence**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-26

Sec. 5. A public utility company may, prior to the filing of the property tax return for the year in question, petition the state board under 50 IAC 4.2-1-6, for an administrative adjudication determination regarding an abnormal obsolescence adjustment. *(Department of Local Government Finance; 50 IAC 5.1-11-5; filed Dec 15, 1993, 5:00 p.m.: 17 IR 967; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003)*

### **Rule 12. Exemptions, Deductions, and Credits**

#### **50 IAC 5.1-12-1 Introduction**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-2; IC 6-1.1-8-28; IC 6-1.1-10; IC 6-1.1-11; IC 6-1.1-12; IC 6-1.1-12.1; IC 6-1.1-40

Sec. 1. In addition to the specific exemptions mentioned in this rule, a public utility company may qualify for certain exemptions, deductions, or credits. For specific information on exemptions, deductions, and credits, see IC 6-1.1-10, IC 6-1.1-12, IC 6-1.1-12.1, IC 6-1.1-20.7 [IC 6-1.1-20.7 was repealed by P.L. 146-2008, SECTION 800, effective January 1, 2008.], IC 6-1.1-20.8 [IC 6-1.1-20.8 was repealed by P.L. 146-2008, SECTION 800, effective January 1, 2008.], and IC 6-1.1-40. Unless otherwise

indicated, the specific statutory requirements for obtaining the exemption, deduction, or credit must be followed under section 6 of this rule. (*Department of Local Government Finance; 50 IAC 5.1-12-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 967; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-12-2 Air pollution control exemption**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-2; IC 6-1.1-8-28; IC 6-1.1-10-12; IC 6-1.1-10-13; IC 6-1.1-11

Sec. 2. (a) Personal property owned by a public utility company may qualify for exemption as an air pollution control system if:

(1) it is part of a stationary or unlicensed mobile air pollution control system of a:

- (A) private manufacturing;
- (B) fabricating;
- (C) assembling;
- (D) extracting;
- (E) mining;
- (F) processing;
- (G) generating;
- (H) refining; or
- (I) other;

industrial facility;

(2) it is not primarily used in the production of property for sale;

(3) it is employed predominantly in the operation of an air pollution control system;

(4) the air pollution control system is designed and used for the improvement of public health and welfare by the prevention or elimination of air contamination caused by industrial waste or contaminants;

(5) a sanitary treatment or elimination service for the waste or contaminants is not provided by public authorities; and

(6) it is acquired for the purpose of complying with any state, local, or federal environmental quality statutes, regulations, or standards.

(b) The property that is exempt under this section includes the following personal property:

(1) Personal property that is under construction or in the process of installation and that will be used for the purposes described in subsection (a) when placed in service.

(2) Spare parts held exclusively for installation in or as part of personal property that qualifies for the exemption under this section.

(c) Generally, personal property such as paint spray booths or dust collectors do not qualify for exemption under this section, since they are primarily used to remove particulates, dust, or fumes from the work area and/or in the production of property for sale. Dust collecting baghouses or stack scrubbers which are primarily designed and used to prevent or eliminate pollutant contamination of the air outside of, or away from, the production plant generally would qualify for exemption since such systems primarily benefit the general public. The specific facts and circumstances of each taxpayer's equipment and operations must be considered in determining whether each item of property qualifies under this section.

(d) The amount of the exemption claimed is specifically limited to the value of the personal property that is attributable to the stationary or unlicensed mobile industrial air purification system. (*Department of Local Government Finance; 50 IAC 5.1-12-2; filed Dec 15, 1993, 5:00 p.m.: 17 IR 967; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-12-3 Air pollution control exemption; claim**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8; IC 6-1.1-10-12; IC 6-1.1-10-13; IC 6-1.1-11

Sec. 3. A public utility company that wishes to obtain an exemption for an air pollution control system must annually claim the exemption on the appropriate form included in its annual report. The public utility company must disclose such information about the property claimed to be exempt as an air pollution control system as required on the form. (*Department of Local Government Finance; 50 IAC 5.1-12-3; filed Dec 15, 1993, 5:00 p.m.: 17 IR 968; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-12-4 Water pollution control exemption**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-2; IC 6-1.1-8-28; IC 6-1.1-10-9; IC 6-1.1-10-10; IC 6-1.1-11

Sec. 4. (a) As used in this section, "industrial waste control facility" means personal property which is:

(1) included either as a part of or an adjunct to a privately owned manufacturing or industrial plant or coal mining operation; and

(2) used predominantly to:

(A) prevent, control, reduce, or eliminate pollution of a stream or a public body of water within or adjoining this state by:

- (i) treating;
- (ii) pretreating;
- (iii) stabilizing;
- (iv) isolating;
- (v) collecting;
- (vi) holding;
- (vii) controlling; or
- (viii) disposing;

of waste or contaminants generated by such plant; or

(B) meet state or federal reclamation standards for a coal mining operation.

