

Members

Sen. Brandt Hershman, Chairperson
Sen. Ryan Mishler
Sen. Timothy Skinner
Rep. Eric Turner
Rep. Scott Pelath



COMMISSION ON STATE TAX AND FINANCING POLICY

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Authority: IC 2-5-3-2

MEETING MINUTES¹

Meeting Date: October 12, 2011
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Brandt Hershman, Chairperson; Sen. Ryan Mishler; Rep. Eric Turner; Rep. Scott Pelath.

Members Absent: Sen. Timothy Skinner.

Senator Brandt Hershman, the chairman of the Commission, called the meeting to order at 10:05 A.M.

I. Valuation of Commercial Rental Property

Chairman Hershman recognized Brian Bailey, Commissioner of the Department of Local Government Finance (DLGF). Commissioner Bailey discussed a handout listing changes in commercial assessed value. (See Exhibit A.) He then briefly described the sales, income, and cost-replacement methods of valuing commercial property, and he explained that an assessor must use the approach that best leads to the market-value-in-use of the property.

Commissioner Bailey testified that if there are not enough comparable sales, an assessor might use the cost-replacement method to value property. He noted that it can be challenging to use the income approach to value property.

Stacey O'Day, the Allen County Assessor, testified that counties are having trouble getting information concerning income and that businesses often do not provide this information until the appeals process is underway. She suggested that taxpayers who wish to use the income approach could be required to provide the necessary information to the assessor during a

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

specified time period. In response to a question from Representative Eric Turner, Ms. O'Day testified that the existing confidentiality laws should protect income information provided by taxpayers.

II. Periodic Reassessment

Chairman Hershman recognized Judy Sharp, the Monroe County Assessor and president of the Indiana County Assessors Association (ICAA). Ms. Sharp testified concerning the current reassessment cycle, and she also described how the reassessment cycle has changed over time. She stated that most counties have been reassessing (i.e., physically reviewing a portion of the properties in the county) a portion of the county each year, as well as assessing new construction and implementing trending. (See Exhibit B.)

In response to a question from Chairman Hershman, Ms. Sharp explained that counties are reassessing a portion of the properties each year under statutes allowing the assessment of omitted or undervalued properties. Ms. Sharp indicated that under the general reassessment Allen County, for instance, is inspecting 400 parcels per day but would inspect only 150 parcels per day under a four-year rolling reassessment schedule (25% of properties inspected each year). Ms. Sharp also indicated that Monroe County is spending \$1.5 M for the general reassessment but would spend only \$150,000 per year (\$600,000 total) under a four-year rolling reassessment schedule. Representative Turner questioned Ms. Sharp regarding cost savings from periodic reassessment. Chairman Hershman requested the ICAA to estimate potential savings in each county from periodic reassessment. In response to a question from Representative Scott Pelath, Ms. Sharp testified that most counties are in favor of periodic reassessment. In response to a question from Senator Ryan Mishler, Ms. Sharp testified that the General Assembly needed to eliminate the statutory language requiring a general reassessment. Representative Milo Smith testified that the law could be changed to give counties four years to complete the reassessment, rather than eighteen months.

Commissioner Bailey discussed two handouts concerning progress of the 2012 reassessment. (See Exhibit C and Exhibit D.) Commissioner Bailey testified that: (1) the DLGF does not have concerns with the concept of periodic reassessment, and that periodic reassessment will improve the assessment process; and (2) the International Association of Assessing Officers (IAAO) endorses periodic reassessment.

Linda Phillips, Tippecanoe County Assessor, testified that: (1) the cost of the general reassessment was \$25 per parcel; (2) performing the work in-house would cost \$8.10 per parcel; and (3) the work cannot be done in-house because of the eighteen month general reassessment period.

III. Modernizing Assessment and Budget Timelines

Chairman Hershman recognized Senator Connie Lawson, who testified concerning the need to determine whether the current statutory timeliness for assessment and local government budgeting still make sense. Senator Lawson explained that county officials have suggested an in-depth study of this issue, with a working group consisting of local officials, the DLGF, the State Treasurer, and the State Auditor. The working group would report its recommendation to the Commission next year.

Commissioner Bailey described the existing time lines for assessment, budget adoption, and property tax billing. (See Exhibit E.)

Bill Borné, Adams County Auditor and President of the County Auditors Association, noted that the General Assembly has: (1) moved the deduction deadlines several times; (2) added budget-

review responsibilities; and (3) changed budget adoption deadlines. (See Exhibit F.) Joe Wray, Brown County Treasurer and Vice-President of the County Treasurers Association, commented that anything that is done on the front end of the assessment and budget cycle affects the property tax billing at the back end of the cycle.

Rhonda Cook of the Indiana Association of Cities and Towns (IACT) testified that clerk-treasurers have commented that the ten-day period for units to respond to a "1782 Notice" (Notice of Final Budget Recommendation) is too short and that they would like 21 days to respond.

Mark Brown of the Indiana Association of Realtors testified in support of efforts to modernize the budget process. Mr. Brown suggested moving the assessment date to January 1 of the year in which property taxes are paid. He testified that an IAAO study showed that 30 states have property taxes payable within twelve months from the valuation of the property. He testified that: (1) the current system is confusing to buyers and sellers of real estate; and (2) changing the assessment date would not affect when taxes are collected or the budget year for which they are collected. (See Exhibit G.)

IV. Property Tax Exemptions For Nonprofits

Representative Milo Smith testified that he had introduced HB 1285 in the 2011 legislative session to provide that if property is owned by an organization that is exempt from federal income tax, the property would be eligible for an Indiana property tax exemption. He explained that he wanted to ensure that housing partnerships were exempt from property taxation, and he testified that we need to have an exemption policy that is applied evenly throughout the state.

George Angelone, Legislative Services Agency Deputy Director, distributed two handouts concerning property tax exemptions. (See Exhibit H and Exhibit I.) Mr. Angelone described how some activities that qualify for a federal income tax exemption are not eligible for an Indiana property tax exemption, and he explained that property tax exemptions are generally made on a property-by-property basis, rather than on an organization-wide basis. He then testified that a number of court cases have held that the General Assembly does not have the authority to establish property tax exemptions beyond the property classes listed in Article 10, Section 1, of the Indiana Constitution. Chairman Hershman asked staff to provide: (1) a list of cases limiting the General Assembly's discretion concerning property tax exemptions; and (2) data showing how many Indiana entities are exempt under Section 501 of the Internal Revenue Code and data showing how many properties qualify for the charitable exemption under Indiana property tax laws.

Rhonda Cook of IACT suggested that the Commission review HB 1281 from the 2008 legislative session.

Stacy O'Day, Allen County Auditor, testified concerning the number of 501(c)(3) entities in Allen County that are not receiving a property tax exemption.

Andy Frazier, Executive Director of the Indiana Association for Community Economic Development (IACED), then described purposes and membership of the IACED. Mr. Frazier testified that more than 60 IACED members have reported that they have lost exemptions for properties that have historically been exempt. He explained that the concern is not to broaden the exemption, but to deal with entities that are having their exemptions challenged. (See Exhibit J.)

Mark Lindenlaub, president of Housing Partnerships, Inc., testified regarding the corporation's purpose and its actions in developing affordable homes. He explained that their property tax

exemption application had been denied by the same assessor who had previously granted exemptions for the same property. Mr. Lindenlaub then described the "fallout" that Housing Partnerships, Inc., has experienced from the reversal of the exempt status of its property. (See Exhibit K.)

Chairman Hershman recessed the meeting at 11:50 A.M., and he reconvened the meeting at 1:15 P.M.

V. Impact of Eliminating the Personal Property Tax

Bob Sigalow, Legislative Services Agency fiscal analyst, distributed a memorandum concerning sales tax on newly acquired depreciable personal property. The memorandum reviewed the effects of collecting sales tax on depreciable personal property in lieu of collecting property tax on that property. He testified that: (1) the statewide sales tax revenue that would have been generated in 2010 by applying sales tax to currently exempt depreciable personal property is estimated at \$535 M; and (2) the net property taxes billed on (non-utility) business personal property in 2010 was \$697 M. (See Exhibit L, "Sales Tax on Newly Acquired Depreciable Personal Property".)

Andrew Berger of the Association of Indiana Counties (AIC) stated that the AIC would not be endorsing a county option elimination of property taxes on personal property. He testified that: (1) such property is a significant portion of assessed valuation in some counties and that some counties would be able to afford implementing the exemption, while other counties could not afford to do so; and (2) an elimination of the tax on personal property would result in a tax shift from businesses to individuals. Mr. Berger noted that the main worry is that a local option would result in property being moved from one county to another.

Representative Turner commented that some counties may wish to institute such an exemption because they do not have the same advantages as other counties.

Chairman Hershman noted that Katrina Hall had provided written testimony regarding the elimination of property tax on personal property. (See Exhibit M.)

Bill Waltz of the Indiana State Chamber of Commerce testified that he understood there would be a need for replacement revenue if the property tax on personal property were eliminated, and he stated that he would review the Legislative Services Agency's analysis concerning sales tax. Mr. Waltz testified that: (1) there is no question that the tax on personal property is a bad tax for economic development; (2) even a local option exemption would make inroads in addressing this issue; and (3) if the exemption is on new property, it would not result in a "race to the bottom". In response to a question from Representative Pelath, Mr. Waltz testified that the tax on personal property has been considered one of the most onerous taxes.

Rhonda Cook of IACT testified there would be a concern about the loss of tax base. She noted that the option of property tax abatements already exists under current law and that HB 1007 from the 2011 legislative session provided more options to local units to set their abatement percentages and durations.

Jamie Shepherd, Howard County Assessor, testified that 31% of Howard County's total taxable assessed valuation is from personal property and that 43% of Kokomo's total taxable assessed valuation is from such property. She testified that she was concerned that it would be unfair to tax current property differently from new property.

There being no further business, Chairman Hershman adjourned the meeting at approximately 2:00 P.M.

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
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Exhibit A
Commission on State Tax and
Financing Policy
Meeting #3 October 12, 2011

Commercial Assessed Value Changes **by Business Type** **2008 - 2010 (Taxes Payable 2009 - 2011)**

Prepared by the Department of Local Government Finance
December 6, 2010

Key Findings

Overall, commercial assessed values growth has slowed from an increase of 1.5% for taxes payable in 2010 to a decrease of 1.3% for taxes payable in 2011. There was variation among the subcategories of businesses, but those changes did not exceed 10% in either direction for 53 of the 58 sub-categories in the first year and 50 of the 58 in the second year. Most of the large increases can be explained by increases in the number of parcels or significant assessed value increases in a small number of properties.

Data and Methodology

This report relies on parcel-level data submitted by the County Assessor, and covers only those 85 counties that have submitted real property data files that are compliant with the data standards of 50 IAC 23 for taxes payable in 2011. Jasper, Lake, LaPorte, Madison, St. Joseph, Sullivan, and Union counties had not submitted their 2010 Pay 2011 certified assessment data to the Department of Local Government Finance ("Department") as of the date of this report. The report isolates and categorizes commercial properties based on the property class codes assigned to the parcel by the Assessor. It then adds up the total assessed value in each category for each of the three years and calculates the percentage changes between these totals. The total assessed value is not adjusted for changes in number of parcels; if the number of parcels in a class increases, the assessed value change would reflect that increase. This analysis does include the effects of new construction and/or additions to existing properties. Therefore, these increases are the total change in assessed value and are not necessarily indicative of the AV change in the average parcel.

A copy of this report may be found at <http://www.in.gov/dlgf/8379.htm>
Please direct questions to Assistant Director of Data Analysis Rabia Jermoumi at
rjermoumi@dlgf.in.gov or by phone at 317-234-7316.

Gross Assessed Value Changes by Type of Business 2008-2010 (Taxes Payable 2009-2011)

Class Code	Property Description	2008-2009	2009-2010	Notes
	All Commercial Property	-1.5%	-1.3%	
400	Commercial Vacant Land	-1.1%	-8.9%	
401	Commercial 4-19 Family Apartments	-5.7%	-3.5%	
402	Commercial 20-39 Family Apartments	5.0%	-5.4%	
403	Commercial 40 or more Family Apartments	2.0%	0.2%	
409	Parcel classified as vacant but is part of the support land for another parcel	no such property 2008	no such property 2009	
410	Commercial Motels or Tourist Cabins	-0.2%	-1.9%	
411	Commercial Hotels	9.9%	7.2%	
412	Commercial Nursing Homes & Hospitals	5.7%	3.0%	
415	Commercial Mobile Home Parks	-2.2%	-1.4%	
416	Commercial Camp Grounds	-2.1%	7.2%	
419	Commercial Other Housing	0.9%	16.7%	driven by 42.5M increase in Monroe County AV from increase in number of parcels
420	Commercial Small Retail	0.6%	-0.4%	
421	Commercial Supermarkets	0.1%	-2.2%	
422	Commercial Discount & Junior Department Stores	1.4%	-0.7%	
424	Commercial Full Line Department Stores	-3.8%	-2.3%	
425	Commercial Neighborhood Shopping Center	1.9%	0.5%	

Gross Assessed Value Changes by Type of Business 2008-2010 (Taxes Payable 2009-2011)

Class Code	Property Description	2008-2009	2009-2010	Notes
	All Commercial Property	1.5%	-1.3%	
426	Commercial Community Shopping Center	6.4%	-2.4%	
427	Commercial Regional Shopping Center	5.9%	2.9%	
428	Convenience market	-8.0%	6.4%	
429	Commercial Other Retail Structures	3.1%	0.0%	
430	Commercial Restaurant, Cafe or Bar	0.2%	-3.9%	
431	Franchise-type restaurant	4.5%	7.3%	
435	Commercial Drive-In Restaurant	2.5%	-1.9%	
439	Commercial Other Food Service	0.2%	-16.4%	driven by 62% decrease in number of parcels in Marion County
440	Commercial Dry Clean Plant or Laundry	-3.1%	-0.1%	
441	Commercial Funeral Home	-1.7%	-0.5%	
442	Commercial Medical Clinic or Offices	6.5%	0.8%	
443	Drive-up, walk-up bank only	10.9%	6.1%	driven by 1.4 M increase in Allen County AV from addition of two new properties
444	Commercial Full Service Bank	0.7%	1.4%	
445	Commercial Savings and Loans	-1.4%	-0.6%	
447	Commercial Office Building 1 or 2 Story	2.1%	-1.3%	
448	Commercial Office O/T 47 Walk-up	5.2%	0.5%	

Gross Assessed Value Changes by Type of Business 2008-2010 (Taxes Payable 2009-2011)

Class Code	Property Description	2008-2009	2009-2010	Notes
	All Commercial Property	-1.5%	-1.3%	
449	Commercial Office O/T 47 Elevator	-1.4%	-3.2%	
450	Convenience market with gasoline sales	8.7%	2.5%	
451	Convenience market/franchise type restaurant w/ gas sales	15.7%	9.0%	driven by \$11M increase in Boone County AV from addition of new class code
452	Commercial Auto Service Station	-0.7%	-4.8%	
453	Commercial Car Washes	0.4%	-8.2%	
454	Commercial Auto Sales & Service	-0.6%	-0.5%	
455	Commercial Garage	1.8%	-1.3%	
456	Commercial Parking Lot or Structure	-1.7%	-0.8%	
460	Commercial Theaters	1.0%	-2.2%	
461	Commercial Drive-In Theaters	3.3%	-35.1%	driven by AV decrease in Hendricks County
462	Commercial Golf Range or Miniature Course	-5.3%	-20.4%	driven by decrease in number of parcels in Hancock County
463	Commercial Golf Course	-6.3%	-16.1%	driven by an AV decrease in Hamilton County
464	Commercial Bowling Alley	5.7%	-7.2%	
465	Commercial Lodge Hall or Amusement Park	5.8%	-10.3%	driven by 9% decrease in number of parcels
466	Amusement Park	0.8%	-0.4%	
467	Health Club	20.3%	-2.9%	driven by \$16M increase in Hamilton County AV from addition of new class code

Gross Assessed Value Changes by Type of Business 2008-2010 (Taxes Payable 2009-2011)

<u>Class Code</u>	<u>Property Description</u>	<u>2008-2009</u>	<u>2009-2010</u>	<u>Notes</u>
	All Commercial Property	1.5%	-1.3%	
468	Ice rink	8.6%	609.8%	driven by \$6.4M increase in Allen County AV from addition of new class code
469	Riverboat gaming resort	37.6%	10.6%	driven by AV increases in the Hollywood Casino
	Miscoded class code	no such property 2008	no such property 2009	
480	Commercial Warehouse	-5.6%	-4.1%	
481	Commercial mini-warehouse	10.0%	8.9%	driven by 10% increase in number of parcels
482	Commercial Truck Terminals	-5.9%	-0.1%	
490	Commercial Marine Service Facility	-2.4%	-0.2%	
495	Marina	-4.2%	-7.9%	
496	Commercial Marina	-0.9%	-8.6%	
498	Commercial building on leased land	7.7%	-7.2%	
499	Commercial Other Structure	1.1%	-6.1%	

General Reassessment (Current Statute)	Cyclical Reassessment (Proposed)
Annual adjustments performed every year to ensure market value.	Annual adjustments performed every year to ensure market value.
Cost tables (sq ft prices) will be updated annually.	Cost tables (sq ft prices) will be updated annually.
Ratio studies approved by the DLGF annually.	Ratio studies approved by the DLGF annually.
All properties inspected in an 18 month timeframe every 5 years. (average of 400 parcels per day in Allen County)	25% of properties inspected every year in a 4 year cycle. (average of 150 parcels per day in Allen County)
On average, general reassessment has been delayed to occur every 8 years ('1962,'1969,'1979,'1989,'1995,'2002,'2010)	No delays needed since the amount of parcels to be inspected is more manageable.
Budgets are estimated 5 years in advance to set levy	Budgets would be consistent and predictable
Historically have caused counties to fall behind with tax bills costing local units millions of dollars.	Nearly all counties are sending bills on time and would continue to do so.

