



## **New Assessor Training Utilities and Railcars**

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# New Assessor Training

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- **State Distributable Property:**
- **IC 6-1.1-8-2 Definitions**
- **Sec. 2. As used in this chapter:**
- **(8) The term "public utility company" means a company which is subject to taxation under this chapter regardless of whether the company is operated by an individual, a partnership, an association, a corporation, a limited liability company, a fiduciary, or any other entity.**



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- Because public utilities and railroads often cross township and county lines, the Department is charged with assessing the value of public utilities and railroads in Indiana.
- The Department values a company's entire enterprise statewide and then distributes the assessed value to each county in which the company operates. The distribution is allocated based on a percentage of the company's total operation in the county by township/taxing district.
- There is a provision that allows companies in one district to file a local Business Personal Property Return.
- State Distributable Property – not regulated by the Indiana Utility Regulatory Commission – is exempt from taxation if the acquisition cost of the total business personal property is less than \$20,000. (IC 6-1.1-3-7.2)



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- | Utility Type  | # in State |
|---|------------|
| Gas & Electric (light, heat, power)                             | 50         |
| Buses (regularly scheduled routes)                              | 3          |
| Pipelines (gas or oil)  | 35         |
| REMCs   | 40         |
| Railroads   | 40         |
| Telecoms (land line, cellular, VOIP, satellite, paging company) | 107        |
| Water & Sewer   | 33         |
| TOTAL (not including railcars)                                  | 308        |
| Railcar Taxpayers (varies based on route they choose)           | 384        |
- State Distributable Utilities are not necessarily regulated utilities for rate purposes and some may not sell to the public.



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- IC 6-1.1-8-3 Companies subject to taxation; exemptions
- Sec. 3. (a) Except as provided in subsection (c), the following companies are subject to taxation under this chapter:
  - Each company which is engaged in the business of transporting persons or property.
  - Each company which is engaged in the business of selling or distributing electricity, gas, steam, or water.
  - Each company which is engaged in the business of transmitting messages for the general public by wire or airwaves.
  - Each company which is engaged in the business of operating a sewage system or a sewage treatment plant.



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(b) The companies which are subject to taxation under this chapter include, but are not limited to:

- (1) bridge companies;
- (2) bus companies;
- (3) express companies;
- (4) light, heat, or power companies;
- (5) pipeline companies;
- (6) railroad companies;
- (7) railroad car companies;
- (8) sleeping car companies;
- (9) street railway companies;
- (10) telephone, telegraph, or cable companies;
- (11) tunnel companies; and
- (12) water distribution companies.



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(c) The following persons are not subject to taxation under this chapter:

- (1) Aviation companies.
- (2) Broadcasting companies.
- (3) Television companies.
- (4) Water transportation companies.
- (5) Companies which are operated by a municipality or a municipal corporation, except those utility companies owned or held in trust by a first class city.



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(6) A taxpayer that:

(A) is described in subsection (b);

(B) owns definite situs property that is located in only one  
(1) taxing district; and

(1) files a personal property tax return for the definite situs property with the county assessor or (if applicable) the township assessor.

A taxpayer that meets the requirements of clauses (A) and (B) may elect to file a personal property tax return for the definite situs property with the county assessor or (if applicable) the township assessor, instead of filing a return for the definite situs property under this chapter.



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(7) A taxpayer that:

(A) is participating in a net metering program under 170 IAC 4-4.2 or in a feed-in-tariff program offered by a company described in subsection (b)(4); and

(B) files a personal property tax return for the property with the county assessor or (if applicable) the township assessor.

- Note: These companies may be in more than one taxing district.



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- If the item is land, a building that houses employees rather than only equipment, or a building improvement, it is locally assessed real property, with the exception of Railroad companies' operating improvements (and portable equipment sheds).
- The remaining property is considered to be distributable property.
- Some items or units of property may have dual uses. A portion may be used to produce or provide utility service, while the remainder is specifically attributable to a building or structure.



