

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** Jack Ross, Executive Director, Legislative Services Agency  
**FROM:** Timothy J. Rushenberg, Commissioner *TJR /unjm*  
**RE:** Exemption Audit Report  
**DATE:** August 5, 2009

## Overview

This is a report of the audit of exempt applications conducted by the Department of Local Government Finance ("Department"). The applications audited were those filed in 2008 and approved by the county property tax board of appeals (PTABOA). The 2008 filing year was the filing year for the majority of entities during the two (2) year exemption period. The total number of applications audited statewide was 5,381 out of 6,810 approved applications (79% of all applications were audited). Please note that this represents the number of **applications** and **not** the number of **entities**. Some entities may have multiple applications. For the 2007 "off year" period, the total number of applications audited was 1,860.

## Statutory Authority

### **IC 6-1.1-11-8**

#### **Review of approved application by department of local government finance; department action, report, and rules**

Sec. 8. (a) On or before August 1 of each year, the county auditor of each county shall forward to the department of local government finance the duplicate copies of all approved exemption applications.

(b) The department of local government finance shall review the approved applications forwarded under subsection (a). The department of local government finance may deny an exemption if the department determines that the property is not tax exempt under the laws of this state. However, before denying an exemption, the department of local government finance must give notice to the applicant, and the department must hold a hearing on the exemption application.

(c) With respect to the approved applications forwarded under subsection (a), the department shall annually report to the executive director of the legislative services agency:

- (1) the number forwarded;
- (2) the number subjected to field investigation by the department; and
- (3) the number denied by the department;

during the year ending on July 1 of the year. The department must submit the report under this

subsection not later than August 1 of the year and in an electronic format under IC 5-14-6.

(d) The department shall adopt rules under IC 4-22-2 with respect to exempt real property to:

- (1) provide just valuations; and
- (2) ensure that assessments are:
  - (A) made; and
  - (B) recorded;

in accordance with law.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.105; P.L.264-2003, SEC.10; P.L.28-2004, SEC.62.*

### **Procedure**

Generally, the following procedures were followed by the DLGF in performing a review of exemption applications submitted pursuant to IC 6-1.1-11.

1. Exemption applications received by DLGF were sorted by county, then logged and counted.

Counties not submitting applications for the 2008 assessment year were contacted to determine if any applications had been filed with the Property Tax Assessment Board of Appeals (PTABOA) of the respective county.

- a. If none had been filed with the PTABOA, the county was deemed to be in compliance for the year.
  - b. If applications had been filed with the PTABOA, the county was reminded to forward copies to the DLGF pursuant to IC 6-1.1-11-8(a).
  - c. Counties that continued to fail to provide copies of the applications were called upon by field representatives of the DLGF and again reminded of the statutory requirement.
2. The counties have been required to submit electronically formatted spreadsheets of the applications reviewed and approved by the county PTABOA. Counties not submitting spreadsheets have been reminded of this requirement.
  3. The DLGF completed a desk audit of the approved exemption applications for the majority of counties that had submitted data or applications.
  4. For each county, the DLGF staff member (“auditor”) conducted an initial review to determine the accuracy and completeness of the application and noted any inconsistencies. The DLGF has retained within its files the auditors’ comments with regard to compliance with filing requirements.
  5. Further in-depth reviews were made by verifying the name of the organization applying, the type of organization (e.g. religious, charitable, and educational), the exemption classification, the action taken by the PTABOA, and the assessed value exemption amount. Documents attached to the applications (e. g. articles of incorporation, charters,

balance sheets, legal descriptions) used to support the claim for exemptions were also reviewed.

6. In cases where the applications and supporting documents were insufficient for the auditor to understand the action taken by the PTABOA, DLGF field representatives contacted the offices of the county assessors for clarification.

### **Findings**

Overall, the audit found that the exemption applications approved at the local level met the criteria for exempt status. The DLGF has not yet reversed (i.e. denied) any of the PTABOA decisions on the 2008 exemption applications.

For those applications the DLGF found to be questionable, the DLGF will follow-up with the counties and advise the County Assessor and/or the PTABOA of the exemption requirements.