DLGF Supports Cyclical Reassessment

Exhibit B
Commission on State Tax and
Financing Policy
Meeting #3 October 12, 2011



Exhibit E
Commission on State Tax and
Financing Policy
Meeting #3 October 12, 2011

Property Tax Calendar

Brian E. Bailey, Commissioner
Department of Local Government Finance
October 12, 2011



Core Agency Objectives

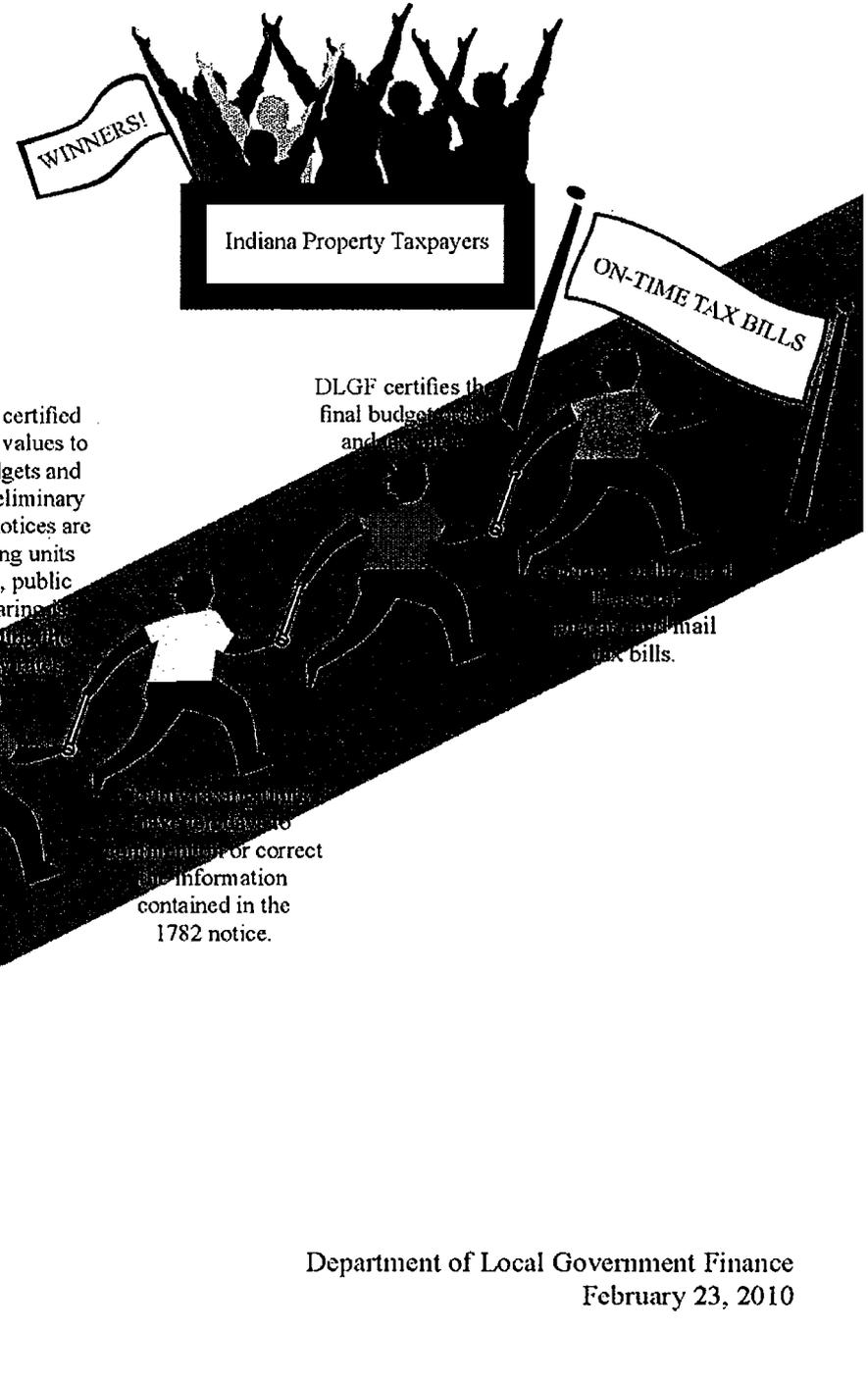
- Ensures property tax assessment and local government budgeting follow Indiana law
- Ensure data submission standards and deadlines are met
- Annually reviews and approves tax rates and levies of every political subdivision including all counties, cities, towns, townships, school corporations, libraries and other entities with tax levy authority
- **TOP PRIORITY: ON TIME PROPERTY TAX BILLING** – a joint effort with local county officials



Important Dates

- **February 15** – Deadline for the Department to certify local budgets for current calendar year
- **March 1** – Assessment / Valuation Date
- **April 25** – Last date to mail tax bills for May 10 due date
- **May 2** – DLGF-suggested Ratio Study Submission Date*
- **May 10** – First installment tax bill due date
- **July 1** – County Assessor required to submit gross assessed values to the County Auditor
- **August 1** – County Auditor required to certify net assessed values to the Department of Local Government Finance.
- **November 1** – Local Budget Adoption Deadline
- **November 10** – Second installment tax bill due date

Assessment to Tax Billing: Start to Finish



County Assessor completes trending and assessments and submits information to DLGF.

DLGF views and interprets the information.

County Assessor adds gross assessed values to the County website.

County Auditor applies exemptions, deductions and adjustments to determine net assessed values and certifies these to the DLGF.

DLGF uses certified net assessed values to process budgets and calculate preliminary rates. 1782 notices are sent to taxing units and a local, public budget hearing is held regarding the preliminary rates.

County Auditor provides information or corrects information contained in the 1782 notice.

DLGF certifies the final budget and tax rates.

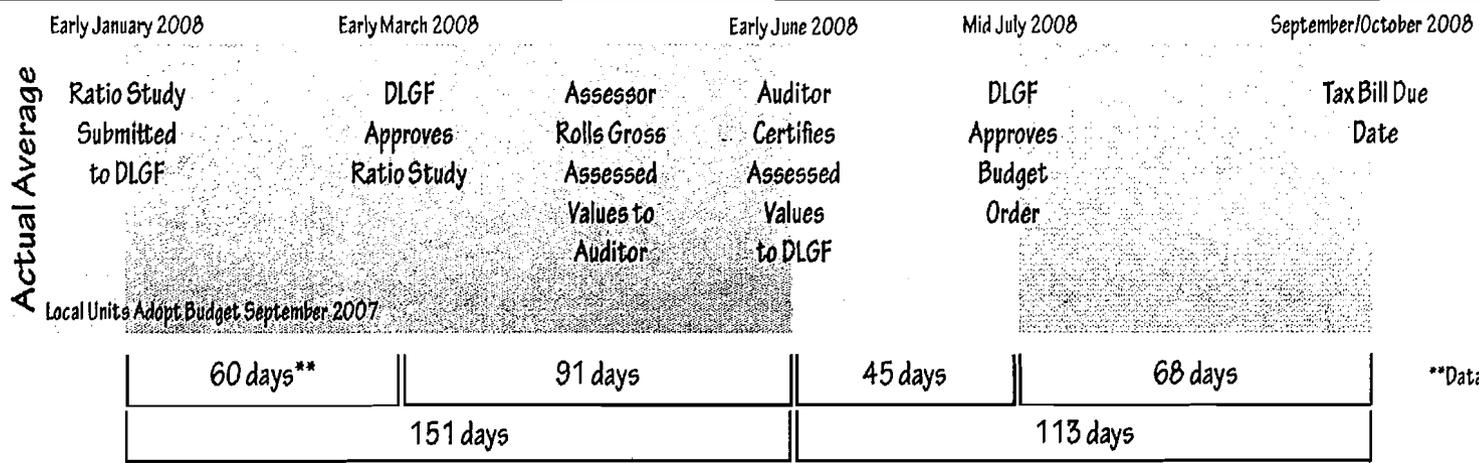
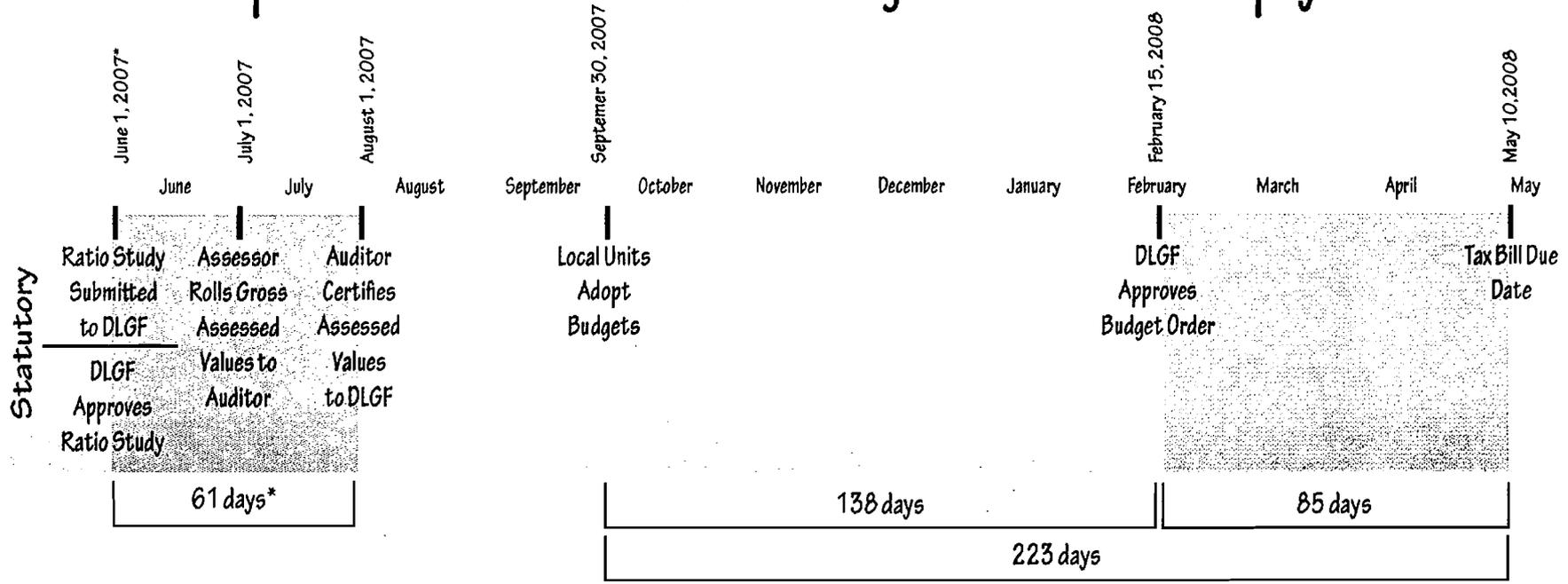
County Auditor prepares and mails tax bills.



**Submission
of
Net
Assessed
Values**

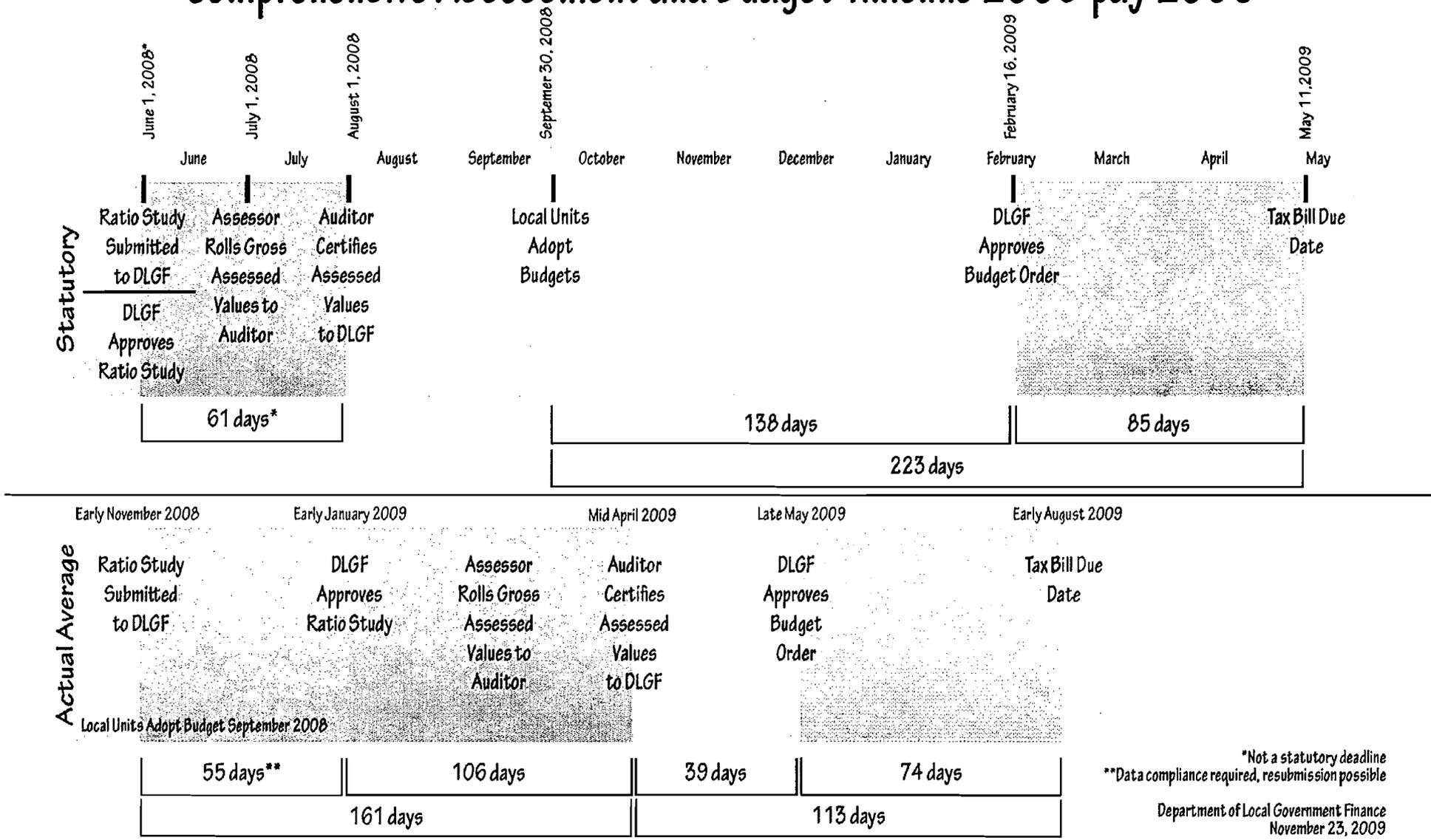
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July	0	11	4
August	3	36	35
September	6	16	29
October	9	10	
November	28	9	
December	25	4	
January	5	2	
February	8	3	
March	3		
April	0		
May	1		
June	2		
July	0		
August	1		
	91	91	68

Comprehensive Assessment and Budget Timeline 2007 pay 2008



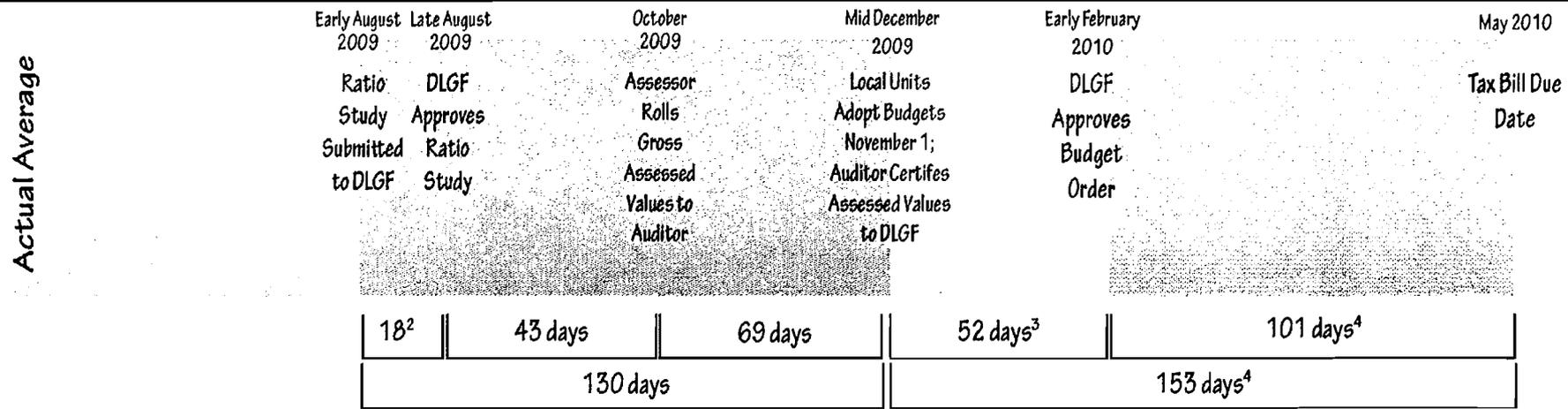
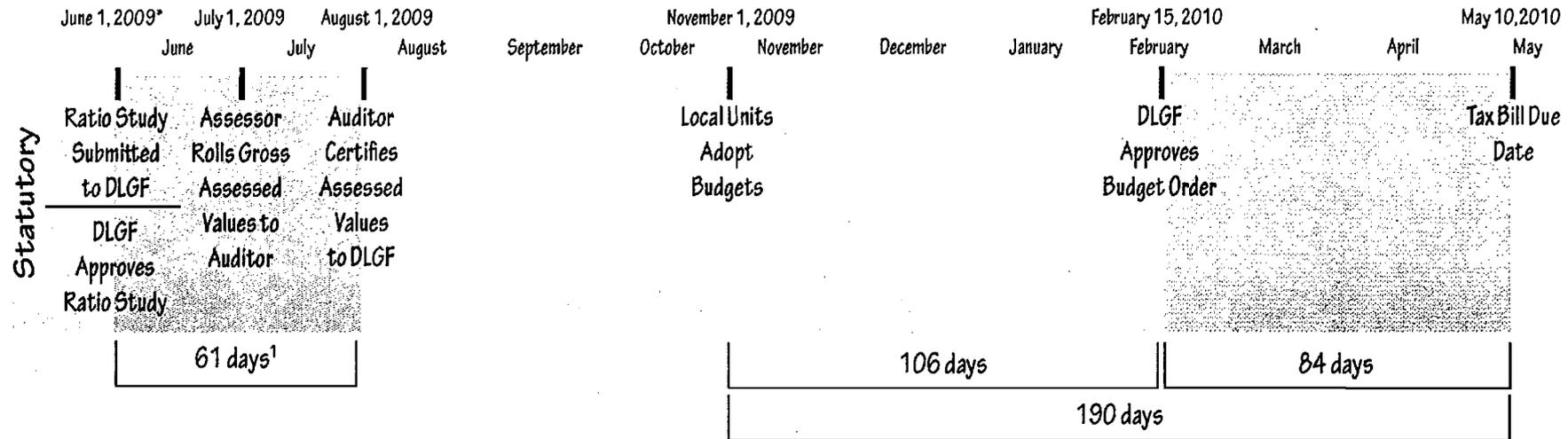
*Not a statutory deadline
 **Data compliance required, resubmission possible
 Department of Local Government Finance
 October 22, 2009

Comprehensive Assessment and Budget Timeline 2008 pay 2009



*Not a statutory deadline
 **Data compliance required, resubmission possible
 Department of Local Government Finance
 November 23, 2009

Comprehensive Assessment and Budget Timeline 2009 pay 2010

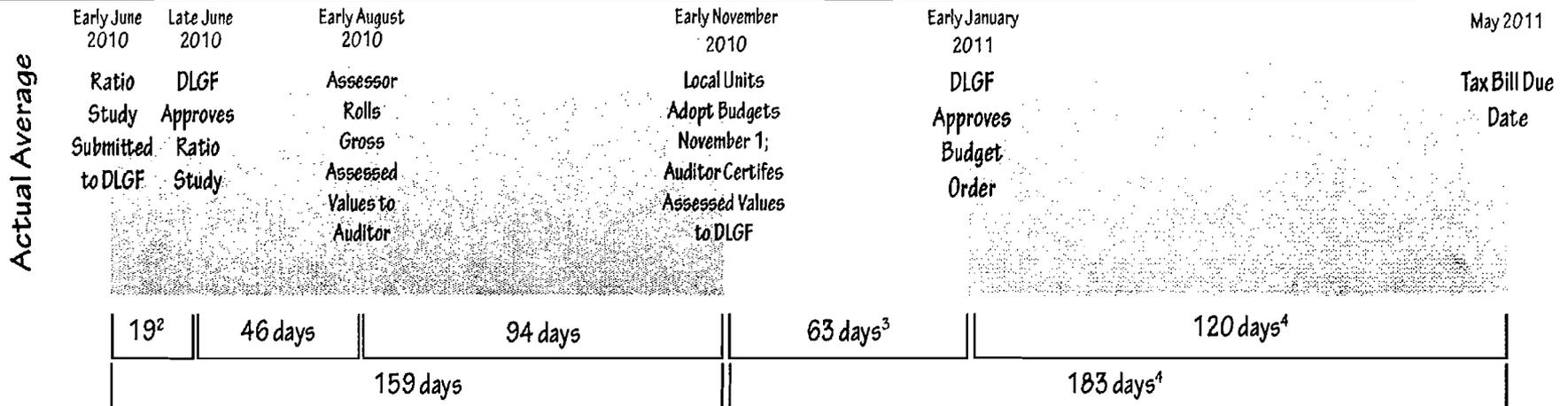
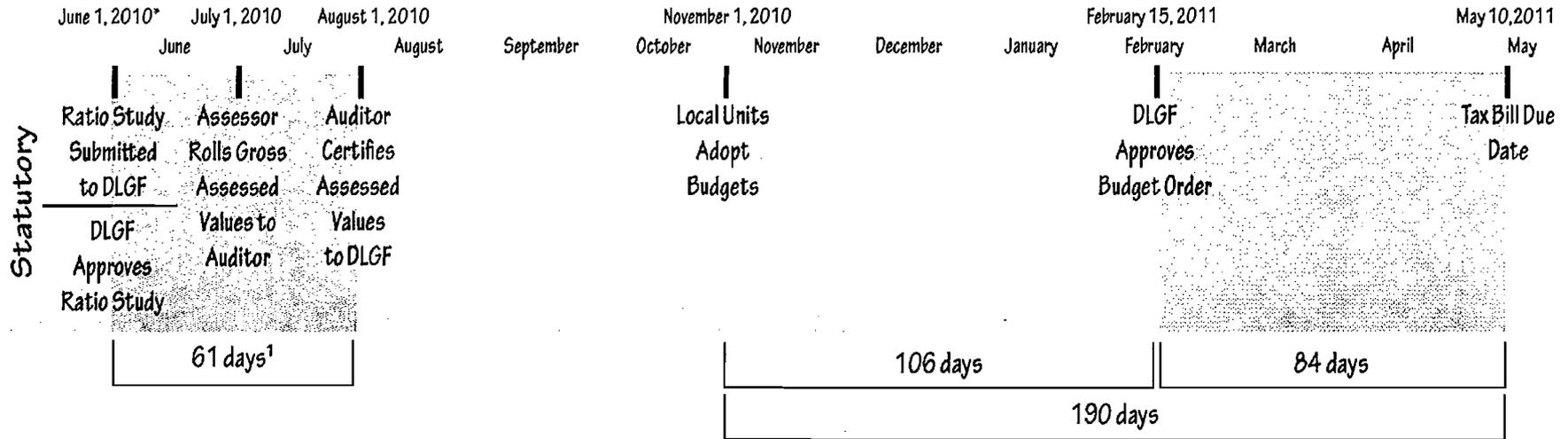


¹Not a statutory deadline

²Data compliance required, resubmission possible

³Average calculated from latter of November 1 or date of net assessed value certification

Comprehensive Assessment and Budget Timeline 2010 pay 2011



¹Not a statutory deadline

²Data compliance required, resubmission possible

³Average calculated from latter of November 1 or date of net assessed value certification



Contact the Department

- Brian E. Bailey
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 - Fax: 317.232.8779
 - E-mail: bbailey@dlgf.in.gov
- Web site: www.in.gov/dlgf
 - “Contact Us”: www.in.gov/dlgf/2338.htm

ASSESSMENT - BUDGET CALENDER

March 1 thru May 10

Assessor

March 1 Assessment date and valuation date for all tangible property except annually assessed mobile homes under IC 6-1.1-7. IC 6-1.1-1-2.

