



## Handling Public Buildings

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# The Lawyerly Disclaimer

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- This presentation and other Department of Local Government Finance materials are not a substitute for the law! This is not legal advice, just an informative presentation. The Indiana Code always governs.
- Most importantly, if you're not sure about something, ask first! The Department will do its best to answer your questions. If the Department can't help, it will either refer you to the right agency or to your county attorney. Don't rely on rumors or third party information.



# The Legal Basis for Exemptions

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- Article 10, Section 1 of the Indiana Constitution permits the Legislature to exempt certain classes of property from property taxation.
- IC 6-1.1-10 contains most of the exemptions available, but exemptions may be found throughout the Code.
- Exemption procedures are found in IC 6-1.1-11. The procedures include application requirements, deadlines, et cetera.



# Exemptions are NOT Deductions!

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- Property eligible for an exemption is not taxable (100% or less depending on the use of the property).
- Property eligible for a deduction simply receives a reduction in the assessed value of the property for taxation purposes.
- Hence,
  - There is no homestead exemption!
  - There is no over 65 exemption!



## Is Every Public Building Exempt from Taxation?

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- No
- Use and occupancy may determine if a publically owned building is exempt from taxation.
- The statutes are your guideposts.



# United States Property

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- The property of the United States (and its agencies and instrumentalities) is exempt from property taxation to the extent that this state is prohibited by law from taxing it.
- However, any interest in tangible property held by the United States must be assessed and taxed to the extent the state is not prohibited from taxing it by the Constitution of the United States.  
(IC 6-1.1-10-1)



# State Property

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- Except as otherwise provided by law, the property owned by this state, a state agency, or the bureau of motor vehicles commission is exempt from property taxation. IC 6-1.1-10-2
- State Fairgrounds:
  - The fairgrounds and property of the commission are exempt from the following:
    - (1) State taxes.
    - (2) Local taxes.
    - (3) License fees.
    - (4) Special assessments.

IC 15-13-4-4



## Political Subdivision and Municipal Property

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- Except as otherwise provided by law, the property owned by a political subdivision of this state is exempt from property taxation. IC 6-1.1-10-4
- “Political subdivision” means municipal corporation or special taxing district. IC 36-1-2-13.



# Political Subdivision Property

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- “Municipal corporation” means unit, school corporation, library district, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, or other separate local governmental entity that may sue and be sued. The term does not include special taxing district.



# City or Town Property

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- Property is exempt from property taxation if it is owned by a city or town and is used to provide a municipal service.
- Property used to provide a municipal service includes:
  - (1) a public school or library;
  - (2) a municipally owned park, golf course, playground, swimming pool, hospital, waterworks, electric utility, gas or heating plant, sewage treatment or disposal plant, cemetery, auditorium, or gymnasium; and
  - (3) any other municipally owned property, utility, or institution.

IC 6-1.1-10-5



# Assessment of Exempt Property

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- All property otherwise subject to assessment under this article shall be assessed in the usual manner, whether or not it is exempt from taxation.
- However, no assessment shall be made of property which is owned by the government of the United States, this state, an agency of this state, or a political subdivision of this state if the property is used, and in the case of real property occupied, by the owner.

IC 6-1.1-11-9



# Change in Ownership

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- A change in the ownership of exempt property will not necessarily result in a loss of exemption if the property continues to meet the exemption requirements under IC 6-1.1-10-16, IC 6-1.1-10-21, or IC 6-1.1-10-24.

IC 6-1.1-11-4



# Change in Ownership

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- Starting January 1, 2016, if an exemption is validly in place on the assessment date, it will remain in place for that assessment date even if the property's use or ownership changes following the assessment date. (IC 6-1.1-11-1.5, as introduced by SEA 420-2014)
- Through 2015, state law requires the exemption to be removed for an assessment date when the property's use or ownership changed following that assessment date in such a way that it no longer qualifies for an exemption. If the property remains eligible for an exemption following the change in use or ownership, the exemption can be left in place. (IC 6-1.1-11-4)



# Change in Ownership

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- In all cases, the person that obtained the exemption or the current owner of the property shall notify the county assessor for the county where the tangible property is located of the change in ownership or use in the year that the change occurs. This is via the Form 136-CO/U.
- Starting in 2016, because IC 6-1.1-11-1.5 requires the exemption to be left in place for an assessment date despite a change in use or ownership following the assessment date, the 136-CO/U will be more about helping the assessor know whether or not to pull the exemption in the original owner's name for the following assessment date. The new owner would have to apply for the exemption in its own name for the following assessment date.