The following are some of the reasons why exemptions may be questionable, but not necessarily denied or reversed:

- ✓ Applications filed within one week of the due date to allow for mail service.
- ✓ Applications filed under incorrect statute, where the DLGF was able to determine that there was statutory authority for an exemption but that statute was not cited.
- ✓ The PTABOA failed to fully complete the "Action by the County Property Tax Assessment Board of Appeals" page of the exemption application.
- ✓ Applications that were not 100% complete and the incomplete items were deemed immaterial or the materials were retained by the county in an effort to minimize photocopying.
- ✓ Applications submitted without an attached property record card.

For those applications that require further review or action, in some cases, the DLGF will be holding hearings under IC 6-1.1-11-8(b). These reasons include:

- ✗ The property did not meet the exemption qualifications.
- ✗ Applications were not dated; hence, the timeliness of the filings cannot be determined.

NOTE: While the majority of counties were audited, there were several that have not been audited to date. The reasons these counties have not been audited include a change in personnel/assignment responsibilities; software conversion by the counties in which the records are not readily available; and, in the case of Jefferson County, a fire in the courthouse caused records to be damaged. These are in the process of being restored.

### **Future Audits**

HEA 1001 – 2009 (ss) contained several non-code provisions in regard to exemption applications, which may dramatically affect the number of future audits:

### **1. Exemption Application Not Required In Certain Circumstances**

An application for exemption is no longer required if all of the following conditions are met:

- The exempt property is tangible property owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes under IC 6-1.1-10;
- The application was properly filed at least once for a religious use under IC 6-1.1-10-21 or an educational, literary, scientific, religious, or charitable use under IC 6-1.1-10-16; and
- The property continues to meet the requirements for an exemption under IC 6-1.1-10-16 or IC 6-1.1-10-21.

### **2. Change in Property Ownership or Use; Notification Requirements**

A change in ownership of property does not terminate an exemption if, after the change in ownership, the property continues to meet the requirements for an exemption under IC 6-1.1-10-16 or IC 6-1.1-10-21. If, however, title to the property changes or the property is used for a non-exempt purpose, the person who obtained the exemption, or the current owner, must notify the county assessor, in the manner required by the department of local government finance, in the year that the change occurs.

If the county assessor discovers that title to the property has changed, the county assessor must notify the person entitled to the tax bill of the change in title, and indicate that the exemption for the property will be suspended until that person provides the county assessor with an affidavit, signed under penalties of perjury, that identifies the new owners of the property and indicates the property continues to meet the requirements for an exemption. Upon receipt of the affidavit, the county assessor must reinstate the exemption for the years for which the exemption was suspended and for each year thereafter that the property continues to meet the requirements for an exemption.

### **3. Non-Code Provision Regarding Untimely or Incomplete Applications**

HEA 1001-2009(ss) Section 479 added a non-Code provision that applies to an entity that, for an assessment date after March 1, 2000, did not timely file an IC 6-1.1-10-16 application for exemption, or failed to accompany a timely filed application with sufficient information for the PTABOA to determine eligibility as specified in their decision, and any part of the entity's property that would have qualified for the exemption if the omissions had not occurred.

- An entity may file or re-file before September 1, 2009: Regardless of any other law, an entity to which this provision applies may, before September 1, 2009, file or re-file an application for an IC 6-1.1-10-16 property tax exemption for an assessment date after March 1, 2000 and before March 1, 2010 with the county assessor. Such an application is considered timely filed for the assessment date for which it is filed.
- The County Assessor must forward application to PTABOA for review or re-review: The county assessor must forward an application for exemption filed under this provision to the PTABOA for review. The PTABOA must grant an exemption claimed under this provision for the assessment date covered by the application if the PTABOA determines the application meets the requirements of this provision and (except for the omissions

listed in this provision) all or part of the entity's property would have qualified for the IC 6-1.1-10-16 exemption for the assessment date in the application.

- HEA 1001-2009(ss) §479 expires January 1, 2010.

These changes were disseminated to County Assessors and County Auditors in a July 20, 2009 memorandum.