March 1 Last date a real property assessment can be increased for undervalued or omitted property for the assessment date three years prior to March 1 (March 1, 2008-2010). IC 6-1.1-9-4; for personal property,

March 30th deadline to submit the sales file to the DLGF IC 6-1.1-9-3.

April 30 The appraisal of one-half (1/2) of all parcels for the reassessment shall be completed. IC 6-1.1-4-21(a)(2).

May 2 Although there is no statutory date for submission of the county's ratio study, in order to ensure on-time billing for 2010 pay 2011, it is strongly recommended the ratio study be submitted by this date.

May 10 Last day a claim for refund may be filed for the May installment three (3) years prior (2008-2010) as a result of a Correction of Error (Form 133). IC 6-1.1-26-1.

Auditor

March

Complete tax duplicate and prepare Abstract of Valuations and Taxes levied to be filed with the Auditor of State and the County Treasurer on or before March 15. [IC 6-1.1-22-3 and IC 6-1.1-22-5]

Enter Certificate of errors and Auditor Adjustments as soon as abstract is approved .

Treasurer

Receive tax duplicates from county auditor. [IC 6-1.1-22-3]

Prepare tax statements and receipts and mail to taxpayers as soon as possible after March 1. The work of preparing the statements and receipts should begin before March 1, if possible. [IC 6-1.1-22-8]

Advertise rates as defined in I. C. 6-1.1-22-4 and prepare to send out tax bills in accordance with timeframe established in I. C.

The county treasurer may mail or transmit the statement one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due.. I. C. 6-1.1-8.1-(9)-(B) (c)

May 10 thru July 1

Assessor

June 1 Although there is no statutory date for approval of the county's ratio study, in order to ensure on-time billing for 2010 pay 2011, it is strongly recommended the ratio study be approved by this date.

July 1 Last day for the county assessor to deliver the real estate book (i.e., roll 2011-pay-2012 gross assessed values) to the county auditor. IC 6-1.1-5-14.

July 1 Last day for the county assessor to deliver the personal property assessment data to the auditor. IC 6-1.1-3-17(b).

July 1 The County Assessor is required to determine and submit the land values for the 2012 General Reassessment to the Property Tax Assessment Board of Appeals (PTABOA). IC 6-1.14-13.6 (Version B).

Auditor

Complete semiannual settlement with County Treasurer by June 20. [IC 6-1.1-27-1] Prepare Settlement Sheet to be submitted to Auditor of State for approval and make distribution of funds due local governmental units and the Treasurer of State by June 30. [IC 6-1.1-27-3]

Receive list certified by county treasurer of real property eligible for tax sale - on or before July 1. [IC 6-1.1-24-1]

Enter on Assessor's Books amounts allowable on applications for deductions and exemptions. Applications for mortgage deductions and tax exemptions of religious, educational and charitable organizations are to be acted upon by the County Property Tax Assessment Board; other deductions and exemptions are subject only to allowance by the county auditor.

Give notice to any tax exempt organization which failed to file an application for exemption on property for which an exemption was effective for the preceding year - on or before June 15. [IC 6-1.1-11-5] Applicant may file the application within fifteen days after sending the notice.

Treasurer

Start making settlement. Certify tax collections, including ditch and special assessments, to county auditor.

Last day to receive lists of public employees, after which immediate search should be made to determine any tax delinquencies. [IC 6-1.1-22-14]

Last day to make settlement with state and local units. [IC 6-1.1-27-1]
File report with county auditor of demand fees collected from 1-1 to 6-30.

Last day to prepare and record list of delinquent real estate taxes in preparation for tax sale. [IC 6-1.1-24-1]

Advance property taxes within thirty (30) days of the request in conformance with governing laws. [IC 5-13-6-3]

July 1 thru August 1

Assessor

Auditor

July

Receive from officers, boards, commissions and agencies, statements of salaries and wages proposed to be paid officers and employees, County Forms No. 144 - Due by July 1. [IC 36-2-5-4]

Submit to the Board of Commissioners, at its July meeting, the statement of salaries and wages proposed to be paid, County Forms No. 144. The board shall on or before August 20 make its recommendations thereon to the county council. [IC 36-2-5-4]

Furnish forms to officers and department heads for use in submitting budget estimates for ensuing year; prepare budget estimates for auditor's office, for poor relief, and for the Board of Commissioners under direction of the board. [IC 36-2-5-5 to 36-2-5-7]

Prepare Certificates for all units of government showing Assessed Value of Unit for next budget year, an estimate of taxes to be collected during last 6 months, current assessed values, and average growth etc. prior to August 1. IC 6-1.1-17-1

Furnish duplicate copies of all applications for tax exemption, to Department of Local Government Finance on or before August 1. [IC6-1.1-11-8]

Treasurer

August 1 thru November 10

Assessor

September 15 Last day for a township or county assessing official to make a change on a personal property return filed on or before May 15th of the current year and notify the taxpayer of the change. If the return was filed after May 15, the assessing official has four (4) months from the day of filing to make a change. IC 6-1.1-16-1(a)(1).

September 30 The appraisal of three-fourths (3/4) of all parcels for the reassessment shall be completed. IC 6-1.1-4-21 (a)(3).

October 31 Last day for a county assessor or a property tax assessment board of appeals to make a change on a personal property return filed on or before May 15 of the current year and notify the taxpayer of the change. If the return was filed after May 15, a county assessor or a property tax assessment board of appeals has five (5) months from the day it is filed to make a change. IC 6-1.1-16-1(a)(2). These time

limitations apply to the review function of the property tax assessment board of appeals, but not the appeal function under IC 6-1.1-15. 50 IAC 4.2-3.1-7.

Auditor

August

Furnish estimates of net assessed valuation and of taxes to be distributed during last six months of year to proper officer of each municipal corporation for use in preparing budget for ensuing year – not later than August 1. [IC 6-1.1-17-1]

Receive budget estimates from officers and department heads (including assessing officials) – no later than Thursday following first Monday in August. [IC 36-2-5-9; IC 36-6-8-10]

Publish county budget - at least ten (10) days before the public hearing on the budget. [IC 6-1.1-17-3; 6-1.1-17-5] **must be completed before September 10**

Receive and prepare budget information from taxing units for County Council non-binding review I.C. 6-1.1-17-3.5

Before the county fiscal body's annual meeting under IC 36-2-3-7(b)(2), the county auditor shall prepare: an ordinance fixing the rate of taxation for taxes to be collected in the next calendar year; and an ordinance making appropriations by items for the next calendar year for the various purposes for which budget estimates are required.

Begin or complete preparation of Tax Duplicate as soon as possible after County Property Tax Assessment Board adjourns, to show names of owners, descriptions, assessed valuation, exemptions and deductions, and net valuation. This will enable early completion of the duplicate when tax rates are finally fixed.

Receive budgets from other municipal corporations. If applicable, submit to County Board of Tax Adjustment - at least two days before meeting of County Board of Tax Adjustment. [IC 6-1.1-17-5]

Meeting of County Board of Tax Adjustment on September 22 or on the first business day after September 22, if September 22 is not a business day. [IC 6-1.1-29-4] Immediately after adjournment publish notice of tax levies and rates as fixed by the board [IC 6-1.1-17-12] and furnish copy of minutes and copies of all budgets to State Board of Tax Commissioners. [IC 6-1.1-17-10]

Hold public hearing on budget at any time after introduction of the budget. [IC 6-1.1-17-3; 6-1.1-17-5]

October

1. County Board of Tax Adjustment (if applicable) must complete its duties by October 1. [IC 6-1.1-29-4; 6-1.1-17-9]

Upon receipt of orders from county board of tax adjustment and State Board of Tax Commissioners on the budgets, tax levies and rates, notify proper officer of each municipal corporation of action taken thereon. [IC 6-1.1-17-6; 6-1.1-17-16] Compute taxes to be entered in the tax duplicate.

At a Regular meeting of County Council - on any date not later than November 1 . [IC6-1.1-17-5] At this meeting the county council shall adopt ordinances fixing the appropriations and tax levies for the ensuing year and a separate ordinance fixing the salaries and wages of officers and employees paid from county funds and subject to the provisions of IC 36-2-5-2 and 36-2-5-3.

November 1, last date to re-certify assessed values to DLGF to take into consideration appeals granted or deductions filed after the August 1st deadline. Not a statutory date but date provided by DLGF as Deadline.

November 7 Last day for filing of an exemption application by the owner and approval by the property tax assessment board of appeals for the prior tax year if the county auditor did not give notice they had not filed. (First Monday in November per statute.) IC 6-1.1-11-5(d).

Treasurer

Last day for taxpayers to pay second installment of tax without penalty. [IC 6-1.1-22-9]

November 10 thru December 31

Assessor

November 15 Last day an amended personal property return may be filed for March 1, next year assessment unless an extension was granted for the original personal property return. IC 6-1.1-3-7.5.

December 14 Last day an amended personal property return may be filed for March 1, next year assessment if the maximum extension was granted for the original personal property return. IC 6-1.1-3-7.5.

December 31 Last day to file a disaster petition, issue a reassessment order, and make an adjustment for a disaster petition for March 1, former year assessment date, and last day to file a petition for reassessment of permanently flooded land for March 1, former year assessment date. IC 6-1.1-4-11; IC 6-1.1-4-11.5.

Auditor

November

Immediately after the County Treasurer has entered all credits for collections in the tax duplicate and special assessment duplicates proceed to extend and audit the duplicates, verify collections with Treasurer's Certificate of Collections and make settlement and distribution. The settlement shall include not only tax and special assessment collections but also demand fees, tax sale costs and any other items for which the Treasurer is chargeable. [IC 6-1.1-27-2]

Complete semiannual settlement with County Treasurer by December 20. [IC 6-1.1-27-1] Prepare Settlement Sheet to be submitted to Auditor of State for approval and make distribution of funds due local governmental units and the Treasurer of State by December 31. [IC 6-1.1-27-3]

Even though applications for deductions and exemptions may be filed at any time throughout the year, applications for the following deductions and exemptions from assessments and/or taxation must be filed on or before January 5 to entitle the filer to a deduction or exemption for the current years' taxes payable in the immediate following year:

a. Mortgage Indebtedness. [IC 6-1.1-12-2]

*b. Veterans and Widows of Veterans. [IC 6-1.1-12-15; 6-1.1-12-17 and 6-1.1-12-17.5]

*c. Persons Age 65. [IC 6-1.1-12-9]

*d. Blind or Disabled Persons. [IC 6-1.1-12-12]

e. Rehabilitated Property. [IC 6-1.1-12-20; 6-1.1-12-24]

f. Solar Energy Systems. [IC 6-1.1-12-27.1]

**g. Educational, Literary, Scientific, Religious and Charitable Organizations [IC 6-1.1-11-3] may be filed any time after January 1 of each year.

Advance property taxes within thirty (30) days of the request in conformance with governing laws. [IC 5-13-6-3]

November 10 Last day a claim for refund may be filed for the November installment three (3) years prior as a result of a Correction of Error (Form 133). IC 6-1.1-26-1.

December 31 - Last day to make tax settlement with state and local units. [IC 6-1.1-27-1]

Treasurer

November 10 Second installment of taxes due. IC 6-1.1-22-9.

Start making settlement. Certify tax collections, including ditch and special collections, to county auditor.

Make demand for taxes for every taxpayer delinquent in payment of personal property taxes. If payment is not made within sixty days from date of demand, proceed to enforce collection by levy and sale of personal property. [IC 6-1.1-23-1]

Prepare list of persons owing delinquent taxes and believed to have money due from Auditor of State, Indiana Department of Transportation or any state institution or state school and furnish the list to those agencies on or before December 1. [IC 6-1.1-22-16]

Advance property taxes within thirty (30) days of the request in conformance with governing laws. [IC 5-13-6-3]

January 1 thru January 31

Assessor

Annually assessed mobile home assessment date. IC 6-1.1-1-2.

January 18 Assessment date and valuation date for all tangible property except annually assessed mobile homes under IC 6-1.1-7. IC 6-1.1-1-2

Auditor

1. File Annual Financial Report with State Board of Accounts. [IC 5-11-1-4]
6. Report of Names and Compensation of Officers and Employees (Form 100R) to be filed with State Board of Accounts. [IC 5-11-13-1]
8. Make annual distribution of interest on cemetery trust funds last Monday in January. [IC 23-14-70-3]
9. Begin to prepare for annual personal property assessment period which begins on March 1. See that forms and records required to be furnished assessors are available by that date. [IC 6-1.1-3-5] Also, forms for use of taxpayers in claiming deductions and exemptions should be available by March 1.
10. Prepare withholding statements for employees (W-2) and make annual reports to Internal Revenue Service and Indiana Department of Revenue, as soon as possible after year end.

Treasurer

Investment interest to be paid by depositories to county.

Mail lender detail files to mortgage companies.

January 31 thru February 31

Assessor

February 15 Last date a real property assessment can be increased for undervalued or omitted property for the assessment date three years prior to March 1 (March 1, 2008-2010). IC 6-1.1-9-4; for personal property, IC 6-1.1-9-3.

Auditor

1. Submit Annual Financial Report to Board of Commissioners for approval; publish the report one time in each qualified newspaper. [IC 36-2-2-19; 5-3-1]
 2. County Highway Annual Operational Report to be filed with the State Board of Accounts, Board of County Commissioners, and Indiana Department of Transportation by February 15.
- 3-3
FEB 15 DLGF MUST APPROVE BUDGET ORDERS PRIOR TO THIS DATE I, C, 6-1.1-17-16 (4)(h)

Treasurer

Mailing of delinquent courtesy letters for real and personal properties.

Update lender detail files to tax system.

REALTORS® are obviously supportive of efforts to modernize the property tax system and budget process.

We hope that you will include in the discussion the idea that the assessment date be moved from March 1 of the year prior to when taxes are paid to January 1 of the year in which property taxes are paid.

That is, change the current practice of, for example, taxes assessed March 2011, pay 2012 to taxes assessed January 1, 2012, pay 2012. One of our commercial practitioners has indicated that Indiana may be one of only 2 states that levy's property taxes in arrears.

An IAAO survey from several years ago says over 30 states have taxes payable less than 12 months from valuation of the property – or in the same year.

Some of the ways that this change could help buyers, sellers, and the housing market include

1. Property tax payers can intuitively relate the tax they pay to the value of their property. A tax bill now is separated from the time the property was valued by as much as 18 months.
2. Buyers and sellers of homes can intuitively understand how the taxes are allocated around closing of the sale.

Currently, sellers must bring dollars to the closing to cover the costs of taxes that will be paid by the buyer for approximately the

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To: Members of the Commission on State Tax and Financing Policy
From: George T. Angelone, Deputy Director
Re: Comparison of Indiana property tax exemption
law to federal income tax exemption law.
Date: October 12, 2011

On June 7, 2011, the Legislative Council assigned the following study topic to the Commission on State Tax and Financial Policy:

Differences between the eligibility of nonprofit entities for federal income tax exemptions and the eligibility of nonprofit entities for Indiana property tax exemptions.

This memorandum provides a brief comparison between federal exempt organization law and state property tax exemption law.

The General Assembly has exercised its constitutional authority to grant exemptions through the enactment of:

- (1) a general exemption statute, currently codified in IC 6-1.1-10-16(a), IC 6-1.1-10-16(c), and IC 6-1.1-10-16(e); and
- (2) a number of more narrowly tailored exemption statutes that apply to a specific type of property, a specific property owner, or a specific use. See, Appendix A.

IC 6-1.1-10-16(a), IC 6-1.1-10-16(c), and IC 6-1.1-10-16(e) read as follows:

Sec. 16. (a) All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

...

(c) A tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if:

- (1) a building that is exempt under subsection (a) or (b) is situated on it;

- (2) a parking lot or structure that serves a building referred to in subdivision (1) is situated on it; or
- (3) the tract:
 - (A) is owned by a nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics;
 - (B) does not exceed five hundred (500) acres; and
 - (C) is not used by the nonprofit entity to make a profit.

...

(e) Personal property is exempt from property taxation if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.

The general exemption statute does not require the property owner to be organized in any particular form to receive the benefits of the property tax exemption. Sole proprietorships, partnerships, associations, corporations, limited liability companies, fiduciaries, and individual, under the right circumstances, qualify for a property tax exemption. Similarly, a property owner that is organized on a for-profit basis can be eligible for an exemption under the general exemption statute for property that is owned, operated, and used for an exempt purpose. The focus, under Indiana law, generally is on the character and purpose of the property that may be exempted from taxation, not the character and purpose of the owner of the property. Some non-general exemption statutes, on the other hand, limit an exemption to certain types of entities, such a nonprofit corporation or a corporation that has obtained a federal income tax exemption under a particular provision of the Internal Revenue Code.

Under the general exemption statute and the non-general statutes requiring proof of the use of the property for which an exemption is sought, an organization's status as a nonprofit entity does not automatically qualify the organization's property for a state property tax exemption. There are two principal reasons:

- (1) The documentation that is required to obtain federal income tax exemption is insufficient to demonstrate that any particular parcel of property owned by the organization is entitled to a state property tax exemption.
- (2) Not all activities that qualify an organization for a federal income tax exemption (See Appendix B) can qualify property for a state property tax exemption.

Differences in Required Information

In Indiana, a person seeking a property exemption has the burden of submitting sufficient facts to demonstrate that the particular property that is the subject of the exemption application is actually used for the exempt purposes specified in a state statute. Indiana's Tax Court has called

this analysis "a fact sensitive inquiry" in which "there are no bright-line tests."

In contrast, some entities become eligible for a federal income tax exemption without filing an initial application or an annual return. Of those who are required to seek approval for an exemption, determination of federal exempt status is made based on declarations may the the applicant in an application, the organizing documents creating the applicant, financial data, and certain other documents required to be submitted with the application. The forms require information to be provided on an organization-wide basis. Information is not broken down by type, location, or class of property.

This type of information is generally insufficient to meet the information requirements for a state property tax exemption. In the case of *National Ass'n of Miniature Enthusiasts v. State Board of Tax Commissioners*, the Tax Court observed that "declaring itself a charity [*in its application and articles of incorporation*] does not make NAME's activities and endeavors the sort the law recognizes as charitable and therefore entitled to tax exemption."