# Leases and Contracts

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IC 6-1.1-10-37

In general:

- If real property that is exempt from taxation is leased to another whose property is not exempt and the leasing of the real property does not make it taxable, the leasehold estate and the appurtenances to the leasehold estate shall be assessed and taxed as if they were real property owned by the lessee or his assignee.
- If personal property that is exempt from taxation is leased to another whose property is not exempt and the leasing of the personal property does not make it taxable, the leased personal property shall be assessed and taxed as if it were personal property owned by the lessee or his assignee.



# Leases and Contracts

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- The lessor of exempt State or political subdivision property leased to an entity other than a nonprofit entity, governmental entity, or an individual who leases a dwelling unit in a public housing project, specified nursing facility, assisted living facility, or an affordable housing development must notify the county assessor of the county in which the real property is located in writing of:
  - (1) the existence of the lease;
  - (2) the term of that lease; and
  - (3) the name and address of the lessee.
- Each county assessor must annually notify the Department of Local Government Finance in writing of this information.  
IC 6-1.1-11-3.8



# Leases and Contracts

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If exempt State or political subdivision real or personal property:

(1) is being purchased under a contract of sale by another person:

(A) whose real or personal property is not exempt from taxation; and

(B) who is not engaged in an exempt purpose with the real or personal property; and

(2) the contract of sale does not make the real or personal property taxable;

the real or personal property shall be assessed and taxed as if the real or personal property were owned by the purchaser or the purchaser's assignee.

IC 6-1.1-10-41



# Leases and Contracts

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With regard to property leased to the **Bureau of Motor Vehicles** (“BMV”) or BMV Commission on assessment dates occurring in 2010 through 2016, a taxpayer who leases real property to the BMV or the BMV Commission as of an applicable assessment date and filed or refiled after January 15, 2010 and before January 25, 2010 a exemption application (and the real property previously received an exemption for an assessment date prior to the applicable assessment date), the taxpayer is entitled to an exemption for each applicable assessment date for all property leased to the BMV or BMV Commission. The taxpayer is NOT required to pay property taxes, penalties, or interest with respect to the exempt property. IC 6-1.1-11-4.5



# Leases and Contracts

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- IC 20-47-2-21

Property owned by a lessor corporation entering into a lease with a school corporation or corporations and all stock and other securities (including the interest or dividends) issued by a lessor corporation are exempt from all state, county, and other taxes, except the financial institutions tax (IC 6-5.5).

- IC 20-47-3-15

School buildings leased by a lessor corporation entering into a lease with a school corporation or corporations are exempt from all state, county, and other taxes. However, the rental payments to a lessor corporation under the terms of such a lease are subject to all applicable taxes under Indiana law.

- IC 8-1.5-2-31

All waterworks facilities leased by a lessor contracting with a municipality are exempt from all state, county, and other taxes. However, the rental paid to a lessor under the terms of such a lease is subject to all applicable taxes.



# Leases and Contracts

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- IC 36-1-10-18

Structures, transportation projects, and systems leased by a lessor contracting with the political subdivision or agency under IC 36-1-10 are exempt from all state, county, and other taxes. However, the rental paid to a lessor under the terms of a lease is subject to taxation.

- IC 36-9-30-31

A solid waste disposal facility leased by a lessor corporation to a unit under IC 36-9-30 is exempt from all state, county, and other taxes, including all sales and use taxes applicable to tangible personal property incorporated or to be incorporated in the facility. However, the rental paid to a lessor corporation under the terms of such a lease is subject to all applicable taxes.



# Leases and Contracts

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- IC 21-31-4-3
- With regard to the board of trustees of the following state educational institutions:
  - (1) Ball State University;
  - (2) Indiana University;
  - (3) Indiana State University;
  - (4) Purdue University; and
  - (5) University of Southern Indiana,a state educational institution is exempt from all property taxes on any real estate leased under IC 21-31-4.
- The lessee of real estate leased under IC 21-31-4 is liable for property taxes on the leased real estate as if the real estate were owned by the lessee in fee simple, unless the lessee is a student living in facilities owned by the state educational institution.



## Change in Ownership: Non-exempt to Exempt

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For an assessment date in 2011 or later, if:

- Real property is not exempt on January 1.
- Title is transferred before December 31.
- The new owner applies for an exemption for the next assessment date and the PTABOA determines the new owner qualifies for the exemption.
- For the non-exempt assessment date any deductions and related tax cap credits should be applied to the property such that the exempt entity will benefit. IC 6-1.1-12-46



# Specific Exemptions

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- Libraries (IC 6-1.1-10-19)
- Tangible property is exempt from property taxation if it is:
  - (1) owned by a corporation which has established a public library under Indiana law; and
  - (2) used exclusively for public library purposes.



