



Department of Local Government Finance

Aviation Assessments

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Aviation Assessments

- Legislative Changes
- Assessment Practices
- Exemption Issues
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Legislative Changes

- During the 2022 General Session, the General Assembly repealed an older Department of Local Government Finance (the “Department”) rule regarding the assessment of airport property because it contained references to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 Senate Enrolled Act 382 repealed 50 IAC 1-3-2 a rule more than 30 years old.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

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).



Assessment Practices

Airport facilities:

- Cargo facilities
 - Maintenance and service buildings
 - Passenger terminals, ground floor
 - Passenger terminals, upper floor
 - Hangars
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- General Commercial Mercantile (GCM) hotel/motel service.
 - GCM general office.
 - General Commercial Industrial (GCI) warehouse.
 - GCI small shop.
 - GCI hangar general office.



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

- Thus, 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 (“INDOT”) 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 public airport purpose, it is not exempt under 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 also 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

- 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* (2007) (A determination on whether the subject property qualifies as reasonably necessary to and used for public airport purposes).
 - *Lake County Trust Company v. Lake County* (2023)(A determination on whether a restaurant qualifies as reasonably necessary to and used for public airport purposes).
 - *Davidson v. Jefferson County PTABOA* (2006)(Private owner and operator).



Exemption Issues

- *Montgomery v. Boone County PTABOA* (2009) (Private owner and operator).
- The issue was whether the managers' residence located on airport property qualifies for exemption under Indiana Code § 8-22-3-28.
- The Petitioners contend that the managers' residence is eligible for exemption because it is an improvement on land leased from an airport authority. In addition, the Petitioners argue, the residence serves an aviation-related purpose, because it is necessary to fulfill the Petitioners' contractual obligations to the airport authority. The airport manager testified that he must be on the premises 24 hours a day, seven days a week, to provide security and service.



Exemption Issues

- The Respondent contends the residence is not exempt because the Petitioners have a personal mortgage in their name on the residence.
- Indiana Code §8-22-3-28(b), however, does not address financing in its provisions. It simply requires that property or improvements be leased from an airport authority.
- The Board found in favor of the Petitioners and determined the managers' residence to be 100% exempt.



Exemption Issues

- *Steinle v. Newton County* (2009) (Private owner and operator)
- The Petitioner contends the airport is eligible for exemption pursuant to Ind. Code § 6-1.1-10-15 because it is licensed as a public-use airport by the Indiana Department of Transportation's (INDOT) Office of Aviation.
- Privately owned, public-use airports make up a third of the public-use airports in the state and are vital to the air transportation system.
- The tax exemption is an incentive to those individuals who offer their private property for the good of the public.
- The Respondent contends that it denied the exemption for the Petitioner's property because it is not for "public use."



Exemption Issues

- The Respondent contends that the public did not have a beneficial right to use Petitioner's property, and that the property was used only for the benefit of private owners.
- The language of Ind. Code § 6-1.1-10-15, however, does not distinguish between for-profit and not-for-profit entities. Therefore, a property owner's for-profit status does not disqualify its property from receiving an exemption. Rather, it is the manner in which the Petitioner uses the property which is relevant.
- The Board found in favor of the Petitioner and determined it to be 100% tax exempt.



Exemption Issues

- *Lake County Trust Company v. Lake County* (2007) (A determination on whether the subject property qualifies as reasonably necessary to and used for public airport purposes).
- Pursuant to Ind. Code § 6-1.1-15-3, Paul Goldsmith, sole beneficiary and owner of the Lake County Trust Company – Trust #2493 d/b/a Griffith-Merrillville Airport (Griffith-Merrillville Airport) filed an Application for Property Tax Exemption. The Lake County Property Tax Assessment Board of Appeals (the PTABOA) issued its determination, exempting 86% of the land and improvements and finding 14% of the land and improvements to be taxable.



Exemption Issues

- The Petitioner contends that the only portion of the property subject to taxation is 1,300 square feet of a 33,920 square foot building, which is used by an insurance company. According to the Petitioner, this represents 3.8% of the 14% currently shown by the local officials as taxable.
- The Petitioner argued that land used for the shelter, storage, or care of aircrafts, including hangars, is entitled to an exemption. Ind. Code § 6-1.1-10-15(c)(3). The Petitioner contended that Ind. Code § 8-22-1-4.5 further defines aviation related property or facilities as “those properties or facilities that are utilized by a lessee, or a lessee’s assigns, who provide services or accommodations.” Those services include, but are not limited to, fixed based operations, general aviation or military users, and aviation maintenance and repair facilities.