Limitations on Power to Grant Exemptions

Not all activities that qualify an organization for a federal income tax exemption can qualify property for an Indiana property tax exemption. The distinction is particularly important when some of an organization's property is used for a purpose that qualifies the entity for an exemption and other property is not. Although properties in any of the following categories are unlikely to disqualify an entity for a federal income tax exemption, the properties are particularly vulnerable to being ineligible for a state property tax exemption:

- (1) Vacant property.
- (2) Low income housing and other leased property.
- (3) Property used for an unrelated business purpose.
- (4) Property of an organization that is granted federal tax exempt status under a provision other than Section 501(c)(3) of the Internal Revenue Code when the organization is cannot also qualify for an exemption under Section 501(c)(3) of the Internal Revenue Code, including the following:
 - (A) Business leagues, chambers of commerce, real estate boards, and boards of trade.
 - (B) Labor organizations.
 - (C) Social and recreational clubs.
- (5) Property of a charitable organization that qualifies for federal tax exempt status under Section 501(c)(3) of the Internal Revenue Code but cannot meet the more stringent state standards for a charitable property tax exemption.

Vacant Property

In *Trinity Episcopal Church v. State Board of Tax Commissioners*, the Tax Court stated that mere ownership alone is insufficient to support an exemption and that intent to use the property for an exempt purpose must be more than a mere dream. IC 6-1.1-10-16(d) and IC 6-1.1-10-16(i) set out standards that specify when a property tax exemption can be given to property being held for future development. Vacant property was held to be ineligible for a property tax exemption in *Indianapolis Osteopathic Hospital., Inc. v. Department of Local Government Finance*.

Low Income Property and Other Leased Property

Exempt property leased to another organization that carries out an exempt purpose for the owner was held to be exempt from property taxation in *Sangralea Boys Fund v. State Board of Tax Commissioners*. However, leases are problematic when the leased property is not owned for an exempt purpose or the lease does not carry out an exempt purpose. in *Orr v. Baker*, Property owned by a church that was used in a secular business venture was held to be taxable in *Orr v. Baker* and use of a building by lessees for concerts or for mercantile purposes owned by a charitable institution was held to be taxable, even though the rents derived therefrom are devoted to charitable purposes in *Indianapolis v. Grand Master Lodge* Property owned by a federally exempt organization and leased to low income tenants, without additional charitable services, was held to be ineligible for a tax exemption in *Jamestown Homes of Mishawaka, Inc. v. St. Joseph County Assessor* and property leased by a for-profit entity at below market rates to a religious organization has been held not to be tax exempt in *Hamilton County Property Tax Assessment Board of Appeals v. Oaken Bucket Partners*. The rationale is that when an owner leases his land to the public for a public use, or to a quasi public body for a charitable or religious use, and applies the rents derived from the land to his own personal advantage, he contributes nothing to the public or to charity, he loses nothing by the use, he is not a benefactor to any one, but he stands before the law in exactly the same light as any one else who leases his land for any other purpose, and uses the rents for his own advantage, and therefore he is not entitled to any special consideration at the hands of the law or the government, and his property is not exempt.

Unrelated Business Property

IC 6-1.1-10-36.5 provides that property that is used for a trade or business that is substantially related to the exercise or performance of the organization's exempt purpose is ineligible for a property tax exemption. IC 6-1.1-10-36.3(d) makes a similar statement. Similarly, in Federal tax law, on the other hand, treats unrelated business income as a taxable event rather than an event that terminates an organization's tax exempt status. Private foundations may be subject to additional taxes on excess business holdings.

Business Leagues and Trade Associations

Section 501(c)(6) of the Internal Revenue Code grants exempt status to business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual. A business league is defined in federal regulations as an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

The Indiana Supreme Court held that trade activities that primarily serve the private interests of an organization's members are ineligible for a charitable or educational property tax exemption in *Department of Local Gov'ernment Finance v. Roller Skating Rink Operators Association*.

Unions

Section 501(c)(5) of the Internal Revenue Code grants federal exempt status to labor, agricultural, or horticultural organizations. The Indiana Tax Court noted in *Steelworkers Hall, Inc. v. Scott* that the property of a labor union is not inherently "charitable in nature and does not automatically qualify for a property tax exemption.

Social and Recreational Clubs

Section 501(c)(7) of the Internal Revenue Code grants federal tax exempt status to clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments.

The case of *State Board of Tax Commissioners v. Ft. Wayne Sport Club, Inc.* held that a private recreational club could not qualify for a charitable property tax exemption. Similarly, various cases, including *Indianapolis Elks Building Corp. v. State Board of Tax Commissioners*, 251 N.E.2d 673 (Ind. Ct. App. 1969), have held social clubs to be ineligible for a charitable property tax exemption.

Charitable Organizations

Section 501(c)(3) of the Internal Revenue Code grants federal tax exempt status to organizations that engage primarily in activities which accomplish one or more of the exempt purposes specified in Section 501(c)(3) of the Internal Revenue Code. The term charitable is used in two

senses in federal law. First, to identify any organization described in Section 501(c)(3). Second, in the more narrow sense as an organization that is organized and operated for charitable purposes, as that term is used in section 501(c)(3) of the Internal Revenue Code. In either sense, the term as used in federal law is broader than usage under Indiana property tax law.

For state law purposes, charity is not confined solely to the relief of the needy and destitute, but comprehends as well activities which are humanitarian in nature and rendered for the general improvement and betterment of mankind. However, under this standard, not all organizations qualify as charitable. For example, in the case of *National Ass'n of Miniature Enthusiasts v. State Board of Tax Commissioners*, the Tax Court denied a charitable tax exemption to a museum for miniatures. As the Tax Court has stated, in order to show for the purposes of a property tax exemption under IC 6-1.1-10-16 that:

property is used for a charitable purpose, a taxpayer must demonstrate two things. First, it must show that through its use, there is "evidence of relief of human want . . . manifested by obviously charitable acts different from the everyday purposes and activities of man in general." *Indianapolis Elks Bldg. Corp. v. State Bd. of Tax Comm'rs*, 145 Ind. App. 522, 251 N.E.2d 673, 683 (Ind. Ct. App. 1969). Second, the taxpayer must show that through the accomplishment of those charitable acts, a benefit inures to the public sufficient to justify the loss of tax revenue. *Foursquare Tabernacle Church of God in Christ v. State Bd. of Tax Comm'rs*, 550 N.E.2d 850, 854 (Ind. Tax Ct. 1990).

**Possible Constitutional Limitation on
Legislative Power to Conform State Property Tax Exemption
Law to Federal Income Tax Exemption Law**

The General Assembly may not have the authority to grant property tax exemptions to based solely on ownership or use by an entity that qualifies for a federal income tax exemption. A number of cases have held that the General Assembly does not have power to establish statutory property tax exemption statutes that expand exemptions beyond the classes enumerated by the state constitution. Although Article 10, Section 1 of the state constitution permits the General Assembly to exempt any personal property (other than personal property held for investment), exemptions for real property are limited to:

- (1) homesteads; and
- (2) "property being used for municipal, educational, literary, scientific, religious, or charitable purposes."

The courts have frequently indicated that the general state property tax exemption statutes, such as IC 6-1.1-10-16, should be defined and interpreted in their broadest constitutional sense. As a result, the limits placed on exemptions in cases interpreting the general property tax exemption statutes may, in many cases, be constitutional limitations. Statutes applicable to organizations

exempt under Section 501(c)(3) of the Internal Revenue Code as well as other provisions of the Internal Revenue Code will need to be individually analyzed to determine whether they conform to the requirements of the state constitution.

APPENDIX A

Non-General Exemptions in IC 6-1.1-10 (Excludes Exemptions Applicable to Governmental Entities and Instrumentalities, Exemptions Related to Intangible Property, Exemptions Related to Public-Private Partnerships, and Exemptions Related to Property Subject to an Excise Tax)	
Citation	Scope
IC 6-1.1-10-7	Non-profit corporation which is engaged in the sale and distribution of water and operates on a non-profit basis
IC 6-1.1-10-8	Non-profit corporation which is engaged in a sewage disposal service within a rural area of this state and operates on a non-profit basis
IC 6-1.1-10-9	Industrial waste control facility included either as a part of or an adjunct to a privately owned manufacturing or industrial plant or coal mining operation
IC 6-1.1-10-12	Personal property that is part of a stationary or unlicensed mobile air pollution control system of a private manufacturing, fabricating, assembling, extracting, mining, processing, generating, refining, or other industrial facility
EIC 6-1.1-10-15	Land for use by the public as an airport and the maintenance of commercial passenger aircraft
IC 6-1.1-10-16(d) IC 6-1.1-10-16(i)	Land purchased for the purpose of erecting a building
IC 6-1.1-10-16(g)	A shared hospital services organization that is exempt from federal income taxation under Section 501(c)(3) or 501(e) of the Internal Revenue Code is exempt from property taxation if it is owned, occupied, and used exclusively to furnish goods or services to a hospital whose property is exempt
IC 6-1.1-10-16(h)	Physician offices or other property owned by a hospital and used to provide or support charity care or community benefits
IC 6-1.1-10-16.5	A tract of real property owned by a nonprofit public benefit corporation under or adjacent to a lake formed by a dam owned by a public utility to generate power
IC 6-1.1-10-16.7	Low income housing subject to an extended use agreement under 26 U.S.C. 42 as administered by the Indiana housing and community development authority and for which the owner makes payments in lieu of taxes

<p style="text-align: center;">Non-General Exemptions in IC 6-1.1-10 (Excludes Exemptions Applicable to Governmental Entities and Instrumentalities, Exemptions Related to Intangible Property, Exemptions Related to Public-Private Partnerships, and Exemptions Related to Property Subject to an Excise Tax)</p>	
Citation	Scope
IC 6-1.1-10-17	Property owned by a corporation which is organized and operated under IC 10-18-7 for the purpose of perpetuating the memory of soldiers and sailors
IC 6-1.1-10-18	Property owned by an Indiana not-for-profit corporation which is organized and operated for the primary purpose of coordinating, promoting, encouraging, housing, or providing financial support to activities in the field of fine arts
IC 6-1.1-10-18.5	Property owned by an Indiana nonprofit corporation and used by that corporation in the operation of a hospital, a health facility, a residential facility for the aged, or a Christian Science home or sanatorium
IC 6-1.1-10-19	Property owned by a corporation which has established a public library under Indiana law and used exclusively for public library purposes.
IC 6-1.1-10-20	Property owned by a manual labor school, a technical high school, a trade school, or a college which is incorporated within this state; and (2) used, and in the case of real property actually occupied, for the purpose for which the institution is incorporated.
IC 6-1.1-10-21	A building that is used for religious worship, pews and furniture contained in the building, parsonages, and related land
IC 6-1.1-10-22	Property owned by a church and exclusively used by the church as a dormitory for the students of a college or university
IC 6-1.1-10-23	Property of a fraternal beneficiary association
IC 6-1.1-10-24	Property of a fraternity or sorority that is exempt from federal income taxation under Section 501(c)(2), Section 501(c)(3), or Section 501(c)(7)
IC 6-1.1-10-25	Property owned by various listed nonprofit entities that is used for the purposes of the nonprofit entity
IC 6-1.1-10-26	Property owned by a county or district agricultural association of this state:
IC 6-1.1-10-27	Property owned by a cemetery corporation

<p style="text-align: center;">Non-General Exemptions in IC 6-1.1-10 (Excludes Exemptions Applicable to Governmental Entities and Instrumentalities, Exemptions Related to Intangible Property, Exemptions Related to Public-Private Partnerships, and Exemptions Related to Property Subject to an Excise Tax)</p>	
Citation	Scope
IC 6-1.1-10-28	Buildings and land used for the purpose of gratuitously dispensing medicines and medical advice and aid to people and owned by a corporation, institution, or association organized for this charitable purpose
IC -1.1-10-32 IC 6-1.1-10-33 IC 6-1.1-10-34	Property under the control of an executor that will pass, under the terms of a will, to a municipal corporation or to a literary, scientific, benevolent, religious, charitable institution, held by an executor or trustee and used or applied to the exempt purposes of certain entities, or held by an exempt income subject to a contract to provide income to a person for a specified period of time

APPENDIX B
UNITED STATES CODE SERVICE
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*** CURRENT THROUGH PL 112-35, APPROVED 9/30/2011 ***

TITLE 26. INTERNAL REVENUE CODE
SUBTITLE A. INCOME TAXES
CHAPTER 1. NORMAL TAXES AND SURTAXES
SUBCHAPTER F. EXEMPT ORGANIZATIONS
PART I. GENERAL RULE

Go to the United States Code Service Archive Directory

26 USCS § 501

§ 501. Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation. An organization described in subsection (c) or (d) or section 401(a) [26 USCS § 401(a)] shall be exempt from taxation under this subtitle [26 USCS §§ 1 et seq.] unless such exemption is denied under section 502 or 503 [26 USCS § 502 or 503].

(b) Tax on unrelated business income and certain other activities. An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II, III, and VI of this subchapter [26 USCS §§ 507 et seq., 511 et seq., and 527], but (notwithstanding parts II, III, and VI of this subchapter [26 USCS §§ 507 et seq., 511 et seq., and 527]) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(c) List of exempt organizations. The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation--

(A) is exempt from Federal income taxes--

(i) under such Act as amended and supplemented before July 18, 1984, or

(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or

(B) is described in subsection (l).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section. Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(4) (A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations--

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual. For purposes of providing for the payment of sick and accident benefits to members of such an association and their dependents, the term "dependent" shall include any individual who is a child (as defined in section 152(f)(1) [26 USCS § 152(f)(1)]) of a member who as of the end of the calendar year has not attained age 27.

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system--

(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) which do not provide for the payment of life, sick, accident, or other benefits.

(11) Teachers' retirement fund associations of a purely local character, if--

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

(12) (A) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(B) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account any income received or accrued--

(i) from a nonmember telephone company for the performance of communication services which involve members of the mutual or cooperative telephone company,

(ii) from qualified pole rentals,

(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company, or

(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 [7 USCS § 936a, 936b, or 940a] (as in effect on January 1, 1987).

(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued--

(i) from qualified pole rentals, or

(ii) from any provision or sale of electric energy transmission services or ancillary services if such services are provided on a nondiscriminatory open access basis under an open access transmission tariff approved or accepted by FERC or under an independent transmission provider agreement approved or accepted by FERC (other than income received or accrued directly or indirectly from a member),

(iii) from the provision or sale of electric energy distribution services or ancillary services if such services are provided on a nondiscriminatory open access basis to distribute electric energy not owned by the mutual or electric cooperative company--

(I) to end-users who are served by distribution facilities not owned by such company or any of its members (other than income received or accrued directly or indirectly from a member), or

(II) generated by a generation facility not owned or leased by such company or any of its members and which is directly connected to distribution facilities owned by such company or any of its members (other than income received or accrued directly or indirectly from a member),

(iv) from any nuclear decommissioning transaction, or

(v) from any asset exchange or conversion transaction.

(D) For purposes of this paragraph, the term "qualified pole rental" means any rental of a pole (or other structure used to support wires) if such pole (or other structure)--

(i) is used by the telephone or electric company to support one or more wires which are used by such company in providing telephone or electric services to its members, and

(ii) is used pursuant to the rental to support one or more wires (in addition to the wires described in clause (i)) for use in connection with the transmission by wire of electricity or of telephone or other communications.

For purposes of the preceding sentence, the term "rental" includes any sale of the right to use the pole (or other structure).

(E) For purposes of subparagraph (C)(ii), the term "FERC" means the Federal Energy Regulatory Commission and references to such term shall be treated as including the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (*16 U.S.C. 824k(k)(2)(B)*)).

(F) For purposes of subparagraph (C)(iv), the term "nuclear decommissioning transaction" means--

(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

(G) For purposes of subparagraph (C)(v), the term "asset exchange or conversion transaction" means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033 [*26 USCS § 1031 or 1033*], but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for--

(i) generating, transmitting, distributing, or selling electric energy, or

(ii) producing, transmitting, distributing, or selling natural gas.

(H) (i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C) [*26 USCS § 1381(a)(2)(C)*], income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

(ii) For purposes of clause (i), the term "load loss transaction" means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period do not exceed the load loss mitigation sales limit for such period.

(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which--

(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

(II) the megawatt hours of electric energy sold during the base year to such members.

(v) For purposes of clause (iv)(II), the term "base year" means--

(I) the calendar year preceding the start-up year, or

(II) at the election of the mutual or cooperative electric company, the second or third calendar years preceding the start-up year.

(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

(vii) For purposes of this subparagraph, the start-up year is the first year that the mutual or cooperative electric company offers nondiscriminatory open access or the calendar year which includes the date of the enactment of this subparagraph, if later, at the election of such company.

(viii) A company shall not fail to be treated as a mutual or cooperative electric company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) [*26 USCS § 1381(a)(2)(C)*] by reason of the treatment under clause (i).

(ix) For purposes of subparagraph (A), in the case of a mutual or cooperative electric company, income received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(14) (A) Credit unions without capital stock organized and operated for mutual purposes and without profit.

(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of shares or deposits in--

(i) domestic building and loan associations,

(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit,

(iii) mutual savings banks not having capital stock represented by shares, or

(iv) mutual savings banks described in section 591(b) [26 USCS § 591(b)].

(C) Corporations or associations organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for associations or banks described in clause (i), (ii), or (iii) of subparagraph (B); but only if 85 percent or more of the income is attributable to providing such reserve funds and to investments. This subparagraph shall not apply to any corporation or association entitled to exemption under subparagraph (B).

(15) (A) Insurance companies (as defined in section 816(a) [26 USCS § 816(a)]) other than life (including interinsurers and reciprocal underwriters) if--

(i) (I) the gross receipts for the taxable year do not exceed \$ 600,000, and

(II) more than 50 percent of such gross receipts consist of premiums, or

(ii) in the case of a mutual insurance company--

(I) the gross receipts of which for the taxable year do not exceed \$ 150,000, and

(II) more than 35 percent of such gross receipts consist of premiums.

Clause (ii) shall not apply to a company if any employee of the company, or a member of the employee's family (as defined in section 2032A(e)(2) [26 USCS § 2032A(e)(2)]), is an employee of another company exempt from taxation by reason of this paragraph (or would be so exempt but for this sentence).

(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

(C) For purposes of subparagraph (B), the term "controlled group" has the meaning given such term by section 831(b)(2)(B)(ii) [26 USCS § 831(b)(2)(B)(ii)], except that in applying section 831(b)(2)(B)(ii) [26 USCS § 831(b)(2)(B)(ii)] for purposes of this subparagraph, subparagraphs (B) and (C) of section 1563(b)(2) [26 USCS § 1563(b)(2)] shall be disregarded.

(16) Corporations organized by an association subject to part IV of this subchapter [26 USCS §§ 521 et seq.] or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(17) (A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if--

(i) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities, with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits,

(ii) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q) [26 USCS § 414(q)]), and

(iii) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q) [26 USCS § 414(q)]). A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory--

(i) merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subparagraph (A) are then reduced by any sick, accident, or unemployment compensation benefits received under State or Federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(ii) merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(iii) merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subparagraph (A)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees were eligible under such other plan, but only if the employees eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subparagraph (A).

(C) A plan shall be considered to meet the requirements of subparagraph (A) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(D) The term "supplemental unemployment compensation benefits" means only--

(i) benefits which are paid to an employee because of his involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(ii) sick and accident benefits subordinate to the benefits described in clause (i).

(E) Exemption shall not be denied under subsection (a) to any organization entitled to such exemption as an association described in paragraph (9) of this subsection merely because such organization provides for the payment of supplemental unemployment benefits (as defined in subparagraph (D)(i)).

(18) A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if--

(A) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

(B) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q) [26 USCS § 414(q)]),

(C) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q) [26 USCS § 414(q)]). A plan shall not be considered discriminatory within the meaning of this subparagraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan, and

(D) in the case of a plan under which an employee may designate certain contributions as deductible--

(i) such contributions do not exceed the amount with respect to which a deduction is allowable under section 219(b)(3) [26 USCS § 219(b)(3)],

(ii) requirements similar to the requirements of section 401(k)(3)(A)(ii) [26 USCS § 401(k)(3)(A)(ii)] are met with respect to such elective contributions,

(iii) such contributions are treated as elective deferrals for purposes of section 402(g) [26 USCS § 402(g)], and

(iv) the requirements of section 401(a)(30) [26 USCS § 401(a)(30)] are met.

For purposes of subparagraph (D)(ii), rules similar to the rules of section 401(k)(8) [26 USCS § 401(k)(8)] shall apply. For purposes of section 4979 [26 USCS § 4979], any excess contribution under clause (ii) shall be treated as an excess contribution under a cash or deferred arrangement.

