
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Assessing Officials & Property Tax Boards of Appeal
FROM: Wesley R. Bennett, Commissioner
RE: Legislation Affecting Exemptions
DATE: June 18, 2021

Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law.

I. Improvement Exemptions

On April 19, 2021, Governor Holcomb signed into law Senate Enrolled Act 214-2021 (“SEA 214”). Section 2 of SEA 214, effective January 1, 2022, amends Ind. Code § 6-1.1-10-16.7, which currently outlines the eligibility for an exemption from property taxation for improvements on real property that were constructed, rehabilitated, or acquired for the purposes of providing low-income housing. Section 2 of SEA 214 removes specific references to qualifications for the exemption for assessments that occurred prior to January 1, 2018, and assessments that occurred after December 31, 2017. It also adds the following three (3) new statutes in which the owner of the property can enter into an agreement to make payments in lieu of property taxes: Ind. Code § 36-1-8-14.3, Ind. Code § 36-2-6-23, or Ind. Code § 36-3-2-12 (See Sections 3, 4, and 5 of SEA 214 below). Section 2 of SEA 214 applies to assessment dates after December 31, 2021.

Sections 3, 4, and 5 of SEA 214 each outline the same requirements and procedures for a property owner and a local unit of government to enter into an agreement for a property owner to make payments in lieu of taxes for real property subject to an exemption under Ind. Code § 6-1.1-10-16.7. Each section adds a new statute to the Indiana Code and each statute addresses agreements entered into by one of the following local units of government:

- (1) A city, town, or county (other than Indianapolis/Marion County)¹;
- (2) A county (Other than Marion County)²; or
- (3) Indianapolis/Marion County³.

Sections 3, 4, and 5 of SEA 214 are all effective January 1, 2022, and apply to assessment dates after December 31, 2021.

¹ Ind. Code § 36-1-8-14.3(j).

² Ind. Code § 36-2-6-23(d).

³ Ind. Code § 36-3-2-12(d).

Sections 3, 4, and 5 of SEA 214 each use the acronym “PILOTS” to reference payments in lieu of taxes. All three (3) sections state that the legislative or governing body of the local unit of government may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property subject to an exemption under Ind. Code § 6-1.1-10-16.7. Each section provides requirements for the calculation of the PILOTS amount, which must be:

- (1) agreed upon by the property owner and the local unit of government;
- (2) a percentage of the taxes that would have been levied by the legislative or governing body of the local unit of government; and
- (3) not more than the taxes that would have been levied by the legislative or governing body of the local unit of government if the property were not subject to an exemption from property taxation.

Each section differs in how the PILOTS collected by the local units of government are deposited or distributed.

Section 3 of SEA 214 adds Ind. Code § 36-1-8-14.3, which applies to cities, towns, or counties (other than Indianapolis/Marion County). PILOTS collected under this statute shall be deposited in the unit’s affordable housing fund established under Ind. Code § 5-20-5-15.5 and used for any purpose for which the affordable housing fund may be used.

Section 4 of SEA 214 adds Ind. Code § 36-2-6-23, which applies to counties (other than Marion County). PILOTS collected under this statute shall be distributed in the same manner as if they were property taxes being distributed to taxing units in the county. Ind. Code § 36-2-6-23 serves as an additional option for counties.

Section 5 of SEA 214 adds Ind. Code § 36-3-2-12, which applies to Indianapolis/Marion County. PILOTS collected under this statute shall be deposited in the housing trust fund established under Ind. Code § 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

II. Industrial Waste Control Facility Exemptions

On April 22, 2021, Governor Holcomb signed into law Senate Enrolled Act 271-2021 (“SEA 271”). Section 1 of SEA 271, effective July 1, 2021, amends Ind. Code § 6-1.1-10-10, which currently provides the filing requirements for an owner of an industrial waste control facility who wishes to seek an exemption to property taxes as provided in Ind. Code § 6-1.1-10-9.

Indiana Code § 6-1.1-10-10 requires an owner to file an exemption claim along with the owner’s annual personal property return. Section 1 of SEA 271 requires the owner to also provide a written statement attesting that the property claimed as exempt meets the requirements for the exemption under Ind. Code § 6-1.1-10-9. This statement must be filed along with the owner’s exemption claim and annual personal property return.

Section 1 of SEA 271 removes all references and filing requirements relating to the Indiana Department of Environmental Management (“IDEM”). Section 1 of SEA 271 removes the requirement for the owner to forward a copy of the exemption claim to IDEM. It also removes IDEM’s ability to investigate any claim and determine if the property is being utilized as an industrial waste control facility. With the removal of IDEM’s ability to perform such functions, Section 1 of SEA 271 adds that the township assessor (if any) or county assessor are now the entities that can investigate such claims and determine if the property is being utilized as an industrial waste control facility. It provides that the assessor may require additional documentation from the property owner to support the exemption claim.

Section 1 of SEA 271 also removes language from Ind. Code § 6-1.1-10-10 which required the assessor to allow the total exemption claimed by the owner if IDEM failed to certify a determination to the assessor within 120 days after the owner mailed the claim to IDEM. Beginning July 1, 2021, Ind. Code § 6-1.1-10-10 will be as follows:

IC 6-1.1-10-10

Industrial waste control facilities; claiming exemptions; investigations; determinations of department

Sec. 10. (a) The owner of an industrial waste control facility who wishes to obtain the exemption provided in section 9 of this chapter shall file an exemption claim along with the owner's annual personal property return. The claim shall describe and state the assessed value of the property for which an exemption is claimed.