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- To determine whether a central system is locally assessed real property or distributable property, the following standards apply:
  - The portion of the central system that is specifically attributable to the building or structure is locally assessed real property.
  - The portion of the central system that was installed to specifically accommodate the utility process or activity conducted in the facility is distributable property.
  - What used to be locally assessed personal property (if any) now has become a part of the distributable property.



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- Cell towers are now part of state distributable, but a microwave tower is generally local personal property and should be reported on a Form 103.
- Assessment information on towers can be found on page 7 of Chapter 9 of the 2011 (sic 2012) Real Property Assessment Guidelines. Towers were assessed as Locally Assessed Personal Property, reported by the utility in the taxing unit where located. The value used to report it is the Federal Tax Cost.
- Although identified as Locally Assessed Personal Property, these towers are now reported with their distributable property report to the Department if they were formerly reported on a Form 1 as owned by a utility company. Other towers not owned by a utility are still Locally Assessed Personal Property.



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- If the central system has a dual purpose, an allocation is made based on the specific facts and circumstances surrounding the use of the system.
- For example, the allocation of a central system would be a plumbing system that was installed both to serve the occupants of a building and also to supply water to cool an item of distributable property. In this case, an allocation is made to account for the portion of the central system that is locally assessed real property, and the portion of the central system that is attributable to the distributable property. The Department would need to confer with the taxpayer in this type situation to determine what the split would be based on percentage.



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- **Non-railcar utilities (including railroads UD-32):**
- Each year, the Department updates forms based on legislative or processing changes.
- Make sure the most up to date changes are on the website and updating the Pipeline Values per Mile and The Wisconsin Blue Chip study for Railroads.
- One year to amend for distribution or reasons other than obsolescence codified.
- One year to provide actual return after omitted is placed in file.



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- Capped penalties for omitted or late filing at \$1000 (which equates to 10 days late under the old code provision which was \$100 per day late or until the Department filed the omitted value).
- Capping penalties alleviates setting a standard date for placing omitted orders in the file and allows flexibility while still giving the taxpayer relief from potentially harmful penalties for failure to file or late filing.



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- **April 1:** UD-45 and UD-32 without extensions due to the Department.
- **May 1:** for UD-45 and UD-32 with extensions— very rarely will the Department will extend past May 1, but only in the most extraordinary of circumstances.
- **June 1:** All returns reviewed including abnormal obsolescence, values set, and mailed to taxpayers (**10 days to appeal to the Department from receipt – 45 days to appeal to IBTR**).
- **June 15:** Send values to counties electronically— Late filers received or corrections made after this date will require a redistribution to the affected counties.



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- Appeals to IBTR will be handled on a case by case basis. The Department has none pending currently.
- **June 30:** Final orders must be mailed to taxpayer after review of any accounts appealed to the Department.
- **July 1:** Railcar returns RC-1 due to the Department.
- **September 1:** All returns reviewed including mileage discrepancies and entered into the database, all tentative assessments mailed to taxpayers.



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- **By mid-October-Early November** prepare Excel export for DOR and for billing taxpayers – create and mail taxpayers and email Excel export to DOR.
- Process omitted – search for nonfilers for both nonrailcar and railcar – send info to counties for nonrailcar, send information to DOR, process bills for railcar and send to AG’s office for penalties for both. Late filers and omissions require redistribution to the counties for nonrailcar.
- Tax bills are due to DOR by December 31.
- The Department has until the following year - October 1 to correct any errors found in distribution to the counties.



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- Companies report historical or original cost of their property including intangibles.
  - The intangibles and any locally assessed property are removed from the assessment.
  - The property is then subject to federal tax depreciation.
- Gross additions deduction
  - 60 percent of the taxable value of the property.
  - The first year distributable equipment is placed in service.
- Construction work in process is added to the assessment at 10 percent of the depreciated value.
- It is not Market Value, but it makes the administration easier based on the Department's Indiana Code and Administrative Code.