(19) A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization--

(A) organized in the United States or any of its possessions,

(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, widowers, ancestors, or lineal descendants of past or present members of the Armed Forces of the United States or of cadets, and

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(20) an organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of section 120 [26 USCS § 120]. An organization or trust which receives contributions because of section 120(c)(5)(C) [26 USCS § 120(c)(5)(C)] shall not be prevented from qualifying as an organization described in this paragraph merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

(21) (A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if--

(i) the purpose of such trust or trusts is exclusively--

(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

(II) to pay premiums for insurance exclusively covering such liability,

(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits; and

(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than--

(I) the purposes described in clause (i),

(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

(III) payment into the Black Lung Disability Trust Fund established under section 9501 [26 USCS § 9501], or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

(B) No deduction shall be allowed under this chapter [26 USCS §§ 1 et seq.] for any payment described in subparagraph (A)(i)(IV) from such trust.

(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the excess (if any), as of the close of the preceding taxable year, of--

(i) the fair market value of the assets of the trust, over

(ii) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A) [26 USCS § 192(c)(1)(A)]) each of which is reasonable and which are reasonable in the aggregate.

(D) For purposes of this paragraph:

(i) The term "Black Lung Acts" means part C of title IV of the Federal Mine Safety and Health Act of 1977 [30 USCS §§ 931 et seq.], and any State law providing compensation for disability or death due to that pneumoconiosis.

(ii) The term "qualified investments" means--

(I) public debt securities of the United States,

(II) obligations of a State or local government which are not in default as to principal or interest, and

(III) time or demand deposits in a bank (as defined in section 581 [26 USCS § 581]) or an insured credit union (within the meaning of section 101(7) of the Federal Credit Union Act, 12 U.S.C. 1752(7)) located in the United States.

(iii) The term "miner" has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

(iv) The term "incidental expenses" includes legal, accounting, actuarial, and trustee expenses.

(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if--

(A) the purpose of such trust is exclusively--

(i) to pay any amount described in section 4223(c) or (h) of the Employee Retirement Income Security Act of 1974 [29 USCS § 1402(c) or (h)], and

(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than--

(i) the purposes described in subparagraph (A), or

(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(D),

(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b) [29 USCS § 1402(b)], 4223(h) [29 USCS § 1402(h)], or, if applicable, section 4223(c) [29 USCS § 1402(c)] of the Employee Retirement Income Security Act of 1974, and

(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.

(23) Any association organized before 1880 more than 75 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents.

(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 [former 29 USCS § 1349] (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986 [enacted April 7, 1986]).

(25) (A) Any corporation or trust which--

(i) has no more than 35 shareholders or beneficiaries,

(ii) has only 1 class of stock or beneficial interest, and

(iii) is organized for the exclusive purposes of--

(I) acquiring real property and holding title to, and collecting income from, such property, and

(II) remitting the entire amount of income from such property (less expenses) to 1 or more organizations described in subparagraph (C) which are shareholders of such corporation or beneficiaries of such trust.

For purposes of clause (iii), the term "real property" shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest.

(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by 1 or more organizations described in subparagraph (C).

(C) An organization is described in this subparagraph if such organization is--

(i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a) [26 USCS § 401(a)],

(ii) a governmental plan (within the meaning of section 414(d) [26 USCS § 414(d)]),

(iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing, or

(iv) any organization described in paragraph (3).

(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries--

(i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and

(ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust.

(E) (i) For purposes of this title--

(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

(ii) For purposes of this subparagraph, the term "qualified subsidiary" means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

(iii) For purposes of this subtitle [26 USCS §§ 1 et seq.], if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock.

(F) For purposes of subparagraph (A), the term "real property" includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1) [26 USCS § 856(d)(1)]) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

(G) (i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income.

(26) Any membership organization if--

(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d) [26 USCS § 213(d)]) on a not-for-profit basis to individuals described in subparagraph (B) through--

(i) insurance issued by the organization, or

(ii) a health maintenance organization under an arrangement with the organization,

(B) the only individuals receiving such coverage through the organization are individuals--

(i) who are residents of such State, and

(ii) who, by reason of the existence or history of a medical condition--

(I) are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization, or

(II) are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

(C) the composition of the membership in such organization is specified by such State, and

(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.

A spouse and any qualifying child (as defined in section 24(c) [26 USCS § 24(c)]) of an individual described in subparagraph (B) (without regard to this sentence) shall be treated as described in subparagraph (B).

(27) (A) Any membership organization if--

(i) such organization is established before June 1, 1996, by a State exclusively to reimburse its members for losses arising under workmen's compensation acts,

(ii) such State requires that the membership of such organization consist of--

(I) all persons who issue insurance covering workmen's compensation losses in such State, and

(II) all persons and governmental entities who self-insure against such losses, and

(iii) such organization operates as a non-profit organization by--

(I) returning surplus income to its members or workmen's compensation policyholders on a periodic basis, and

(II) reducing initial premiums in anticipation of investment income.

(B) Any organization (including a mutual insurance company) if--

(i) such organization is created by State law and is organized and operated under State law exclusively to--

(I) provide workmen's compensation insurance which is required by State law or with respect to which State law provides significant disincentives if such insurance is not purchased by an employer, and

(II) provide related coverage which is incidental to workmen's compensation insurance,
(ii) such organization must provide workmen's compensation insurance to any employer in the State (for employees in the State or temporarily assigned out-of-State) which seeks such insurance and meets other reasonable requirements relating thereto,

(iii) (I) the State makes a financial commitment with respect to such organization either by extending the full faith and credit of the State to the initial debt of such organization or by providing the initial operating capital of such organization, and (II) in the case of periods after the date of enactment of this subparagraph [enacted Aug. 5, 1997], the assets of such organization revert to the State upon dissolution or State law does not permit the dissolution of such organization, and

(iv) the majority of the board of directors or oversight body of such organization are appointed by the chief executive officer or other executive branch official of the State, by the State legislature, or by both.

(28) The National Railroad Retirement Investment Trust established under section 15(j) of the Railroad Retirement Act of 1974 [45 USCS § 231n(j)].

(29) CO-OP health insurance issuers.

(A) In general. A qualified nonprofit health insurance issuer (within the meaning of section 1322 of the Patient Protection and Affordable Care Act [42 USCS § 18042]) which has received a loan or grant under the CO-OP program under such section, but only with respect to periods for which the issuer is in compliance with the requirements of such section and any agreement with respect to the loan or grant.

(B) Conditions for exemption. Subparagraph (A) shall apply to an organization only if--

(i) the organization has given notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of its status under this paragraph,

(ii) except as provided in section 1322(c)(4) of the Patient Protection and Affordable Care Act [26 USCS § 18042(c)(4)], no part of the net earnings of which inures to the benefit of any private shareholder or individual,

(iii) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and

(iv) the organization does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(d) Religious and apostolic organizations. The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(e) Cooperative hospital service organizations. For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes, if--

(1) such organization is organized and operated solely--

(A) to perform, on a centralized basis, one or more of the following services which, if performed on its own behalf by a hospital which is an organization described in subsection (c)(3) and exempt from taxation under subsection (a), would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption: data processing, purchasing (including the purchasing of insurance on a group basis), warehousing, billing and collection (including the purchase of patron accounts receivable on a recourse basis), food, clinical, industrial engineering, laboratory, printing, communications, record center, and personnel (including selection, testing, training, and education of personnel) services; and

(B) to perform such services solely for two or more hospitals each of which is--

(i) an organization described in subsection (c)(3) which is exempt from taxation under subsection (a),

(ii) a constituent part of an organization described in subsection (c)(3) which is exempt from taxation under subsection (a) and which, if organized and operated as a separate entity, would constitute an organization described in subsection (c)(3), or

(iii) owned and operated by the United States, a State, the District of Columbia, or a possession of the United States, or a political subdivision or an agency or instrumentality of any of the foregoing;

- (2) such organization is organized and operated on a cooperative basis and allocates or pays, within 8 1/2 months after the close of its taxable year, all net earnings to patrons on the basis of services performed for them; and
- (3) if such organization has capital stock, all of such stock outstanding is owned by its patrons.

For purposes of this title, any organization which, by reason of the preceding sentence, is an organization described in subsection (c)(3) and exempt from taxation under subsection (a), shall be treated as a hospital and as an organization referred to in section 170(b)(1)(A)(iii) [26 USCS § 170(b)(1)(A)(iii)].

(f) Cooperative service organizations of operating educational organizations. For purposes of this title, if an organization is--

(1) organized and operated solely to hold, commingle, and collectively invest and reinvest (including arranging for and supervising the performance by independent contractors of investment services related thereto) in stocks and securities, the moneys contributed thereto by each of the members of such organization, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members,

(2) organized and controlled by one or more such members, and

(3) comprised solely of members that are organizations described in clause (ii) or (iv) of section 170(b)(1)(A) [26 USCS § 170(b)(1)(A)]--

(A) which are exempt from taxation under subsection (a), or

(B) the income of which is excluded from taxation under section 115(a) [26 USCS § 115(a)],

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

(g) Definition of agricultural. For purposes of subsection (c)(5), the term "agricultural" includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.

(h) Expenditures by public charities to influence legislation.

(1) General rule. In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally--

(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

(2) Definitions. For purposes of this subsection--

(A) Lobbying expenditures. The term "lobbying expenditures" means expenditures for the purpose of influencing legislation (as defined in section 4911(d) [26 USCS § 4911(d)]).

(B) Lobbying ceiling amount. The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911 [26 USCS § 4911].

(C) Grass roots expenditures. The term "grass roots expenditures" means expenditures for the purpose of influencing legislation (as defined in section 4911(d) [26 USCS § 4911(d)] without regard to paragraph (1)(B) thereof).

(D) Grass roots ceiling amount. The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911 [26 USCS § 4911].

(3) Organizations to which this subsection applies. This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary may prescribe) to have the provisions of this subsection apply to such organization and which, for the taxable year which includes the date the election is made, is described in subsection (c)(3) and--

(A) is described in paragraph (4), and

(B) is not a disqualified organization under paragraph (5).

(4) Organizations permitted to elect to have this subsection apply. An organization is described in this paragraph if it is described in--

(A) section 170(b)(1)(A)(ii) [26 USCS § 170(b)(1)(A)(ii)] (relating to educational institutions),

(B) section 170(b)(1)(A)(iii) [26 USCS § 170(b)(1)(A)(iii)] (relating to hospitals and medical research organizations),
(C) section 170(b)(1)(A)(iv) [26 USCS § 170(b)(1)(A)(iv)] (relating to organizations supporting government schools),
(D) section 170(b)(1)(A)(vi) [26 USCS § 170(b)(1)(A)(vi)] (relating to organizations publicly supported by charitable contributions),
(E) section 509(a)(2) [26 USCS § 509(a)(2)] (relating to organizations publicly supported by admissions, sales, etc.),
or

(F) section 509(a)(3) [26 USCS § 509(a)(3)] (relating to organizations supporting certain types of public charities) except that for purposes of this subparagraph, section 509(a)(3) [26 USCS § 509(a)(3)] shall be applied without regard to the last sentence of section 509(a) [26 USCS § 509(a)].

(5) Disqualified organizations. For purposes of paragraph (3) an organization is a disqualified organization if it is--

(A) described in section 170(b)(1)(A)(i) [26 USCS § 170(b)(1)(A)(i)] (relating to churches),

(B) an integrated auxiliary of a church or of a convention or association of churches, or

(C) a member of an affiliated group of organizations (within the meaning of section 4911(f)(2) [26 USCS § 4911(f)(2)]) if one or more members of such group is described in subparagraph (A) or (B).

(6) Years for which election is effective. An election by an organization under this subsection shall be effective for all taxable years of such organization which--

(A) end after the date the election is made, and

(B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary).

(7) No effect on certain organizations. With respect to any organization for a taxable year for which--

(A) such organization is a disqualified organization (within the meaning of paragraph (5)), or

(B) an election under this subsection is not in effect for such organization,

nothing in this subsection or in section 4911 [26 USCS § 4911] shall be construed to affect the interpretation of the phrase, "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," under subsection (c)(3).

(8) Affiliated organizations. For rules regarding affiliated organizations, see section 4911(f) [26 USCS § 4911(f)].

(i) Prohibition of discrimination by certain social clubs. Notwithstanding subsection (a), an organization which is described in subsection (c)(7) shall not be exempt from taxation under subsection (a) for any taxable year if, at any time during such taxable year, the charter, bylaws, or other governing instrument, of such organization or any written policy statement of such organization contains a provision which provides for discrimination against any person on the basis of race, color, or religion. The preceding sentence to the extent it relates to discrimination on the basis of religion shall not apply to--

(1) an auxiliary of a fraternal beneficiary society if such society--

(A) is described in subsection (c)(8) and exempt from tax under subsection (a), and

(B) limits its membership to the members of a particular religion, or

(2) a club which in good faith limits its membership to the members of a particular religion in order to further the teachings or principles of that religion, and not to exclude individuals of a particular race or color.

(j) Special rules for certain amateur sports organizations.

(1) In general. In the case of a qualified amateur sports organization--

(A) the requirement of subsection (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

(2) Qualified amateur sports organization defined. For purposes of this subsection, the term "qualified amateur sports organization" means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

(k) Treatment of certain organizations providing child care. For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2) [26 USCS §§ 170(c)(2), 2055(a)(2), and 2522(a)(2)], the term "educational purposes" includes the providing of care of children away from their homes if--

- (1) substantially all of the care provided by the organization is for purposes of enabling individuals to be gainfully employed, and
- (2) the services provided by the organization are available to the general public.

(l) Government corporations exempt under subsection (c)(1). For purposes of subsection (c)(1), the following organizations are described in this subsection:

- (1) The Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).
- (2) The Resolution Trust Corporation established under section 21A of the Federal Home Loan Bank Act [12 USCS § 1441a].
- (3) The Resolution Funding Corporation established under section 21B of the Federal Home Loan Bank Act [12 USCS § 1441b].
- (4) The Patient-Centered Outcomes Research Institute established under section 1181(b) of the Social Security Act [42 USCS § 1320e(b)].

(m) Certain organizations providing commercial-type insurance not exempt from tax.

(1) Denial of tax exemption where providing commercial-type insurance is substantial part of activities. An organization described in paragraph (3) or (4) of subsection (c) shall be exempt from tax under subsection (a) only if no substantial part of its activities consists of providing commercial-type insurance.

(2) Other organizations taxed as insurance companies on insurance business. In the case of an organization described in paragraph (3) or (4) of subsection (c) which is exempt from tax under subsection (a) after the application of paragraph (1) of this subsection--

(A) the activity of providing commercial-type insurance shall be treated as an unrelated trade or business (as defined in section 513 [26 USCS § 513]), and

(B) in lieu of the tax imposed by section 511 [26 USCS § 511] with respect to such activity, such organization shall be treated as an insurance company for purposes of applying subchapter L [26 USCS §§ 801 et seq.] with respect to such activity.

(3) Commercial-type insurance. For purposes of this subsection, the term "commercial-type insurance" shall not include--

(A) insurance provided at substantially below cost to a class of charitable recipients,

(B) incidental health insurance provided by a health maintenance organization of a kind customarily provided by such organizations,

(C) property or casualty insurance provided (directly or through an organization described in section 414(e)(3)(B)(ii) [26 USCS § 414(e)(3)(B)(ii)]) by a church or convention or association of churches for such church or convention or association of churches,

(D) providing retirement or welfare benefits (or both) by a church or a convention or association of churches (directly or through an organization described in section 414(e)(3)(A) or 414(e)(3)(B)(ii) [26 USCS § 414(e)(3)(A) or 414(e)(3)(B)(ii)]) for the employees (including employees described in section 414(e)(3)(B) [26 USCS § 414(e)(3)(B)]) of such church or convention or association of churches or the beneficiaries of such employees, and

(E) charitable gift annuities.

(4) Insurance includes annuities. For purposes of this subsection, the issuance of annuity contracts shall be treated as providing insurance.

(5) Charitable gift annuity. For purposes of paragraph (3)(E), the term "charitable gift annuity" means an annuity if--

(A) a portion of the amount paid in connection with the issuance of the annuity is allowable as a deduction under section 170 or 2055 [26 USCS § 170 or 2055], and

(B) the annuity is described in section 514(c)(5) [26 USCS § 514 (c)(5)] (determined as if any amount paid in cash in connection with such issuance were property).

(n) Charitable risk pools.

(1) In general. For purposes of this title--

(A) a qualified charitable risk pool shall be treated as an organization organized and operated exclusively for charitable purposes, and

(B) subsection (m) shall not apply to a qualified charitable risk pool.

(2) Qualified charitable risk pool. For purposes of this subsection, the term "qualified charitable risk pool" means any organization--

(A) which is organized and operated solely to pool insurable risks of its members (other than risks related to medical malpractice) and to provide information to its members with respect to loss control and risk management,

(B) which is comprised solely of members that are organizations described in subsection (c)(3) and exempt from tax under subsection (a), and

(C) which meets the organizational requirements of paragraph (3).

(3) Organizational requirements. An organization (hereinafter in this subsection referred to as the "risk pool") meets the organizational requirements of this paragraph if--

(A) such risk pool is organized as a nonprofit organization under State law provisions authorizing risk pooling arrangements for charitable organizations,

(B) such risk pool is exempt from any income tax imposed by the State (or will be so exempt after such pool qualifies as an organization exempt from tax under this title),

(C) such risk pool has obtained at least \$ 1,000,000 in startup capital from nonmember charitable organizations,

(D) such risk pool is controlled by a board of directors elected by its members, and

(E) the organizational documents of such risk pool require that--

(i) each member of such pool shall at all times be an organization described in subsection (c)(3) and exempt from tax under subsection (a),

(ii) any member which receives a final determination that it no longer qualifies as an organization described in subsection (c)(3) shall immediately notify the pool of such determination and the effective date of such determination, and

(iii) each policy of insurance issued by the risk pool shall provide that such policy will not cover the insured with respect to events occurring after the date such final determination was issued to the insured.

An organization shall not cease to qualify as a qualified charitable risk pool solely by reason of the failure of any of its members to continue to be an organization described in subsection (c)(3) if, within a reasonable period of time after such pool is notified as required under subparagraph (E)(ii), such pool takes such action as may be reasonably necessary to remove such member from such pool.

(4) Other definitions. For purposes of this subsection--

(A) Startup capital. The term "startup capital" means any capital contributed to, and any program-related investments (within the meaning of section 4944(c) [26 USCS § 4944(c)]) made in, the risk pool before such pool commences operations.

(B) Nonmember charitable organization. The term "nonmember charitable organization" means any organization which is described in subsection (c)(3) and exempt from tax under subsection (a) and which is not a member of the risk pool and does not benefit (directly or indirectly) from the insurance coverage provided by the pool to its members.

(o) Treatment of hospitals participating in provider-sponsored organizations. An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1855(d) of the Social Security Act [42 USCS § 1395w-25(d)]), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital.

(p) Suspension of tax-exempt status of terrorist organizations.

(1) In general. The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

(2) Terrorist organizations. An organization is described in this paragraph if such organization is designated or otherwise individually identified--

(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act [8 USCS § 1182(a)(3)(B)(vi)(II) or 1189] as a terrorist organization or foreign terrorist organization,

(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act [50 USCS §§ 1701 et seq.] or section 5 of the United Nations Participation Act of 1945 [22 USCS § 287c] for the purpose of imposing on such organization an economic or other sanction, or

(C) in or pursuant to an Executive order issued under the authority of any Federal law if--

(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act [8 USCS § 1182(a)(3)(B)]) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 [22 USCS § 2656f(d)(2)]); and

(ii) such Executive order refers to this subsection.

(3) Period of suspension. With respect to any organization described in paragraph (2), the period of suspension--

(A) begins on the later of--

(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

(ii) the date of the enactment of this subsection [enacted Nov. 11, 2003], and

(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

(4) Denial of deduction. No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522 [26 USCS §§ 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522], with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

(5) Denial of administrative or judicial challenge of suspension or denial of deduction. Notwithstanding section 7428 [26 USCS § 7428] or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

(6) Erroneous designation.

(A) In general. If--

(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

(B) Waiver of limitations. If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

(7) Notice of suspensions. If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

(q) Special rules for credit counseling organizations.

(1) In general. An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

(A) The organization--

(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

(ii) makes no loans to debtors (other than loans with no fees or interest) and does not negotiate the making of loans on behalf of debtors,

(iii) provides services for the purpose of improving a consumer's credit record, credit history, or credit rating only to the extent that such services are incidental to providing credit counseling services, and

(iv) does not charge any separately stated fee for services for the purpose of improving any consumer's credit record, credit history, or credit rating.

