



Department of Local Government Finance

Airports, Aviation, and Indiana Property Tax

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Airports, Aviation and Indiana Property Tax

- I. Overview—The Legal Landscape
- II. Legislative Changes
- III. Assessment Practices
- IV. Airport Exemptions
- V. Associated Property Issues
- VI. Questions



Overview-The Legal Landscape

- Big Picture: Airports and Aviation involve many layers of different law from international to federal, to state and local.
- In this presentation, we focus only on Indiana property tax, which is almost exclusively all state law.



Legislative Changes

Legislative Changes:

- During the 2022 General Session, the General Assembly repealed an older Department of Local Government Finance rule regarding the assessment of airport property because it contained references to regulatory entities no longer in existence. Senate Enrolled Act 382 repealed 50 IAC 1-3-2, a rule more than 30 years old. All statutes regulating property tax and airports remained unchanged.



Assessment Practices

Assessment Practices

- Airports are Municipal Property & Airport Zones are Municipal Corporations
- Ind. Constitution, Article 10, Section 1 (a) allows the General Assembly to exempt certain property from tax, including municipal property. The General Assembly specifically designated airport authorities as municipal corporations in Ind. Code § 36-1-2-10.



Assessment Practices

- Further, the Indiana Supreme Court held that a district in which an airport authority is established is a municipal corporation. *Bailey v. Evansville-Vanderburgh County Airport Authority District*, 240 Ind. 401 (1960).
- These concepts are important because they also relate to exemptions.



Exemption Issues

Exemption Issues

- Property Owned by Either Municipalities or Private Owners May be Exempt if Used for a Municipal Airport Purpose
- The property owned by a political subdivision or municipal corporation, if used for a municipal purpose, is exempt from property tax. (See Ind. Code § 6-1.1-10-4 and Ind. Code § 6-1.1-10-5.) Additionally, the legislature specifically granted an exemption when the property is used by the public as an airport for a municipal purpose, regardless of whether the airport or maintenance facility is owned and operated by the municipality. Ind. Code § 6-1.1-10-15



Exemption Issues

- The owner may be a private person or entity. To qualify for an exemption, the owner must have a current and valid public airport certificate granted by the Indiana Department of Transportation to operate an airport. The exemption extends only to the land necessary to and reasonably used for public airport purposes. On the other hand, not all property owned or associated with an airport is exempt.



Exemption Issues

- If a property is not used for a municipal purpose, it is not exempt. (See Ind. Code § 6-1.1-10-15)
- “The owner of any airport . . . who holds a valid and current public airport certificate issued by INDOT, may claim an exemption for only so much of the land as is reasonably necessary to and used for public airport purposes.” (See Ind. Code § 8-21-1-10 et. seq.)
- Indiana Code provides for various iterations and configurations of airport ownership and structure. (See Ind. Code § 8-22-2 et. seq.)



Exemption Issues

- Form 136 Property Tax Exemption Applications: (See Ind. Code § 6-1.1-11-4 and Ind. Code § 6-1.1-11-9)
- Municipal owners (cities and towns) do not file a Form 136 exemption application. Private owners of airports must file a Form 136 exemption application.



Exemption Issues

- Additional Resources:
- The Indiana Board of Tax Review has issued several cases over the years, interpreting, and applying airport exemption statutes. Please see:
 - Montgomery v. Boone County PTABOA (2009) (Private owner and operator)
 - Steinle v. Newton County (Private owner and operator)
 - Lake County Trust Company v. Lake County
 - Davidson v. Jefferson County PTABOA (Private owner and operator)



Associated Property Issues

- Airport Associated Property
- When a property is directly used for a purpose that supports public aviation, the property is exempt. (See Ind. Code § 6-1.1-10-15) Examples listed in the statute include:
 - (1) Runways, lighting, access roads, car and aircraft parking areas, and all buildings associated with basic facilities for the traveling public
 - (2) Leased property used for agricultural purposes located within the area that federal law and FAA regulations restricts to aviation activities.
 - (3) Airport/aviation easements



Associated Property Issues

- (4) Safety areas such as those regulated to prohibit tall structures and concerning safe use of navigable airspace (14 CFR Part 77)
- (5) Land bought with FAA or INDOT funds
- (6) Real property and improvements for shelter, storage, and care of aircraft and hangars
- (7) Housing for weather and signaling equipment, navigational aids, radios, and other aviation related equipment.



Associated Property Issues

Additionally, Ind. Code § 8-22-2-12 is instructive. It provides that:

(a) The acquisition, establishment, construction, improvement, equipment, maintenance, control, and operation of municipal airports and landing fields for aircraft under this chapter is considered to be a governmental function of general public necessity and benefit and is for the use and general welfare of all the people of Indiana, including the people residing in the eligible entity.



Associated Property Issues

(b) . . . the leasehold estate of any lessee created pursuant to a lease by the board of aviation related property . . . together with any permanent structure constructed by the lessee on the property is exempt from property tax.



Hypotheticals for Discussion— Exempt Property or Not?

- Airport hangars are rented to private owners. The airport is open for use by the public.
- A company rents land from the airport to support its business of flying goods into the city.
- An airport grants an easement to the state for a road. Is the area of the easement exempt from property tax?



Hypotheticals for Discussion— Exempt or Not?

- The owner of a private airport uses it only for corporate clients who pay for its use.
- The owner of a private airport uses part of the property for his business, unrelated to aviation.



Questions



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