# Specific Exemptions

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## Airports

### IC 6-1.1-10-15

- The acquisition and improvement of land for use by the public as an airport and the maintenance of commercial passenger aircraft is a municipal purpose regardless of whether the airport or maintenance facility is owned or operated by a municipality. The owner of any airport located in this state, who holds a valid and current public airport certificate issued by the Indiana department of transportation, may claim an exemption for only so much of the land as is reasonably necessary to and used for public airport purposes.
- “Land used for public airport purposes” includes the following:
  - (1) That part of airport land used for the taking off or landing of aircraft, taxiways, runway and taxiway lighting, access roads, auto and aircraft parking areas, and all buildings providing basic facilities for the traveling public.



# Specific Exemptions

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IC 6-1.1-10-15 cont'd

- (2) Real property owned by the airport owner and used directly for airport operation and maintenance purposes, including the following property:
  - (A) Leased property that is used for agricultural purposes and is located within an area restricted to purposes considered compatible with normal airport operations by federal law and FAA regulations.
  - (B) Runway protection zones.
  - (C) Avigation easements.
  - (D) Safety and transition areas, as specified in IC 8-21-10 concerning the regulation of tall structures and 14 CFR Part 77 concerning the safe, efficient use and preservation of the navigable airspace.
  - (E) Land purchased using funds that include grant money provided by the Federal Aviation Administration or the Indiana Department of Transportation.
- (3) Real property used in providing for the shelter, storage, or care of aircraft, including hangars.
- (4) Housing for weather and signaling equipment, navigational aids, radios, or other electronic equipment.
  - The term does not include land areas used solely for purposes unrelated to aviation.



# Specific Exemptions

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## Airports

- With regard to property, facilities, or permanent structures leased by the board of an airport authority established for a county containing a consolidated city (Marion County), any property, facilities, or permanent structures subject to a lease entered into or renewed after July 1, 1995, is not entitled to a property tax exemption if the property, facility, or structure is not used for aviation related purposes. IC 8-22-3-28
- Airport facilities owned by the Department of Transportation are exempt from taxation. IC 8-21-9-31



# Specific Exemptions

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## Ports

- The ports of Indiana shall not be required to pay any taxes or assessments upon any port or project or any property acquired or used by the ports of Indiana. A lessee's leasehold estate in land that is part of a port and that is owned by the State or the ports of Indiana is exempt from property taxation. However, an exemption is not available for land not located at a port. IC 8-10-1-27



# Specific Exemptions

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## Marion County Parking Facilities

- All property of every kind, including air rights, acquired for off-street parking purposes, and all its funds and receipts, are exempt from taxation for all purposes. When any real property is acquired by a consolidated city, the county auditor shall, upon certification of that fact by the board, cancel all taxes then a lien. The certificate of the board must specifically describe the real property, including air rights, and the purpose for which acquired.
- A lessee of the city may not be assessed any tax upon any land, air rights, or improvements leased from the city, but the separate leasehold interest has the same status as leases on taxable real property, notwithstanding any other law. Whenever the city sells any such property to anyone for private use, the property becomes liable for all taxes after that, as other property is so liable and is assessed, and the board shall report all such sales to the assessor who shall cause the property to be upon the proper tax records.
- IC 36-9-11.1-11



# Specific Exemptions

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## Bridges

- A bridge, including the tangible property appurtenant to it, is exempt from property taxation if:
  - (1) the bridge is constructed:
    - (A) entirely within this state and across a navigable stream; or
    - (B) across a stream forming a boundary of this state;
  - (2) the bridge is owned by a state or a political subdivision of a state; and
  - (3) the bridge:
    - (A) is (except as provided in subsection (b) of this section) operated free of tolls; or
    - (B) was authorized or consented to by an act of Congress.
- This exemption may not be denied because tolls are charged if the tolls are levied:
  - (1) to establish a sinking fund for the cost, including interest and other financing charges, of the bridge and its approaches; or
  - (2) to provide for the proper maintenance, repair, and operation of the bridge and its approaches.
- IC 6-1.1-10-3



# Specific Exemptions

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## Urban Homesteading Property

- Real property held under IC 36-7-17 or IC 36-7-17.1 and that is conveyed by contract with retention of the deed by the city is deemed to be the property of the city held for municipal purposes and is exempt from property taxation.
- IC 6-1.1-10-5.5



# Specific Exemptions

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## Municipally owned water company property

- Property which is owned by a domestic corporation of this state is exempt from property taxation if:
  - (1) the corporation owns a water system or waterworks;
  - (2) the corporation is, pursuant to a contract, supplying its entire output of water at wholesale rates to a city or town of this state; and
  - (3) the city or town which receives the water owns at least 95% of the corporation's capital stock.
- IC 6-1.1-10-6