(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

(C) The organization establishes and implements a fee policy which--

(i) requires that any fees charged to a consumer for services are reasonable,

(ii) allows for the waiver of fees if the consumer is unable to pay, and

(iii) except to the extent allowed by State law, prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

(D) At all times the organization has a board of directors or other governing body--

(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

(E) The organization does not own more than 35 percent of--

(i) the total combined voting power of any corporation (other than a corporation which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

(ii) the profits interest of any partnership (other than a partnership which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

(iii) the beneficial interest of any trust or estate (other than a trust which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

(F) The organization receives no amount for providing referrals to others for debt management plan services, and pays no amount to others for obtaining referrals of consumers.

(2) Additional requirements for organizations described in subsection (c)(3).

(A) In general. In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

(i) The organization does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

(ii) The aggregate revenues of the organization which are from payments of creditors of consumers of the organization and which are attributable to debt management plan services do not exceed the applicable percentage of the total revenues of the organization.

(B) Applicable percentage.

(i) In general. For purposes of subparagraph (A)(ii), the applicable percentage is 50 percent.

(ii) Transition rule. Notwithstanding clause (i), in the case of an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) and exempt from tax under subsection (a) on the date of the enactment of this subsection, the applicable percentage is--

(I) 80 percent for the first taxable year of such organization beginning after the date which is 1 year after the date of the enactment of this subsection, and

(II) 70 percent for the second such taxable year beginning after such date, and

(III) 60 percent for the third such taxable year beginning after such date.

(3) Additional requirement for organizations described in subsection (c)(4). In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

(4) Credit counseling services; debt management plan services. For purposes of this subsection--

(A) Credit counseling services. The term "credit counseling services" means--

(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

(iii) a combination of the activities described in clauses (i) and (ii).

(B) Debt management plan services. The term "debt management plan services" means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.

(r) Additional requirements for certain hospitals.

(1) In general. A hospital organization to which this subsection applies shall not be treated as described in subsection (c)(3) unless the organization--

(A) meets the community health needs assessment requirements described in paragraph (3),

(B) meets the financial assistance policy requirements described in paragraph (4),

(C) meets the requirements on charges described in paragraph (5), and

(D) meets the billing and collection requirement described in paragraph (6).

(2) Hospital organizations to which subsection applies.

(A) In general. This subsection shall apply to--

(i) an organization which operates a facility which is required by a State to be licensed, registered, or similarly recognized as a hospital, and

(ii) any other organization which the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption under subsection (c)(3) (determined without regard to this subsection).

(B) Organizations with more than 1 hospital facility. If a hospital organization operates more than 1 hospital facility--

(i) the organization shall meet the requirements of this subsection separately with respect to each such facility, and

(ii) the organization shall not be treated as described in subsection (c)(3) with respect to any such facility for which such requirements are not separately met.

(3) **[Caution: This paragraph is applicable to taxable years beginning after the date which is 2 years after enactment, pursuant to § 9007(f)(2) of Act March 23, 2010, P.L. 111-148, which appears as a note to this section.]** Community health needs assessments.

(A) In general. An organization meets the requirements of this paragraph with respect to any taxable year only if the organization--

(i) has conducted a community health needs assessment which meets the requirements of subparagraph (B) in such taxable year or in either of the 2 taxable years immediately preceding such taxable year, and

(ii) has adopted an implementation strategy to meet the community health needs identified through such assessment.

(B) Community health needs assessment. A community health needs assessment meets the requirements of this paragraph if such community health needs assessment--

(i) takes into account input from persons who represent the broad interests of the community served by the hospital facility, including those with special knowledge of or expertise in public health, and

(ii) is made widely available to the public.

(4) Financial assistance policy. An organization meets the requirements of this paragraph if the organization establishes the following policies:

(A) Financial assistance policy. A written financial assistance policy which includes--

- (i) eligibility criteria for financial assistance, and whether such assistance includes free or discounted care,
- (ii) the basis for calculating amounts charged to patients,
- (iii) the method for applying for financial assistance,
- (iv) in the case of an organization which does not have a separate billing and collections policy, the actions the organization may take in the event of non-payment, including collections action and reporting to credit agencies, and
- (v) measures to widely publicize the policy within the community to be served by the organization.

(B) Policy relating to emergency medical care. A written policy requiring the organization to provide, without discrimination, care for emergency medical conditions (within the meaning of section 1867 of the Social Security Act (42 U.S.C. 1395dd)) to individuals regardless of their eligibility under the financial assistance policy described in subparagraph (A).

(5) Limitation on charges. An organization meets the requirements of this paragraph if the organization--

(A) limits amounts charged for emergency or other medically necessary care provided to individuals eligible for assistance under the financial assistance policy described in paragraph (4)(A) to not more than the amounts generally billed to individuals who have insurance covering such care, and

(B) prohibits the use of gross charges.

(6) Billing and collection requirements. An organization meets the requirement of this paragraph only if the organization does not engage in extraordinary collection actions before the organization has made reasonable efforts to determine whether the individual is eligible for assistance under the financial assistance policy described in paragraph (4)(A).

(7) Regulatory authority. The Secretary shall issue such regulations and guidance as may be necessary to carry out the provisions of this subsection, including guidance relating to what constitutes reasonable efforts to determine the eligibility of a patient under a financial assistance policy for purposes of paragraph (6).

(s) Cross reference. For nonexemption of Communist-controlled organizations, see section 11(b) of the Internal Security Act of 1950 (64 Stat 997; 50 U.S.C. 790(b)).

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Exhibit I
Commission on State Tax and
Financing Policy
Meeting #3 October 12, 2011

To: Members of the Commission on State Tax and Financing Policy
From: George T. Angelone, Deputy Director
Re: Exemption of physician groups from property taxation
Date: October 12, 2011

You asked for a summary of the law governing when a physician group that is owned by a nonprofit organization is exempt from property taxes and how those laws were applied by the Indiana Board of Tax Review in the administrative adjudication involving the physician practices owned by St. Margaret Mercy Healthcare Centers, Inc. in Cedar Creek Township in Lake County¹ and in North Township in Lake County.²

The federal government, for purposes of collecting economic data on businesses, considers hospitals as a different business subsector from physician offices. The evidentiary standards required to qualify hospitals and physician offices for a property tax exemption reflect these business differences. While hospitals are generally presumed to qualify for tax exempt status,³ a greater degree of proof is required before a physician office is eligible for a property tax exemption. This distinction does not disappear when a physician practice is purchased by a nonprofit hospital. A recent Tax Court case summarized the law as follows:

Generally, "[h]ospitals maintained, not for pecuniary profit, but to relieve the destitute and deserving, are classed as charit[able]." (citation omitted). It is important to note, however, that if an exempt other property does not automatically receive a charitable purposes exemption.⁴

Before 1995, in order to demonstrate that a physician office qualified for tax exempt status, the petitioner would need to present evidence that demonstrated that the property met at least one of the following standards:

- (1) Predominate use standard: Property used or occupied at least 50% of the time for one (1) or more exempt purposes is exempt from property taxation.
- (2) Reasonably necessary standard: Property used or occupied for a purpose that is reasonably necessary to the furtherance of an exempt purpose on another parcel of property is exempt from property taxation.

The "predominate use standard" is based on the literal wording of IC 6-1.1-10-16 and IC 6-1.1-10-36.3.⁵ The "reasonably necessary" standard is a court-created interpretation of IC 6-1.1-10-16.⁶

In 1989, in *St. Mary's Medical Center, Inc. v. State Bd. of Tax Comm'rs*,⁷ the Tax Court held that a physician practice in which the physicians managed the practice, determined which patients to see, and retained all generated income could not meet either of these tests even though the physician offices were located on property owned by a hospital and the conduct of the physicians' practices benefitted the operation of the hospital.

In 1995,⁸ the General Assembly enacted legislation that specifically applied to exemptions for physician offices and other property (excluding inpatient facilities) owned by a hospital. The legislation:

- (1) caused the "reasonably necessary" standard to be replaced with a "substantially related" test; and
- (2) added a third alternative standard (*i.e.*, "charity care/community benefits" standard) that could be used to qualify property for an exemption.

The 1995 enactment added the same language to both IC 6-1.1-10-16(h) and IC 6-1.1-10-18.5(a).⁹ It reads as follows:

This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-2 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property:

- (1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5),¹⁰ including providing funds or other financial support for health care services for individuals who are indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5©);¹¹ or
- (2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1),¹² including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).¹³

However, participation in the Medicaid or Medicare program alone does not entitle an office, practice, or other property described in this subsection to an exemption under this section.

The 1995 enactment did not literally specify that assessment officials and courts should no longer use the "reasonably necessary" standard. The enactment stated only that physician offices or other property (excluding inpatient facilities) owned by a hospital "that is not substantially related to or supportive of the inpatient facility of the hospital" is ineligible for a property tax exemption unless the property qualifies under the "charity care/community benefits" standard. However, since the enactment of IC 6-1.1-10-16(h) and IC 6-1.1-10-18.5(a), both the Indiana Board of Tax Review¹⁴ and the Tax Court¹⁵ have ceased using the "reasonably necessary" standard in cases involving hospital property and have begun using a "substantially related" standard as the second way that a hospital can demonstrate that property is tax exempt. The Tax Court has interpreted the phrase "substantially related" to mean the following:

[T]he other property is associated, to a considerable degree, to a hospital's inpatient facility or that the other property provides considerable aid to, or promotes to a considerable degree, the interests of a hospital's inpatient facility.¹⁶

The new “charity care/community benefits” standard requires proof that the physician office or other property provides charity care, supports the provision of charity care, provides community benefits, or supports the provision of community benefits. Both charity care and community benefits are defined as “unreimbursed costs to a hospital” of certain specified activities. The statute does not specify a minimum amount of charity care or community benefit necessary to qualify for an exemption, the Indiana Board of Tax Review has interpreted these provisions to mean that there must be some “meaningful contribution, if the purpose of the tax exemption is to be served.”¹⁷

In 2007, the Tax Court affirmed the denial of a property tax exemption for offices used by a physician practice that was owned and managed by the hospital in *The Methodist Hospital, Inc. v. Lake County Prop. Tax Assessment Bd. of Appeals*.¹⁸ The Petitioner argued that the property met the “substantially related” standard. (Qualification under the “charitable care/community benefits” standard was not considered.) The Tax Court supported its decision by weighing the evidence presented by the hospital and concluding that the “totality of the evidence” presented by the hospital “does not prima facie establish that the PCAs [*ie., Methodist’s physician offices*] are “substantially related to or supportive of Methodist’s inpatient facilities.”¹⁹

In 2008, the State Board of Tax Review held in two administrative decisions involving St. Margaret Mercy Healthcare Centers, Inc. that St. Margaret Mercy’s physician offices were eligible for a charitable tax exemption under both the “substantially related” standard and the “charity care/community benefits” standard. While conceding that the *St. Margaret Mercy* cases shared many of the same facts as *Methodist Hospital*, the Board noted that St. Margaret Mercy presented a greater degree of quantitative data supporting its claims. The Board concluded that the Petitioner had submitted sufficient evidence to establish a prima facie case, even though it had not specifically identified the charitable care and community benefits provided by each physician office. The rebuttal evidence submitted by the Assessor was not considered sufficient to overcome the prima facie case presented by St. Margaret Mercy.²⁰

To support its decision that St. Margaret Mercy’s physician offices were “substantially related” to St. Margaret Mercy’s the inpatient facilities, the Board referred to the following facts submitted by St. Margaret Mercy:

- (1) St. Margaret Mercy is a nonprofit entity.
- (2) A business analysis of its financial situation forecast that St. Margaret Mercy would be unable to continue some of its inpatient facilities without significantly increasing its revenue.
- (3) St. Margaret Mercy acquired its physician practices as part of its strategic plan to bolster its revenue and remain competitive in the market by providing a full spectrum of care in a way that guaranteed high clinical quality and affordability and provided a wide primary care physician base that preferentially used St. Margaret Mercy
- (4) Its physician practices were an integral part of the hospital operations and not a separate entity.
- (5) St. Margaret Mercy negotiated employment contracts that required the employed physicians to refer their patients to St. Margaret Mercy for any necessary hospital services, subject to payor and patient preference and availability of appropriate medical facilities. In addition physicians were required to follow the hospital’s ethical and religious directives.

(6) St. Margaret Mercy physicians accounted for 9.2% of all inpatient admissions at one of its inpatient facilities and 21.8% at another. In addition, employed physicians accounted for 15.8% of all outpatient ancillary services revenues at one facility and 43.7% of all outpatient ancillary services revenues at the other.

(7) The physician practices operated at a loss but through referrals the indirect contribution of the practices was between approximately \$14 million and \$16 million for 1998 through 2000, which was slightly over 7% of St. Margaret Mercy's total revenues. In addition, the physician practices' contributed between \$1.4 and \$1.8 million per year for 1998, 1999 and 2000 through their outpatient services. Together, the physician practices covered between 15.45% and 46.03% of the inpatient facility related expenses for 1998, 1999 and 2000.²¹

The Board concluded that "the primary purpose of those practices, if not the only purpose, must be to support the hospitals."²²

To support its decision that St. Margaret Mercy's physician offices met the "charity care/community benefit" standard, the Board referred to the following facts submitted by St. Margaret Mercy:

- (1) St. Margaret Mercy had a charity care policy that required physicians to provide care at reduced cost or no cost to those who qualify.
- (2) St. Margaret Mercy physicians were required by contract to see all patients without regard to ability to pay.
- (3) St. Margaret Mercy physicians compensation was not impacted by a patient's ability to pay and risked termination if they failed to see these patients.
- (4) St. Margaret Mercy located its physicians in underserved areas.
- (4) St. Margaret Mercy physicians saw more Medicaid patients and fewer privately-insured patients than their peers.
- (5) St. Margaret Mercy physician offices operated at a financial loss.
- (6) All of the divisions of St Margaret Mercy taken together, including the division in which the physicians operated, provided total community benefits of \$26 million in 2000, which was 11.65% of its total expenditures. These expenditures included the unpaid cost of Medicare and Medicaid, reduction of billings for patients that qualified for charity care, and non-billed services such as health screenings and low or negative margin services, such as the neo-natal and the pediatric intensive care units. The hospitals also provide education and research benefits to the community. This benefit included the salaries and malpractice insurance for residents.²³

In 2010, the Indiana Board of Tax Review again had the opportunity to apply the "substantially related" standard to physician offices operated on property owned by St. Joseph Regional Medical Center. In this case the property consisted of medical pavilions that the hospital leased to physicians and other medical providers. Although the *St. Joseph Regional Medical Center* case involved a lease, the Board did not consider the parallels to the *St. Mary's Medical Center* case. Instead the Board weighed the evidence and concluded that the evidence presented by the hospital lacked sufficient detailed information to establish a prima facie case.²⁴

Conclusion

The decisions discussed in this memorandum suggest that the enactment of IC 6-1.1-10-16(h) and IC 6-1.1-10-18.5(a) has changed the type of evidence that will demonstrate when a physician office or other property owned by a hospital is eligible for a charitable property tax exemption. It is now probably irrelevant that the Tax Court in the *St. Mary's Medical Center* case concluded that physician offices are not necessary to further the charitable purposes of a hospital. Case decisions applying to property that is not owned by a hospital most likely are also irrelevant to determining whether hospital property meets the standards in IC 6-1.1-10-16(h) and IC 6-1.1-10-18.5(a).

It is possible that IC 6-1.1-10-16(h) and IC 6-1.1-10-18.5(a) will be interpreted to grant exemptions to physician offices and other hospital property only for hospitals that serve a disproportionate share of indigent patients. However, it is more likely that these statutes will be available to any hospital that provides the detailed financial and other hospital records required to demonstrate that:

- (1) there is a "considerable" relationship between the use of the property and the hospital's inpatient facilities; or
- (2) the property "provides or supports" a "meaningful contribution" toward a hospital's efforts to provide unreimbursed charity care or community benefits.

ENDNOTES

1. *St. Margaret Mercy Healthcare Centers, Inc. v. Lake County Property Tax Assessment Board of Appeals*, No. 45-008-00-2-8-00001, (Ind.Bd.Tx.Rev.; July 8,2008; (Last viewed October 11, 2011)
www.in.gov/ibtr/files/St_Margaret_Mercy_Cedar_Creek_TWP.pdf.

2. *St. Margaret Mercy Healthcare Centers, Inc. v. Lake County Property Tax Assessment Board of Appeals*, No. 45-023-00-2-8-00010 et al., (Ind.Bd.Tx.Rev.; July 8,2008; accessed September 6, 2011)
www.in.gov/ibtr/files/St_Margaret_Mercy_North_TWP.pdf (Last viewed October 11, 2011).

3. *St. Vincent's Hosp. v. Stine*, 195 Ind. 350, 144 N.E. 537, 539 (Ind. 1924), rev'd in part on other grounds by 250 Ind. 491, 237 N.E.2d 242 (Ind. 1968).

4. *Methodist Hosps., Inc. v. Lake County Prop. Tax Assessment Bd. of Appeals*, 862 N.E.2d 335, 337 (Tax Ct. 2007), transfer denied by 869 N.E.2d 456 (Ind. 2007).

5. IC 6-1.1-10-16(a) and IC 6-1.1-10-16(a) exempt buildings and land on which a building is situated if the building is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes. IC 6-1.1-10-36.3(c)(3) states:

(c) If a section of this chapter states one (1) or more purposes for which property must be used or occupied in order to qualify for an exemption, then the exemption applies as follows:

- (3) Property that is predominantly used or occupied for one (1) or more of the stated purposes by a person other than a church, religious society, or not-for-profit school is exempt under that section from property tax on the part of the assessment of the property that bears the same proportion to the total assessment of the property as the amount of time that the property was used or occupied for one (1) or more of the stated purposes during the year that ends on the assessment date of the property bears to the amount of time that the property was used or occupied for any purpose during that year.

6. The Tax Court has interpreted IC 6-1.1-10-16(a) and IC 6-1.1-10-16(a) to mean that property could qualify for an exemption if the purposes for which the property was used were reasonably necessary to carry out the exempt purposes of its owner. The Tax Court explained this standard in *Le Sea Broadcasting Corp. v. State Bd. of Tax Commrs*, 525 N.E.2d 637, 639 (Ind. Tax Ct. 1988) as follows:

In *State Board of Tax Comm'rs v. Wright* (1966), 139 Ind. App. 370, 215 N.E.2d 57, the Court of Appeals held that cabins used for temporary dwelling purposes by ministers and laymen attending religious conferences at a church owned summer camp were exempt from property tax. The court cited to cases from other jurisdictions which held personal living quarters to be exempt from taxation if "incidental and necessary" for the effective welfare of the exempt religious institution. *Id.* at 62. The rationale and wording of cases, statutes, and constitutions of other jurisdictions are relevant to this case because in construing an Indiana statute it is just as important to recognize what the statute does not say as it is to recognize what it does say. *Van Orman v. State* (1981), Ind. App., 416 N.E.2d 1301, 1305. A review of applicable cases reveals a broad range of standards which can be applied to interpret exemption language. See generally 84 C.J.S. Taxation §§ 281-82 (1987 Supp.) and cases cited therein. The "incidental and necessary" standard of *Wright* may be translated to mean "reasonably necessary" and not "essential or indispensable." *House of Rest of the Presbyterian Church In U.S. v. County of Los Angeles* (1957), 151 Cal. App. 2d 523, 312 P.2d 392, 398.

7. *St. Mary's Medical Center, Inc. v. State Bd. of Tax Comm'rs*, 534 N.E.2d 277 (Tax Ct. 1989) affirmed 571 N.E.2d 1247 (Ind. 1991) (Hospital was not entitled to property tax exemptions for its adjoining medical buildings where the purpose of the buildings to engage in the practice of medicine for profit was not reasonably necessary to maintain the hospital's exempt purposes).

8. P.L.25-1995, (HEA 1598) SECTION 13 amended IC 6-1.1-10-16 to add subsection (h). P.L.25-1995, (HEA 1598) SECTION 14 amended IC 6-1.1-10-18.5 to add subsection (a).

9. IC 6-1.1-10-18.5(b), in its current form, exempts the following:

(b) Tangible property is exempt from property taxation if it is:

(1) owned by an Indiana nonprofit corporation; and

(2) used by that corporation in the operation of a hospital licensed under IC 16-21, a health facility licensed under IC 16-28, or in the operation of a residential facility for the aged and licensed under IC 16-28, or in the operation of a Christian Science home or sanatorium.