(b) An industrial waste control facility includes personal property that:

(1) is under construction or in the process of installation; and

(2) will be used for the purposes described in subsection (a) when placed in service.

The term also includes spare parts held exclusively for installation in or as part of personal property that qualifies for the exemption under this section.

(c) An industrial waste control facility may qualify for exemption from property taxation if it is not used in the production of property for sale.

(d) The amount of the exemption claimed is specifically limited to the value of the personal property that is attributable to the industrial waste control facility. (*Department of Local Government Finance; 50 IAC 5.1-12-4; filed Dec 15, 1993, 5:00 p.m.: 17 IR 968; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

**50 IAC 5.1-12-5 Water pollution control exemption; claim**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-2; IC 6-1.1-8-28; IC 6-1.1-10-9; IC 6-1.1-10-10; IC 6-1.1-11

Sec. 5. (a) A public utility company that wishes to obtain an exemption for an industrial waste control facility must annually claim the exemption on the appropriate form included in its annual report. The public utility company must disclose such information about the property claimed to be exempt as an industrial waste control facility as required on the form.

(b) In addition to the requirements of subsection (a), the public utility company must, by registered or certified mail, forward a copy of the exemption claim to the department of environmental management. The department of environmental management shall acknowledge its receipt of the claim.

(c) The department of environmental management may investigate any claim. The department of environmental management may also determine if the property for which the exemption is claimed is being utilized as an industrial waste control facility. Within one hundred twenty (120) days after the copy of the claim is mailed to the department of environmental management, the department of environmental management may certify its written determination to the state board.

(d) The determination of the department of environmental management remains in effect as long as the owner owns the property and uses the property as an industrial waste control facility, or five (5) years, whichever is less.

(e) During the five (5) years after the department of environmental management's determination, the owner of the industrial waste control facility must notify the state board and the department of environmental management in writing if any of the industrial waste control facility on which the department of environmental management's determination was based is disposed of or removed from service as an industrial waste control facility.

(f) The department of environmental management may revoke a determination if the department finds that the property is not predominantly used as an industrial waste control facility.

(g) The state board shall allow or deny the claim for exemption as determined by the department of environmental management. If the department of environmental management fails to act within one hundred twenty (120) days, the state board shall allow the claim if the owner provides proof that a copy of the claim has been mailed to the department of environmental management.

(h) If the department of environmental management denies the claim for exemption, and the state board has previously issued its tentative assessment, the state board shall issue a revised tentative assessment.

(i) The attorney general, in O.A.G. NO. 39, 1969, has taken the position that a sewage treatment plant built by and within the premises of a privately owned manufacturing or industrial facility qualifies as an industrial waste control facility, providing the taxpayer follows the procedure for claiming an exemption. (*Department of Local Government Finance; 50 IAC 5.1-12-5; filed Dec 15, 1993, 5:00 p.m.: 17 IR 968; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

#### **50 IAC 5.1-12-6 Waiver of exemption**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-2; IC 6-1.1-8-28; IC 6-1.1-11-1

Sec. 6. An exemption is a privilege which may be waived by a person who owns tangible property that would qualify for the exemption. If the owner does not comply with statutory procedures for obtaining an exemption, the exemption is waived. If the exemption is waived, the property is subject to taxation. (The complete text of the statute is contained in IC 6-1.1-11-1.) (*Department of Local Government Finance; 50 IAC 5.1-12-6; filed Dec 15, 1993, 5:00 p.m.: 17 IR 969; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

### **Rule 13. Severability**

#### **50 IAC 5.1-13-1 Severability**

Authority: IC 6-1.1-8-42; IC 6-1.1-31-1

Affected: IC 6-1.1-8-42

Sec. 1. If any section or part of any section of any rule of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other sections, parts, or applications of this article which can be given effect without the invalid section of any rule; and to this end the provisions of this article are severable. (*Department of Local Government Finance; 50 IAC 5.1-13-1; filed Dec 15, 1993, 5:00 p.m.: 17 IR 969; reinstated by IC 6-1.1-8-44, eff Jul 1, 2003*)

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