Exemption Issues

- The Respondent contended that Ind. Code § 6-1.1-1-15(c) does not exempt all things aviation related.
- According to the Respondent, the PTABOA denied the Petitioner's exemption request because the building at issue was not used for public airport purposes, but rather for other commercial and manufacturing purposes.
- Finally, the Respondent argued that G & N Aircraft ("G&N") (the company leasing the remaining 32,620 square feet) fails to meet the criteria set forth in Ind. Code § 6-1.1-10-15, as land that is "reasonably necessary to and used for public airport purposes."



Exemption Issues

- Here, the record reflects that the Griffith – Merrillville Airport is a public use airport with a current and valid certification from the Indiana Department of Transportation as described in Ind. Code § 6-1.1-10-15(a). The parties agree that 86% of the entire property is exempt. The dispute centers on a 33,920 square foot building currently leased to and occupied by an insurance company and G&N which represents 14% of the property.
- The Petitioner established a prima facie case that the land and improvements occupied by G&N qualified for exemption. The Respondent failed to rebut the Petitioner's evidence. The Board, therefore, found in favor of the Petitioner and held that the subject property is 99.9947% exempt.



Exemption Issues

- *Indiana Land Trust Company v. Lake County* (2023) (A determination on whether a restaurant qualifies as reasonably necessary to and used for public airport purposes).
- In March 2019, Indiana Land Trust Company #2483 ("Trust Company") applied for a 100% exemption under Ind. Code § 6-1.1-10-15 for its real and personal property located at 1750 East Main Street, in Griffith. Trust Company uses the property to operate the Griffith-Merrillville Airport. The Lake County Property Tax Assessment Board of Appeals ("PTABOA") issued a Form 120 determination finding that the land was 100% exempt and that the improvements were 99% exempt and 1 % taxable.



Exemption Issues

- The Petitioner contends that the restaurant (2,027 square feet) in the terminal qualifies because it provides basic facilities for the travelling public and was not used solely for purposes unrelated to aviation.
- The Assessor argued the restaurant does not meet the FAA' s definition of a fixed base operator, and the services it provided were not "related" to "aviation" within the dictionary definitions of those terms.
- The IBTR found that the restaurant space qualifies as land "reasonably necessary to and used for public airport purposes" because it is a building that provides "basic facilities to the travelling public."
- The IBTR further stated other airports also have restaurants in their terminals, which indicates that restaurants are widely viewed as basic facilities for travelers.



Exemption Issues

- The Assessor also argued that the Trust Company failed to prove that the restaurant space was predominantly used for an exempt purpose because it did not offer any evidence breaking down the percentage of its customers who came from the airport compared to the percentage of customers who were members of the public.
- Because the airport exemption statute is in the same chapter (Ind. Code § 6-1.1-10) as the predominant-use test and requires property to be used for a stated purpose ("public airport purposes"), the predominant-use test generally applies to the exemption that Trust Company seeks.
- The IBTR found that the property is predominantly used as an airport, and the Trust Company satisfied the predominant-use test.



Exemption Issues

- *Davidson v. Jefferson County PTABOA* (2006) (Private owner and operator)
- The issue was if all of the subject property was reasonably necessary to and used for public airport purposes qualifying it for 100% property tax exemption?
- The Petitioner contended the property (land and improvements) is exempt from property taxation based on Ind. Code § 6-1.1-10-15.
- The Respondent contended that only the portion of the property actually used for airport purposes at the time of the exemption application is entitled to property tax exemption. The Respondent contended that the remaining portion of the property is not entitled to exemption because it was either not necessary to the daily operation of the airport or because it was not in actual use at the time of the application.



Exemption Issues

- The specific facts established by the evidence presented were critical to the outcome in this case.
- The Petitioner made a prima facie case to support its exemption claim for all the property except a 17-acre forest area and a dwelling and 1-acre homesite on Section B of the property in question. The Respondent failed to rebut the Petitioner's case. The Board found in favor of the Petitioners.



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 exemption from property tax.



Questions



Aviation Assessments

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