10. IC 6-1.1-10-16(h) and IC 6-1.1-10-18.5(a) refers to "charity care (as defined in IC 16-18-2-52.5)". IC 16-18-2-52.5 reads as follows:

Sec. 52.5. (a) "Charity care", for purposes of IC 16-21-6 and IC 16-21-9, means the unreimbursed cost to a hospital of providing, funding, or otherwise financially supporting health care services:

(1) to a person classified by the hospital as financially indigent or medically indigent on an inpatient or outpatient basis; and

(2) to financially indigent patients through other nonprofit or public outpatient clinics, hospitals, or health care organizations.

(b) As used in this section, "financially indigent" means an uninsured or underinsured person who is accepted for care with no obligation or a discounted obligation to pay for the services rendered based on the hospital's financial criteria and procedure used to determine if a patient is eligible for charity care. The criteria and procedure must include income levels and means testing indexed to the federal poverty guidelines. A hospital may determine that a person is financially or medically indigent under the hospital's eligibility system after health care services are provided.

(c) As used in this section, "medically indigent" means a person whose medical or hospital bills after payment by third party payors exceed a specified percentage of the patient's annual gross income as determined in accordance with the hospital's eligibility system, and who is

financially unable to pay the remaining bill.

11.IC 6-1.1-10-16(h)(1) and IC 6-1.1-10-18.5(a)(1) refer to "indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c))". See, Endnote 10 for the text of the definition of "financially indigent" in IC 16-18-2-52.5(b) and "medically indigent" in IC 16-18-2-52.5(c).

12.IC 6-1.1-10-16(h) and IC 6-1.1-10-18.5(a) refers to "community benefits (as defined in IC 16-21-9-1)". IC 16-21-9-1 reads as follows:

Sec. 1. As used in this chapter, "community benefits" means the unreimbursed cost to a hospital of providing charity care, government sponsored indigent health care, donations, education, government sponsored program services, research, and subsidized health services. The term does not include the cost to the hospital of paying any taxes or other governmental assessments.

13.IC 6-1.1-10-16(h)(2) and IC 6-1.1-10-18.5(a)(2) refer to government sponsored indigent health care as defined in IC 16-21-9-2. IC 16-21-9-2 read as follows:

Sec. 2. As used in this chapter, "government sponsored indigent health care" means the unreimbursed cost to a hospital of Medicare, providing health care services to recipients of Medicaid, and other federal, state, or local indigent health care programs, eligibility for which is based on financial need.

14.In the administrative decision that was appealed to the Tax Court in *Methodist Hospital, Inc.* (cited above in Endnote 4), the Indiana Board of Tax Review called the "substantially related" standard a similar standard:

The "reasonably necessary" test, applied by the Tax Court in *LeSea Broadcasting Corp. v. State Board of Tax Commissioners*, 525 N.E. 2d 637 (Ind. Tax 1988), held that property is exempt if its ownership, use and occupancy are reasonably necessary to further the exempt purpose. For physician's offices, such as those at issue here, a similar standard has been codified in IC 6-1.1-10-16(h). The property must be "substantially related to or supportive of the in-patient facility of the hospital."

The Methodist Hospitals, Inc. v. Lake County Property Tax Assessment Board of Appeals, Cause No. Indiana Board of Tax Review (2004) at page 14 <http://www.in.gov/ibtr/files/Methodist45-0001234.pdf> (last viewed October 9, 2011). The Board has used similar language in other decisions. See, *Redimed, Inc. v. Allen County Board of Review*, Cause No. 11-0013-0020, 77-0028-0061, and 80-0011-0037, Indiana Board of Tax Review (2003) at page 11 <http://www.in.gov/ibtr/files/RedimedLutheranHealth.pdf> (last viewed October 9, 2011).

15.In *Methodist Hospitals, Inc* (cited above in Endnote 4), the Tax Court said:

Indeed, the charitable purposes exemption will not apply to other property owned by an exempt hospital unless the other property is "substantially related to or supportive of the inpatient facility of the hospital."

16.*Methodist Hospitals, Inc.* (cited above in Endnote 4) at page 337.

17.See, *Parkview Health System, Inc. v. Allen County Property Tax Assessment Board of Appeals*, Cause No. 02-065-99-2-8-00001, Indiana Board of Tax Review (2003) at page 12 (administrative offices of a group of physicians working under the umbrella organization of the hospital) <http://www.in.gov/ibtr/files/Parkview02-072-96-2-8-80006.pdf> (last viewed October 9, 2011).

18.*Methodist Hospitals, Inc.* (cited above in Endnote 4) at page 339.

19.*Methodist Hospitals, Inc.* (cited above in Endnote 4) at page 340.

20. Once the Petitioner establishes a prima facie case, the burden shifts to the Respondent to rebut the Petitioner's evidence. *St. Margaret Mercy* (cited above in Endnote 1) at page 19.

21. *St. Margaret Mercy* (cited above in Endnote 1) at pages 9 and 16 through 18.

22. *St. Margaret Mercy* (cited above in Endnote 1) at page 21.

23. *St. Margaret Mercy* (cited above in Endnote 1) at pages 12 and 18 through 19.

24. The Indiana Board of Tax Review summarized the evidence as follows in *St. Joseph Regional Medical Center, Inc. v. St. Joseph County Assessor*, Cause No. 71-018-08-2-8-00002 and 71-018-08-2-8-00005, Indiana Board of Tax Review (2010) www.in.gov/ibtr/files/St_Joseph_Regional_Med_Ctr_71-018-08-2-8-00002_and_5.pdf (last viewed October 9, 2011):

Here, St. Joseph offered little evidence to show how its tenants used the subject parcels to support St. Joseph's inpatient facility. At most, Ms. Boulac testified that tenants (1) were available for the hospital's residents, (2) "did some teaching" in conjunction with being tenants, and (3) "were supportive of the emergency room staff if they were needed." But Ms. Boulac did not identify which tenants actually performed those services or how often they did so. Nor did she testify that the tenants performed any of those services during the year leading up to the March 1, 2008 assessment date at issue in these appeals. Ms. Boulac's vague testimony did not show that the tenants considerably aided or promoted the inpatient portion of St. Joseph's hospital. To the contrary, because the tenants' practices were independent from St. Joseph, the Board infers that, like the PCA physicians in Methodist, they provided substantial care to members of the public rather than to inpatients at St. Joseph's hospital. Finally, the fact that the pavilions may have operated at a loss does nothing to bolster the relationship between the pavilions' leased offices and inpatient part of St. Joseph's hospital.



October 12, 2011

Senator Brandt Hershman
Commission on State Tax and Financing Policy

Mr. Chairman and members of the Commission thank you for the opportunity to speak today on Issues related to property tax exemption eligibility for nonprofits. My name is Andy Fraizer and I am the Executive Director of the Indiana Association for Community Economic Development (IACED). IACED is a statewide, non-profit, association whose members are dedicated to improving lives through community economic development. IACED is a statewide association with a local focus. Our more than 300 members strengthen communities and improve lives in rural, small city, and urban areas. Members provide housing opportunity. They meet basic needs. They connect Hoosiers to jobs. They create vital public spaces. They do all of this and more.

Housing Partnerships, Inc. from whom you hear today, is a member, as are many other charitable organizations that provide affordable housing and services to low and moderate income individuals and families. The current economic crisis has heightened the need for strong, vital community development organizations with critical capacity to address both the technical challenges of development and the adaptive challenges of community change. IACED members are a positive force for stabilizing neighborhoods and communities from the economic forces unraveling decades of gains in Indiana communities with families in need. These member organizations are the infrastructure of last resort in many communities to keep families housed and provide the resources for a resilient family.

Under Indiana law, a charitable purpose is deemed to be present if (1) there is evidence of relief of human want manifested by obviously charitable acts different from everyday purposes of man in general, and (2) there is an expectation that a benefit will inure to the public sufficient to justify the loss of tax revenue. The Indiana courts have stated time and again that charity as used in Indiana's property tax exemption statutes, is favored with the broadest constitutional definition allowable. The reason for a broad construction is apparent and aimed at fostering the operations of charitable enterprises by allowing a tax exemption for engaging in conduct beneficial to the general public. This broad charitable standard has been extended to low-income housing through case law and affirmed recently in the the 2009 case of *Hebron- Vision, LLC v, Porter County Assessor*.

A reading of Indiana statutes relating to low-income housing, as a whole, illustrates the General Assembly's support of the proposition that providing low-income housing is both a government burden and public purpose. Accordingly, the undertaking of such activities, is strong evidence of its charitable nature. As merely one example, I point the Commission to IC 5-20-1-1, which speaks to the need for public subsidy and the relief of government's burden provided by the development of affordable housing.

Despite the law, members across the state are experiencing a disconcerting trend of receiving a property tax bill for properties which have until that time been treated as exempt. In a recent survey, more than 60 IACED members reported concerns about application of the Indiana property tax to their operations or projects. Those members report spending on average \$17,400 for outside counsel and advice to rectify incorrect assessments and appeal local decisions, which left unchallenged could bankrupt the local affordable housing and human service infrastructure in this time of economic turmoil.

Mark Lindenlaub with Housing Partnerships, Inc. is here to tell his organizations story of dealing with the property tax assessment and appeals system's impact on his Columbus-based charity. As a result of the testimony here today, IACED asks that the Commission consider all available legislative and administrative remedies to ensure the charitable and exempt status of Indiana non-profit affordable housing producers. Thank you for your time and the opportunity to testify before you today.

For more information please contact:

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Property Tax Exemption Testimony

Updated: October 12, 2011

Exhibit K
Commission on State Tax and
Financing Policy
Meeting #3 October 12, 2011

Thank you for having me today. My name is Mark Lindenlaub, and I am president of Housing Partnerships, Inc. in Columbus. I appreciate your concern for the problems that Indiana not-for-profit organizations are having with inconsistent local decisions on property tax exemption requests. My agency's situation illustrates several of these problems, and the same impacts are being felt by not-for-profit organizations of all types around the state.

Housing Partnerships, Inc. was approved by the IRS as a 501(c)(3) not-for-profit organization in January 1990. Our charitable purpose is to provide affordable housing for low- and very-low income families. Since 1990, we have developed over 200 affordable homes. These include 106 houses sold to low-income first-time home buyers; a 25-unit elderly housing community; and 96 rental homes serving low- and very-low income families. Almost a third of the families in our rental homes are single-parent families or families that include a person with a disability.

We developed our first rental homes in 1995 when property taxes on renovated older homes were only a few hundred dollars every year. When the state moved to the market-based property tax system in 2000, our property tax bills nearly tripled. That drove our previously break-even rental program into an unsustainable loss, financially threatening not just this program, but our agency as a whole. As a result, we reluctantly filed for property tax exemption as one of several steps to stem these losses.

We filed for property tax exemption and were approved in 2002 and again in 2004. Again in 2006 we filed on the same properties with the same county assessor who had approved us twice, and in March 2007 he denied our request on every single property, including our office building.

We appealed the denial to the Indiana Board of Tax Review. It took 18 months to have our hearing, and another 15 months for the board to issue its decision, which left the local denial unchanged. We have appealed that decision to the Indiana Tax Court, and another 18 months later we are waiting for our hearing date to be set.



We have followed, step by step, the current process that is in place for us to resolve this issue, and we are still stuck in the process 5½ years later. Meanwhile we are struggling to keep our clients served, our properties out of foreclosure, our neighborhoods out of further decline, and our agency alive through the fallout from the reversal of our exempt status. Specifically:

1. We have paid \$150,000 to cover unbudgeted property tax payments on properties we purchased and placed in service assuming the exemptions we had previously been told we qualified for would continue.
2. We have spent over \$30,000 in legal costs, with more to come. The county has also incurred considerable legal costs to defend the assessor's decision to deny our exemption. Both parties could have better used this money to serve local needs.
3. We have had to raise our rents significantly to cover just a portion of these unexpected costs, making our housing unaffordable to many of the very families we are here to serve.
4. The appeals process has taken so long that our previously-exempted properties have been put on the local tax sale list twice, resulting in considerable negative publicity, plus extra legal costs to get them removed from the sales.
5. We were declared ineligible to bid on tax sale properties until our appeal is resolved, and as a result there remain vacant, boarded-up properties dragging down the same neighborhoods where we have invested considerable amounts of public and private funding in neighborhood improvements.
6. We have been denied credit by 2 local banks due to the uncertainty of our future property tax status. We have also been delayed receiving grant funding from the Indiana Housing and Community Development Authority for the same reason.

I think it is clear that taking run-down or abandoned houses, building them back into neighborhood assets, and using them to provide quality housing for low- and very-low income families, fits the definition of a charitable purpose. What is unclear is the current law regarding affordable housing. When we develop new



properties, non-profit organizations like mine have to make long-term legal commitments to manage homes that serve some of the most vulnerable families in our local communities. We made these commitments based on budgets that work in large part because local officials declared that we were eligible for property tax exemption. We operate under published rent restrictions, and cannot just increase our rents when a local assessor decides to reverse his or her commitment to us on the property tax status of our work. It is especially critical in the current economy—the jobs market and the housing market—that you help us protect the investment that we have made in this housing. Especially now, we all need to continue to support economically fragile families and fight to keep neighborhoods from declining further. To do this, we need you to make it clear that affordable housing is a property-tax exempt charitable purpose. Thank you.

Mark Lindenlaub, President
Housing Partnerships, Inc.



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MEMORANDUM

To: Commission on State Tax and Financing Policy
From: Bob Sigalow
Re: Sales Tax on Newly Acquired Depreciable Personal Property
Date: October 12, 2011

Following are two reports that examine the effect of collecting Sales Tax on the purchase of depreciable personal property in lieu of property tax. These reports include all newly acquired personal property except property owned by utilities.

Sales Tax is already collected on a small amount of personal property. It is estimated that most purchases of depreciable personal property are eligible for a Sales Tax exemption. Adjustments were made to the cost of new acquisitions in order to eliminate overstating new Sales Tax revenue. The percentage of purchases already taxed was estimated using industry-to-industry sales data from the US Bureau of Economic Analysis and Sales Tax data by NAICS code from the Indiana Department of State Revenue. For CY 2010, it was estimated that, on average, just under 7% of the total new acquisitions were already subject to Sales Tax. The cost of new acquisitions presented in the following reports has been reduced by this amount.

The first report is a 4-year history of the cost of newly acquired personal property by county for taxes payable in 2008 through 2011, as reported in the depreciation schedules on personal property tax returns. Please note that Delaware County data is not available for taxes payable in 2009. The reported cost includes all non-utility property purchases, including property that received property tax abatements.

The report shows that there would be a gap between the amounts generated by a 7% Sales Tax on newly acquired personal property and the amount of property tax billed for all non-utility personal property. The report also shows that there is some volatility in the level of acquisitions from year to year, especially dropping off for taxes payable in 2011.

The revenue that could have been generated statewide by a 7% Sales Tax in CY 2010 on \$7.65 B worth of purchases is estimated at \$535 M. This amount includes about \$24 M in Sales Tax on agricultural personal property. It also includes Sales Tax on property that might have received a personal property tax abatement. In contrast, the net property tax billed on all non-utility business personal property was \$697 M in CY 2010. So, the Sales Tax on purchases would not have generated as much revenue as the property tax on all non-utility business personal property.

Commission on State Tax and Financing Policy
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The aggregate non-utility business personal property taxes payable in 2011 are not shown because they have not yet been calculated. However, the cost of purchases dropped to \$5.3 B for taxes payable in CY 2011. These purchases would have generated \$371 M in Sales Tax revenue, or \$164 M less than in 2010.

The second report is a more detailed county-level report based on property taxes payable in 2010. This report provides the new asset cost and Sales Tax estimate along with the property tax billing amounts for all non-utility personal property for each county. The amounts are further broken down into agricultural vs. non-ag property. This report shows that 60 of 92 counties would have generated less under a Sales Tax in 2010 than they did under the property tax. Keep in mind, however, that a similar report for taxes payable in 2011 would most likely show more counties in the negative as new acquisitions fell statewide for pay 2011.

Business Personal Property
Cost of New Acquisitions by Pay Year
Adjusted to Account for Estimates of Purchases Currently Subject to Sales Tax
(Does Not Include Utilities)

Cnty	County	2008	2009	2010	2011
01	Adams	36,615,366	40,683,195	35,518,750	41,928,952
02	Allen	489,760,610	425,409,899	487,322,537	347,885,110
03	Bartholomew	189,743,677	165,434,858	58,219,933	49,515,623
04	Benton	10,961,298	13,591,686	14,262,961	8,356,789
05	Blackford	14,375,899	16,572,232	16,216,085	6,011,545
06	Boone	47,109,327	51,670,558	77,306,925	130,298,924
07	Brown	2,519,901	3,178,561	1,663,107	2,245,273
08	Carroll	32,376,994	33,770,432	20,838,655	20,980,448
09	Cass	13,672,532	50,628,306	20,424,945	11,861,457
10	Clark	56,906,774	56,019,719	145,873,835	90,608,566
11	Clay	13,247,108	16,444,113	6,889,754	5,947,279
12	Clinton	19,466,074	37,038,899	27,052,438	16,083,215
13	Crawford	2,022,626	6,068,627	4,170,489	5,818,452
14	Davies	17,250,607	26,020,664	23,499,117	20,793,690
15	Dearborn	10,415,019	13,912,366	10,662,609	40,371,165
16	Decatur	22,590,888	19,833,317	139,741,540	10,561,037
17	DeKalb	95,479,680	79,746,047	93,448,846	64,527,929
18	Delaware	98,869,210	Not Available	88,954,043	62,040,624
19	Dubois	87,445,239	70,944,266	73,322,997	54,647,981
20	Elkhart	3,004,778	2,852,628	247,285,467	166,501,450
21	Fayette	16,658,328	13,930,307	17,658,344	8,261,831
22	Floyd	52,659,174	51,684,651	55,139,939	51,069,328
23	Fountain	15,039,331	18,317,860	15,321,920	22,669,911
24	Franklin	5,340,298	4,885,419	4,744,705	3,454,270
25	Fulton	23,265,986	23,115,212	27,210,883	19,293,088
26	Gibson	59,088,791	52,961,272	33,582,205	102,083,650
27	Grant	204,670,283	103,501,935	89,291,912	78,481,509
28	Greene	7,405,141	6,457,903	5,292,367	7,562,067
29	Hamilton	116,060,830	121,771,506	124,196,787	106,542,582
30	Hancock	28,649,859	27,360,070	25,703,177	18,718,950
31	Harrison	34,762,085	36,982,744	57,864,833	23,377,808
32	Hendricks	163,468,115	122,135,698	134,131,596	143,270,441
33	Henry	17,878,167	19,887,280	18,667,866	15,138,241
34	Howard	172,877,285	67,870,153	43,592,794	26,335,208
35	Huntington	43,655,941	39,215,739	35,075,725	30,319,000
36	Jackson	81,654,077	82,377,482	32,010,031	26,498,782
37	Jasper	30,408,165	15,313,141	47,259,510	14,713,732
38	Jay	27,854,625	86,582,499	40,315,003	20,938,028
39	Jefferson	47,307,128	42,687,508	54,282,936	22,354,072
40	Jennings	26,969,402	29,775,355	9,735,867	6,636,028
41	Johnson	132,199,385	57,946,752	45,595,094	30,941,759
42	Knox	42,443,612	19,901,160	22,122,625	75,184,413
43	Kosciusko	137,141,568	160,432,288	239,022,769	138,288,969
44	LaGrange	11,602,783	13,964,109	12,486,188	9,267,741
45	Lake	503,088,549	433,934,884	526,926,144	450,189,841
46	LaPorte	34,241,095	41,177,041	54,433,153	34,953,270
47	Lawrence	40,336,642	41,818,509	29,329,681	27,351,506
48	Madison	102,231,327	99,175,130	471,666,261	92,509,721
49	Marion	1,272,069,660	1,324,452,720	1,225,602,936	1,027,039,500
50	Marshall	54,378,258	73,453,153	54,241,161	53,801,570
51	Martin	10,661,545	12,949,293	10,182,627	3,080,828
52	Miami	44,500,553	19,072,812	25,572,258	6,393,452
53	Monroe	114,640,818	141,482,256	113,237,748	124,658,562
54	Montgomery	283,343,795	139,352,634	50,009,479	25,436,304
55	Morgan	38,244,539	75,109,873	41,443,368	23,806,600
56	Newton	19,440,709	19,739,734	27,397,469	38,419,663
57	Noble	40,556,959	27,572,788	23,381,350	70,577,669
58	Ohio	5,309,507	2,744,768	2,608,376	2,160,644
59	Orange	12,111,779	26,538,667	21,431,296	19,505,226