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## 50 IAC 5.1-11-1 Definitions

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

Affected: IC 6-1.1-8-26

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

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

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

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



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- (2) "Normal obsolescence" means the anticipated or expected reduction in the value of property that can be foreseen by a reasonable, prudent businessperson when property is acquired and placed into service. In general, it includes the:
- (A) expected, declining value through use;
  - (B) gradual decline in value because of expected technological improvements;
  - (C) gradual deterioration or obsolescence through the mere passage of time; and
  - (D) general assumption that such property will have a minimum value at the end of its useful life. Normal obsolescence is considered through the use of historical cost, short useful life, and accelerated federal tax depreciation in computing true tax value.
- (3) "Obsolescence" means the reduction in value of property that occurs through use, technological improvements, passage of time, changes in market values, and physical deterioration or destruction.

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



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- Obsolescence: defined under IC 6-1.1-8-26 , 50 IAC 5.1-6-11, and 50 IAC 5.1-11 – Abnormal obsolescence.
- Most obsolescence claims are on telecoms, gas and electric companies.
- Most REMCs are compared against investor owned utilities in a special annual study by Indiana Statewide Association of REMCs.
- On railroads. (Wisconsin Blue Chip Method)
- And the occasional pipeline company that has non-operating property.



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- Due to the size, complexity and intricacy of the calculations and appraisals that are reviewed in short period of time, the Department gives fair consideration.
- Some cases have spanned a number of years for appeals.
- The company must qualify and quantify their obsolescence under the Department's definition and to the Department's satisfaction.
- If mutual agreement cannot be made, the Department's assessment is final. Company can appeal through Indiana Board of Tax Review.
- Final step for resolution is the Tax Court.



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

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

**Affected: IC 6-1.1-8**

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

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

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



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

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

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

**Affected: IC 6-1.1-8-26**

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



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- With the exception of obsolescence the property is subject to the 30 percent floor value.
- They are taxed at the same tax rate as any other business personal property.
- Studies are done by LSA each year looking at exempting business personal property – Legislation passed in 2015 allows counties to exempt property with a value under \$20,000 including telecom property assessed by the Department (but excluding IURC regulated utilities).



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- Exempt: Municipal and governmental properties.
- P.I.L.O.T. (Payments in Lieu of Taxes) – such as IMPA.
- Some companies file under local code.
- Taxes figured based on Department methods (using the UD-45) and then AV reported directly to the taxing jurisdictions or county but these will never be on the state distribution because they are NOT state assessed.
- (The City of Indianapolis files P.I.L.O.T. under IC 36-3-2)



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- The Department emails .txt files and Excel files for Distributable utilities.
- There is a separate file for Railroads since the format is not the same.
- The Department also mails a copy of the Equalized Distributable Report so you can easily identify any large changes or missing taxpayers.
- The Department emails to the county assessor and the county auditor, but can add any person in your office you assign – **email the person's email address to Julie or Marlo. The Department's email addresses are on the contact page.**



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- Julie Waddell [jwaddell@dlgf.IN.gov](mailto:jwaddell@dlgf.IN.gov) handles the parcel number updates you provide in the backend of the database. Annually, the Department will send a list of the parcels to the counties for their review/corrections, around the end of January/beginning of February. Please note: The Department will not correct parcel numbers during the tax season.
- The Department does not see the parcel numbers in the front end – where we do our work inputting the assessments, nor can the Department look up taxpayers by parcel number.
- Before the Department receives your parcel number, the Department has to create a unique identifier for each allocation using the 5 digit taxing district number followed by the taxpayer 4 digit account number assigned by us – so if there is a new allocation you may see one of these numbers.



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## IC 6-1.1-8-27

Sec. 27. (a) On or before June 15 of each year, the department of local government finance shall:

- certify to the county assessor and the county auditor of each county the distributable property assessed values that the department tentatively determines are distributable to the taxing districts of the county. If a public utility has appealed the department of local government finance's assessment of the company's distributable property, the department shall notify the county auditor of the appeal.
- The county auditor may use the tentative assessed values received under this subsection in preparation of the certified statement required under IC 6-1.1-17-1. The county auditor shall designate these values as tentative assessment values in the certified statement.