(b) The owner must:

(1) provide a written statement attesting that the property claimed as exempt meets the requirements for the exemption under section 9 of this chapter; and

(2) file the statement along with the owner’s exemption claim and annual personal property return.

(c) The township assessor (if any) or county assessor may investigate any claim and determine if the property for which the exemption is claimed is being utilized as an industrial waste control facility. The assessor may require additional documents from the property owner to support the property owner’s exemption claim.

(d) A determination under subsection (c) concerning an exemption claim remains in effect:

(1) as long as the owner owns the property and uses the property as an industrial waste control facility; or

(2) for five (5) years;

whichever is less. In addition, during the five (5) years after the determination, the owner of the property must notify the assessor in writing if any of the property on which the department's determination was based is disposed of or removed from service as an industrial waste control facility.

(e) The assessor may revoke a determination made under subsection (c) if the assessor finds that the property is not predominantly used as an industrial waste control facility.

(f) The township or county assessor shall allow or deny in whole or in part each exemption claim.

(g) The assessor shall reduce the assessed value of the owner's personal property for the year for which an exemption is claimed by the amount of exemption allowed.

While a majority of the form will remain the same after SEA 271 goes into effect, the Department will be incorporating any necessary revisions to Form 103-P.

III. Business Personal Property Exemption

On April 29, 2021, Governor Holcomb signed into law Senate Enrolled Act 336-2021 (“SEA 336”). Section 1 of SEA 336, effective January 1, 2022, amends Ind. Code § 6-1.1-3-7.2 by increasing the acquisition cost of a taxpayer’s total business personal property in a county from \$40,000 to \$80,000 for purposes of receiving a business personal property tax exemption.

IV. Religious Use Exemption

On April 29, 2021, Governor Holcomb signed into law House Enrolled Act 1353-2021 (“HEA 1353”). Section 2 of HEA 1353, effective July 1, 2021, amends Ind. Code § 6-1.1-10-21, which currently provides the property tax exemption for tangible property owned by, or held in trust for the use of, a church or religious society. Section 2 of HEA 1353 requires that for property transactions that occur after December 31, 2021, the Sales Disclosure Form shall include an attestation that property transferred under Ind. Code § 6-1.1-10-21(e) will continue to be used by a church or religious society for the same tax-exempt purpose. As with the recent modifications to the Sales Disclosure Form, any revisions to the form must be accompanied by an administrative rule action revising 50 IAC 26. The Department will work to initiate this administrative rule as soon as possible to accommodate the new field requirement under HEA 1353.

Additionally, Section 2 of HEA 1353 allows a county assessor to request articles of incorporation or bylaws to affirm the attestation if the county assessor reasonably suspects that the property transferred is no longer being used by a church or religious society for the same tax-exempt purpose. The county assessor’s request for the articles of incorporation or bylaws must be in writing and include a written explanation describing why the assessor believes that the property transferred is no longer being used by the church or religious society for the same tax-exempt purpose.

With the requirement of the attestation outlined above on the Sales Disclosure Form, Section 2 of HEA 1353 provides that when property owned by a church or religious society is transferred to another church or religious society to be used for the same tax-exempt purpose as provided by Ind. Code § 6-1.1-10-21, the transferee church or religious society is not required to file a certified exemption application with the county assessor of the county in which the property that is the subject of the exemption is located. If the property remains eligible for the exemption under Ind. Code § 6-1.1-10-21 after the transfer, the exempt status of the property carries over to the transferee church or religious society.

Beginning July 1, 2021, Ind. Code § 6-1.1-10-21 will be as follows:

IC 6-1.1-10-21

Churches or religious societies

Sec. 21. (a) The following tangible property is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society:

- (1) A building that is used for religious worship.
- (2) The pews and furniture contained within a building that is used for religious worship.
- (3) The tract of land upon which a building that is used for religious worship is situated.

(b) The following tangible property is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society:

- (1) A building that is used as a parsonage.
- (2) The tract of land, not exceeding fifteen (15) acres, upon which a building that is used as a parsonage is situated.

(c) To obtain an exemption for parsonages, a church or religious society must provide the county assessor with an affidavit at the time the church or religious society applies for the exemptions. The affidavit must state that:

- (1) all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and
- (2) none of the parsonages are being used to make a profit.

The affidavit shall be signed under oath by the church's or religious society's head rabbi, priest, preacher, minister, or pastor.

(d) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

(e) This subsection applies to transactions occurring after December 31, 2021. The sales disclosure form required under IC 6-1.1-5.5-5 shall include an attestation that property transferred under this subsection will continue to be used by a church or religious society for the same tax-exempt purpose. A county assessor that reasonably suspects that the property transferred is no longer being used by a church or religious society for the same tax-exempt purpose may request articles of incorporation or bylaws to confirm the attestation. The request for articles of incorporation or bylaws to confirm the attestation must:

- (1) be made in writing; and
- (2) include a written explanation of the assessor's reasonable suspicion describing why the assessor believes that the property transferred is no longer being used by the church or religious society for the same tax-exempt purpose.

Notwithstanding IC 6-1.1-11-4(e), when exempt property owned by a church or religious society, as described in subsection (a), is transferred to another church or religious society to be used for the same exempt purpose, the transferee church or religious society is not required to file a certified exemption application with the county assessor of the county in which the property that is the subject of the exemption is located. If the property remains eligible for the

exemption under this section after the transfer, the exempt status of the property carries over to the transferee church or religious society.

Contact Information

Questions may be directed to Kelly Elliott, Deputy General Counsel, at (317) 233-9219 or KElliott@dlgf.in.gov.