Business Personal Property
Cost of New Acquisitions by Pay Year
Adjusted to Account for Estimates of Purchases Currently Subject to Sales Tax
(Does Not Include Utilities)

Cnty	County	2008	2009	2010	2011
60	Owen	11,097,159	9,062,733	8,406,896	14,472,825
61	Parke	7,466,986	11,846,991	5,046,578	4,473,804
62	Perry	27,670,986	41,562,470	35,233,587	24,628,371
63	Pike	6,914,362	5,893,487	6,898,737	11,564,146
64	Porter	93,562,785	69,842,889	292,639,660	106,829,579
65	Posey	76,643,763	62,430,901	98,300,482	50,474,290
66	Pulaski	14,424,065	19,517,481	18,285,012	21,391,755
67	Putnam	13,551,447	16,885,866	70,833,304	10,253,839
68	Randolph	36,645,056	28,545,460	53,217,018	9,018,888
69	Ripley	7,268,134	8,167,906	9,138,328	7,178,947
70	Rush	6,752,612	7,768,213	8,631,677	7,215,232
71	St. Joseph	238,473,953	266,858,302	287,305,971	236,754,545
72	Scott	29,940,812	10,729,329	5,784,969	9,620,962
73	Shelby	30,068,045	88,134,119	42,393,051	34,385,329
74	Spencer	12,300,530	8,766,570	10,768,555	9,184,021
75	Starke	18,624,402	14,214,839	12,311,241	20,866,599
76	Steuben	50,473,391	32,833,830	42,175,928	25,009,155
77	Sullivan	20,981,647	41,435,863	24,646,703	73,386,638
78	Switzerland	5,631,463	7,440,873	6,743,560	4,042,832
79	Tippecanoe	288,371,102	409,255,824	439,762,202	107,094,276
80	Tipton	8,600,847	8,645,956	7,528,126	7,060,590
81	Union	5,919,492	2,557,457	1,798,844	2,035,781
82	Vanderburgh	250,575,951	247,086,672	110,954,524	82,089,330
83	Vermillion	19,358,464	22,093,161	8,147,932	15,642,759
84	Vigo	112,509,619	65,258,884	108,407,081	62,718,534
85	Wabash	23,889,820	13,884,373	43,881,857	15,509,769
86	Warren	11,456,257	10,267,616	14,914,368	6,215,548
87	Warrick	82,388,867	40,977,322	69,075,079	46,886,271
88	Washington	20,022,894	9,728,794	45,717,889	12,741,783
89	Wayne	33,260,574	54,769,126	45,682,977	20,942,880
90	Wells	24,020,560	16,832,669	82,317,967	13,346,283
91	White	32,124,982	37,036,888	77,523,304	48,021,021
92	Whitley	23,282,209	27,019,856	96,027,222	21,864,133
	Total	6,982,322,937	6,544,805,397 *	7,650,944,045	5,301,191,988
	Est. Sales Tax @ 7%	488,762,606	458,136,378 *	535,566,083	371,083,439
	Net Property Tax on All Non-Utility Bus. Pers. Prop.	713,226,207	698,475,359	697,059,713	Not Available
	Net Property Tax on Agricultural Pers. Prop. (Included Above)	19,326,469	22,165,458	24,182,384	Not Available
	Net Property Tax on Utility Pers. Prop. (NOT Included Above)	238,884,567	216,170,219	222,424,371	Not Available

* The 2009 total acquisition cost and sales tax estimate do not included estimates for Delaware County.

Business Personal Property
Cost of New Acquisitions Not Currently Subject to Sales Tax For Taxes Payable in CY 2010
(Does Not Include Utilities)

Cnty	County	New Asset Cost			Estimated Sales Tax at 7%			Net Personal Property Tax			Difference Sales Vs. Prop. Tax
		(Estimated Not Currently Subject to Sales Tax)									
		Agricultural	Non-Ag	Total	Agricultural	Non-Ag	Total	Agricultural	Non-Ag	Total	
01	Adams	6,910,523	28,608,227	35,518,750	483,737	2,002,576	2,486,313	549,912	3,072,699	3,622,611	-1,136,298
02	Allen	7,447,605	479,874,932	487,322,537	521,332	33,591,245	34,112,577	457,728	35,326,479	35,784,206	-1,671,629
03	Bartholomew	2,248,553	55,971,380	58,219,933	157,399	3,917,997	4,075,396	322,568	13,666,810	13,989,378	-9,913,982
04	Benton	10,372,511	3,890,450	14,262,961	726,076	272,332	998,408	63,265	64,162	127,427	870,981
05	Blackford	2,773,696	13,442,389	16,216,085	194,159	940,967	1,135,126	132,845	1,469,509	1,602,354	-467,228
06	Boone	11,067,537	66,239,388	77,306,925	774,728	4,636,757	5,411,485	394,620	2,838,556	3,233,175	2,178,310
07	Brown	47,681	1,615,426	1,663,107	3,338	113,080	116,418	4,383	85,460	89,843	26,575
08	Carroll	10,025,444	10,813,211	20,838,655	701,781	756,925	1,458,706	325,679	1,030,587	1,356,266	102,440
09	Cass	3,977,763	16,447,182	20,424,945	278,443	1,151,303	1,429,746	346,581	3,776,242	4,122,823	-2,693,077
10	Clark	2,357,222	143,516,613	145,873,835	165,006	10,046,163	10,211,169	98,731	7,585,185	7,683,916	2,527,253
11	Clay	1,779,313	5,110,441	6,889,754	124,552	357,731	482,283	204,197	970,233	1,174,430	-692,147
12	Clinton	4,780,603	22,271,835	27,052,438	334,642	1,559,028	1,893,670	370,962	3,255,354	3,626,315	-1,732,645
13	Crawford	171,294	3,999,195	4,170,489	11,991	279,944	291,935	32,538	580,399	612,937	-321,002
14	Daviess	5,614,885	17,884,232	23,499,117	393,042	1,251,896	1,644,938	484,519	2,661,513	3,146,032	-1,501,094
15	Dearborn	212,626	10,449,983	10,662,609	14,884	731,499	746,383	49,592	1,543,651	1,593,243	-846,860
16	Decatur	2,604,033	137,137,507	139,741,540	182,282	9,599,625	9,781,907	210,867	2,904,468	3,115,335	6,666,572
17	DeKalb	5,473,413	87,975,433	93,448,846	383,139	6,158,280	6,541,419	164,130	7,721,492	7,885,622	-1,344,203
18	Delaware	5,134,408	83,819,635	88,954,043	359,409	5,867,374	6,226,783	260,615	8,597,320	8,857,935	-2,631,152
19	Dubois	12,767,460	60,555,537	73,322,997	893,722	4,238,888	5,132,610	528,604	4,319,323	4,847,928	284,682
20	Elkhart	8,193,241	239,092,226	247,285,467	573,527	16,736,456	17,309,983	628,141	22,017,975	22,646,116	-5,336,133
21	Fayette	2,410,801	15,247,543	17,658,344	168,756	1,067,328	1,236,084	251,170	1,453,841	1,705,011	-468,927
22	Floyd	64,788	55,075,151	55,139,939	4,535	3,855,261	3,859,796	17,731	4,547,353	4,565,084	-705,288
23	Fountain	5,761,255	9,560,665	15,321,920	403,288	669,247	1,072,535	310,517	1,314,166	1,624,682	-552,147
24	Franklin	1,259,529	3,485,176	4,744,705	88,167	243,962	332,129	167,019	460,085	627,104	-294,975
25	Fulton	8,049,094	19,161,789	27,210,883	563,437	1,341,325	1,904,762	319,945	1,183,849	1,503,794	400,968
26	Gibson	4,700,148	28,882,057	33,582,205	329,010	2,021,744	2,350,754	724,469	4,022,486	4,746,955	-2,396,201
27	Grant	7,486,242	81,805,670	89,291,912	524,037	5,726,397	6,250,434	337,092	8,507,623	8,844,714	-2,594,280
28	Greene	1,554,684	3,737,683	5,292,367	108,828	261,638	370,466	308,359	857,122	1,165,481	-795,015
29	Hamilton	2,166,769	122,030,018	124,196,787	151,674	8,542,101	8,693,775	212,149	15,642,383	15,854,532	-7,160,757
30	Hancock	2,106,157	23,597,020	25,703,177	147,431	1,651,791	1,799,222	275,578	3,889,815	4,165,393	-2,366,171
31	Harrison	2,882,920	54,981,913	57,864,833	201,804	3,848,734	4,050,538	156,562	1,663,652	1,820,214	2,230,324
32	Hendricks	6,139,504	127,992,092	134,131,596	429,765	8,959,446	9,389,211	391,315	11,083,897	11,475,212	-2,086,001
33	Henry	1,356,467	17,311,399	18,667,866	94,953	1,211,798	1,306,751	193,325	3,180,568	3,373,893	-2,067,142
34	Howard	2,651,673	40,941,121	43,592,794	185,617	2,865,878	3,051,495	293,764	25,849,626	26,143,390	-23,091,895
35	Huntington	8,313,977	26,761,748	35,075,725	581,978	1,873,322	2,455,300	408,971	2,845,229	3,254,200	-798,900
36	Jackson	4,730,623	27,279,408	32,010,031	331,144	1,909,559	2,240,703	491,203	5,215,996	5,707,199	-3,466,496
37	Jasper	5,961,821	41,297,689	47,259,510	417,327	2,890,838	3,308,165	238,570	1,231,148	1,469,718	1,838,447
38	Jay	4,743,162	35,571,841	40,315,003	332,021	2,490,029	2,822,050	383,389	3,461,380	3,844,769	-1,022,719
39	Jefferson	1,487,849	52,795,087	54,282,936	104,149	3,695,656	3,799,805	116,484	3,014,509	3,130,994	668,811
40	Jennings	1,330,588	8,405,279	9,735,867	93,141	588,370	681,511	245,897	2,144,315	2,390,212	-1,708,701
41	Johnson	1,916,861	43,678,233	45,595,094	134,180	3,057,476	3,191,656	252,995	8,529,303	8,782,298	-5,590,642
42	Knox	6,034,829	16,087,796	22,122,625	422,438	1,126,146	1,548,584	472,402	2,849,268	3,321,670	-1,773,086
43	Kosciusko	14,024,491	224,998,278	239,022,769	981,714	15,749,879	16,731,593	571,343	7,688,095	8,259,438	8,472,155
44	LaGrange	3,421,929	9,064,259	12,486,188	239,535	634,498	874,033	386,075	1,292,973	1,679,048	-805,015
45	Lake	3,071,935	523,854,209	526,926,144	215,035	36,669,795	36,884,830	229,818	82,802,410	83,032,228	-46,147,398
46	LaPorte	4,022,546	50,410,607	54,433,153	281,578	3,528,742	3,810,320	297,672	8,783,294	9,080,966	-5,270,646
47	Lawrence	1,378,522	27,951,159	29,329,681	96,497	1,956,581	2,053,078	136,106	3,155,565	3,291,671	-1,238,593
48	Madison	9,237,899	462,428,362	471,666,261	646,653	32,369,985	33,016,638	372,241	10,119,323	10,491,564	22,525,074

Business Personal Property
Cost of New Acquisitions Not Currently Subject to Sales Tax For Taxes Payable in CY 2010
(Does Not Include Utilities)

Cnty	County	New Asset Cost (Estimated Not Currently Subject to Sales Tax)			Estimated Sales Tax at 7%			Net Personal Property Tax			Difference Sales Vs. Prop. Tax
		Agricultural	Non-Ag	Total	Agricultural	Non-Ag	Total	Agricultural	Non-Ag	Total	
49	Marion	257,819	1,225,345,117	1,225,602,936	18,047	85,774,158	85,792,205	34,219	130,494,862	130,529,080	-44,736,875
50	Marshall	8,724,007	45,517,154	54,241,161	610,680	3,186,201	3,796,881	389,247	3,541,736	3,930,984	-134,103
51	Martin	1,881,046	8,301,581	10,182,627	131,673	581,111	712,784	123,212	805,481	928,693	-215,909
52	Miami	7,846,211	17,726,047	25,572,258	549,235	1,240,823	1,790,058	392,501	1,439,850	1,832,351	-42,293
53	Monroe	480,481	112,757,267	113,237,748	33,634	7,893,009	7,926,643	32,835	5,476,372	5,509,207	2,417,436
54	Montgomery	3,642,832	46,366,647	50,009,479	254,998	3,245,665	3,500,663	293,117	6,853,182	7,146,299	-3,645,636
55	Morgan	3,395,217	38,048,151	41,443,368	237,665	2,663,371	2,901,036	81,191	1,523,367	1,604,558	1,296,478
56	Newton	10,849,450	16,548,019	27,397,469	759,462	1,158,361	1,917,823	402,395	941,339	1,343,734	574,089
57	Noble	2,685,080	20,696,270	23,381,350	187,956	1,448,739	1,636,695	348,027	5,471,595	5,819,621	-4,182,926
58	Ohio	291,502	2,316,874	2,608,376	20,405	162,181	182,586	12,747	101,910	114,657	67,929
59	Orange	1,827,754	19,603,542	21,431,296	127,943	1,372,248	1,500,191	140,542	1,189,097	1,329,639	170,552
60	Owen	1,181,760	7,225,136	8,406,896	82,723	505,760	588,483	84,753	669,963	754,716	-166,233
61	Parke	2,324,707	2,721,871	5,046,578	162,729	190,531	353,260	176,003	321,958	497,962	-144,702
62	Perry	1,210,750	34,022,837	35,233,587	84,753	2,381,599	2,466,352	77,640	1,928,992	2,006,632	459,720
63	Pike	793,321	6,105,416	6,898,737	55,532	427,379	482,911	88,101	764,382	852,483	-369,572
64	Porter	5,134,027	287,505,633	292,639,660	359,382	20,125,394	20,484,776	220,991	16,881,139	17,102,130	3,382,646
65	Posey	10,248,695	88,051,787	98,300,482	717,409	6,163,625	6,881,034	378,434	8,094,568	8,473,002	-1,591,968
66	Pulaski	9,822,688	8,462,324	18,285,012	687,588	592,363	1,279,951	272,412	448,517	720,929	559,022
67	Putnam	1,512,086	69,321,218	70,833,304	105,846	4,852,485	4,958,331	139,754	2,977,728	3,117,482	1,840,849
68	Randolph	3,896,507	49,320,511	53,217,018	272,755	3,452,436	3,725,191	452,596	1,607,110	2,059,706	1,665,485
69	Ripley	1,044,004	8,094,324	9,138,328	73,080	566,603	639,683	168,534	1,450,027	1,618,560	-978,877
70	Rush	3,727,181	4,904,496	8,631,677	260,903	343,315	604,218	765,274	543,572	1,308,846	-704,628
71	St. Joseph	4,748,077	282,557,894	287,305,971	332,365	19,779,053	20,111,418	336,895	30,296,464	30,633,360	-10,521,942
72	Scott	687,924	5,097,045	5,784,969	48,155	356,793	404,948	72,193	1,873,842	1,946,035	-1,541,087
73	Shelby	3,244,924	39,148,127	42,393,051	227,145	2,740,369	2,967,514	338,379	6,211,103	6,549,481	-3,581,967
74	Spencer	3,032,528	7,736,027	10,768,555	212,277	541,522	753,799	218,284	2,075,766	2,294,050	-1,540,251
75	Starke	4,745,009	7,566,232	12,311,241	332,151	529,636	861,787	201,220	922,554	1,123,774	-261,987
76	Steuben	2,938,986	39,236,942	42,175,928	205,729	2,746,586	2,952,315	123,275	1,933,845	2,057,120	895,195
77	Sullivan	2,874,746	21,771,957	24,646,703	201,232	1,524,037	1,725,269	316,872	1,475,371	1,792,243	-66,974
78	Switzerland	603,717	6,139,843	6,743,560	42,260	429,789	472,049	21,100	288,134	309,234	162,815
79	Tippecanoe	7,336,699	432,425,503	439,762,202	513,569	30,269,785	30,783,354	270,871	20,965,896	21,236,768	9,546,586
80	Tipton	2,778,335	4,749,791	7,528,126	194,483	332,485	526,968	315,287	921,339	1,236,626	-709,658
81	Union	752,335	1,046,509	1,798,844	52,663	73,256	125,919	133,940	408,890	542,830	-416,911
82	Vanderburgh	1,596,973	109,357,551	110,954,524	111,788	7,655,029	7,766,817	181,146	19,764,940	19,946,086	-12,179,269
83	Vermillion	772,718	7,375,214	8,147,932	54,090	516,265	570,355	86,420	2,550,524	2,636,944	-2,066,589
84	Vigo	994,195	107,412,886	108,407,081	69,594	7,518,902	7,588,496	132,884	13,851,775	13,984,660	-6,396,164
85	Wabash	4,834,922	39,046,935	43,881,857	338,445	2,733,285	3,071,730	466,237	1,968,547	2,434,784	636,946
86	Warren	10,244,576	4,669,792	14,914,368	717,120	326,885	1,044,005	224,833	284,344	509,177	534,828
87	Warrick	1,298,974	67,776,105	69,075,079	90,928	4,744,327	4,835,255	120,751	7,464,915	7,585,665	-2,750,410
88	Washington	6,808,672	38,909,217	45,717,889	476,607	2,723,645	3,200,252	241,080	1,032,017	1,273,097	1,927,155
89	Wayne	1,359,124	44,323,853	45,682,977	95,139	3,102,670	3,197,809	300,244	8,603,872	8,904,116	-5,706,307
90	Wells	3,821,232	78,496,735	82,317,967	267,486	5,494,771	5,762,257	195,590	1,918,786	2,114,376	3,647,881
91	White	15,353,280	62,170,024	77,523,304	1,074,730	4,351,902	5,426,632	442,077	1,569,495	2,011,572	3,415,060
92	Whitley	3,050,850	92,976,372	96,027,222	213,560	6,508,346	6,721,906	175,644	2,691,476	2,867,120	3,854,786
		388,882,795	7,262,061,250	7,650,944,045	27,221,795	508,344,287	535,566,082	24,182,384	672,877,329	697,059,713	-161,493,631

* LaPorte County Net Property Tax Amounts are estimated.

Negative 60
Positive 32



October 12, 2011

The Honorable Senator Brandt Hershman
The Honorable Senator Ryan Mishler
The Honorable Representative R. Eric Turner
The Honorable Representative Scott Pelath
Commission on State Tax and Financing Policy
Statehouse
Indianapolis, IN 46204

Exhibit M
Commission on State Tax and
Financing Policy
Meeting #3 October 12, 2011

Dear Chairman Hershman and members of the Commission on State Tax and Financing Policy,

Due to obligations within Indiana Farm Bureau, Inc., I will be unable to attend today's meeting of the Commission on State Tax and Financing Policy, but I wanted to express a few comments on today's agenda items.

Indiana Farm Bureau supports efforts that move toward elimination of personal property tax. We would appreciate a specific exemption for agricultural personal property based on its small portion of the property tax base, but we could support statewide exemption of all personal property only if replacement revenue is found. Personal property tax is burdensome for farmers, especially young farmers starting out. We believe personal property tax is a disincentive to business investment and puts farmers and other businesses at a disadvantage to their peers in other states, and in the global marketplace. We also recognize that there would be a significant shift of property taxes if complete elimination was pursued.

In regards to county option exemption of personal property, our policy is not specific but we see this as an idea having potential especially for counties who do not have much capacity for other economic development tools.

In regards to rolling reassessment or cyclical reassessment, we did in the past express concerns about the quality of the tax base and supported keeping the current general reassessment in place. However, we are could see the value of cyclical reassessment moving forward – as long as the number of years in the cycle is not too long. Previous proposals called for six years and we believe that should be no more than four to prevent assessment inequities within a county.

Finally, we have great interest in streamlining the statutory assessment / budget cycle for local government and would appreciate being included in those discussions since Indiana Farm Bureau represents perhaps the largest group of taxpayers in Indiana.

Thank you for your consideration,

Katrina A. Hall

Indiana Farm Bureau, Inc.