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- (b) The county assessor shall review the department of local government finance's certification under subsection (a) to determine if any of a public utility company's property which has a definite situs in the county has been omitted. The county auditor shall enter for taxation the assessed valuation of a public utility company's distributable property which the department distributes to a taxing district of the county. (Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.78; P.L.256-2003, SEC.2; P.L.111-2014, SEC.18. P.L.148-2015, SEC.3.



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- Great deference is given to local control, so if your county does it differently, as the Department believes some do, as long as the main goal of getting the values on the tax rolls is accomplished the Department defers to your judgment.
- Per IC 6-1.1-8-27, however, it is the auditor's job to place the values on the roll and the assessor's job to let the Department know if you believe there are missing taxpayers.
- Missing taxpayers may be late or what the Department calls omitted filers. Omitted filers are those who fail to file and the Department ends up having to put an assessment on for them.



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- If a company does not file, and information has not been received that they have been sold or are out of business, a letter is sent to the company requesting information. Usually the Department attempts at least 2 contacts and often more, including email and telephone calls as well as mailing letters.
- No response = the Department prepares the filing for them.
- This is applicable to all utilities, including railcar companies. (IC 6-1.1-8-22)
- Unfortunately, there is no easy way to set a value on a company that has no filing history – the Department typically marks up the last year by 10 percent (multiply by 1.1.)



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- Railcars: What are they and why should I care?
- IC 6-1.1-8-2 Definitions
- Sec. 2. As used in this chapter: (10) The term "railroad car company" means a company (other than a railroad company) which owns or operates cars for the transportation of property on railroads.
- IC 6-1.1-8-35
- Indefinite-situs distributable property of railroad car companies; distributable property of certain railroads; computation of tax; disposition of tax proceeds.



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- Railroad car companies (railcar companies) are state assessed but are NOT distributable. They are indefinite situs property taxes.
- They pay their tax to the Indiana Department of Revenue.
- The funds are deposited in the state treasury for credit to the commuter rail service fund established by IC 8-3-1.5-20.5 to be used as provided in IC 8-3-1.5-20.5(c), amounts collected under this section from a railroad company are deposited in the state treasury for credit to the electric rail service fund established by IC 8-3-1.5-20.6.



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- Statutory due date is July 1 (IC 6-1.1-8-19(a)(2)), alleviating the requirement for most extensions, unless extraordinary circumstances.
- In reviewing these, the mileage is critical. First, the Department must go through each return and compare it with the reports from the railroads on reported mileage and collect all reported miles per the railroads by car mark – the 4 letter identifier that we use to allocate miles. The Department has one mark that splits the mileage by percentage between four owners each year. If the Department has a discrepancy, the Department will take the higher of the two reported values (usually the RR report, but occasionally that may be from the taxpayer).
- One calendar year to provide documentation on original filing to replace omitted.



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- Mileage comparison and allocation is important because the Department identifies non-filers through unallocated miles and the mileage allocation affects the allocation factor and thus the maintenance credit factoring.
- A mistake on one taxpayer can mean having to rework all taxpayers with a maintenance credit claim.
- Out of 384 taxpayers, 159 claimed the maintenance credit.



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- **Chicago SouthShore and South Bend:**
- This company files a UD-32 as a railroad but is billed as a railcar company with a special rate which is the average of the rates for the taxing districts through which their track runs.
- All other railcar companies are billed on a statewide average tax rate.



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- The end of every year is generally spent cleaning up, dealing with problems, reviewing legislation impact and implementation for changes, boxing files to go to the warehouse, preparing the databases and work space for the new year's filing and making sure forms are up to date.
- 2017 for non-railcar utilities, there were 2,052 tax districts with distributable AV, and the total AV was \$14,176,728,680.
- 2018 for non-railcar utilities, there were 2,052 taxing districts with distributable AV, and the total AV was \$14,751,637,040.
- 2018 tax collected for the state commuter rail fund from railcar companies was \$13,145,800 from \$634,198,160 in AV.



# Contact Us

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