# Specific Exemptions

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## War Monuments

- IC 10-18-1-36: All property of every nature and kind constituting a memorial or used in connection with a memorial is exempt from taxation for all purposes.
- IC 10-18-2-22: All property that is:
  - (1) part of a county world war memorial;
  - (2) part of a joint county and city world war memorial;
  - (3) used in connection with a world war memorial; or
  - (4) acquired by a county or jointly by a county and a city located in the county for any purpose authorized by this chapter; is exempt from taxation for all purposes.
- IC 10-18-3-12: If a city desires to erect or establish a memorial and the common council of the city:
  - (1) adopts a resolution declaring the desire;
  - (2) pledges the city to proceed promptly to erect the memorial in or near the city; and
  - (3) files a certified copy of the resolution with the board of county commissioners before the board has made an order granting a petition for a county memorial;

the taxable property of the city is exempt from taxation for the erection, establishment, management, maintenance, repair, improvement, and extension of a county memorial. However, if the city, within one year from the date of the order, has not in good faith begun the erection or establishment of a memorial that costs as much or more than the amount that would be derived from taxation of the taxable property of the city for the erection or establishment of the county memorial, then the exemption fails, and the property of the city shall be taxed for the county memorial in the same manner as other property of the county is taxed.



# Specific Exemptions

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- IC 10-18-4-21: All property:
  - (1) constituting a city World War memorial;
  - (2) constituting a joint county and city World War memorial; or
  - (3) used or acquired in connection with a city or a joint county and city World War memorial;for any purpose authorized by this chapter is exempt from taxation for all purposes.
- IC 10-18-7-9: The stock and property of a soldier's memorial corporation is nontaxable.
- IC 4-20.5-19-7: Regarding the transfer of state property for a national monument, a memorial, a property, a building, or a ceded appurtenance is exempt from all state, county, township, and other taxes, but is not exempt from the payment of special assessments.
- IC 23-7-7-3: Battlegrounds or other historic sites acquired for the purpose of maintaining or improving them for historical purposes is exempt from taxation.



# Specific Exemptions

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- Hospital Facilities

Hospital Bonding Authorities (IC 5-1-4-26): Such authority shall not be required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by such authority.

County Hospital Building Authority (IC 16-22-6-34): Property owned by the authority is exempt from taxation.

- Water Supply District (IC 14-33-20-27): Water property and facilities of the district are exempt from taxation by the state.
- Toll Roads (IC 8-15-2-12): The toll road authority shall not be required to pay any taxes or assessments upon any toll road project or any property acquired or used by the authority or upon the income therefrom.



# Specific Exemptions

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- Educational Entities

State Educational Facilities (IC 21-34-8-3): All property acquired under the authority of and used for the purposes provided for under IC 21-34 is exempt.

State Educational Facilities, Construction and Operation of Fieldhouses, Gymnasiums, Student Unions, and Halls of Music (IC 21-35-2-19): All property acquired under the authority of and used for the purposes provided for under IC 21-35 is exempt.

State Educational Facilities, Certain Support Facilities and Research Facilities (IC 21-35-3-20): All property acquired under authority of IC 21-35-3 and used as a support facility or a research facility is exempt from taxation.



# Specific Exemptions

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- Certain Boards, Commissions, Authorities, and Municipal Corporations

## Redevelopment Authority (IC 36-7-14-37):

Real property acquired by the redevelopment district is exempt from taxation while owned by the district.

## Redevelopment Areas in Marion County (IC 36-7-15.1-25):

Real property acquired by a redevelopment district is exempt from taxation while owned by the district. When real property is acquired by the redevelopment district during the period from assessment on January 1 of year one to the last day of February of year two, the taxes due in year two shall be prorated between the seller and the city. When the proration is made, the auditor shall remove the city's prorated share from the tax duplicate by auditor's correction.

## Urban Mass Transportation Systems (IC 36-9-4-52):

Property acquired by a municipality or public transportation corporation under IC 36-9-4 is exempt from property taxes.



# Specific Exemptions

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- Certain Boards, Commissions, Authorities, and Municipal Corporations

## County Building Authority (IC 36-9-13-36):

All the property and revenues of a county building authority are exempt from taxation for all purposes.

## County Capital Improvement Board (IC 36-10-8-18):

All property owned or used and all income and revenues received by the board are exempt from special assessments and taxation in Indiana for all purposes.

## Marion County Capital Improvement Board (IC 36-10-9-18):

All property owned or used and all income and revenues received by the board are exempt from special assessments and taxation in Indiana for all purposes.



# Exemption Application

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- IC 6-1.1-11-4
- The exemption application ordinarily required under IC 6-1.1-11-3 is not required if:
  - the exempt property is owned by the United States, the State, an agency of the State, or a political subdivision only when the property is used, and in the case of real property occupied, by the owner;
  - the exempt property is a cemetery described by IC 6-1.1-2-7 or maintained by a township executive under IC 23-14-68; or
  - the exempt property is owned by the BMV commission established under IC 9-14-9.



# Thank you!

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