

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: County Assessors and County Auditors

FROM: Timothy J. Rushenberg, Commissioner

TJR 7/20/09

RE: Exemptions

DATE: July 20, 2009

## Purpose

The purpose of this memorandum is to inform county assessors and county auditors of the non-Code provisions and changes to the Indiana Code with respect to property tax exemptions passed by the Indiana legislature during the 2009 special session.

## Effect of Amendments to IC 6-1.1-11-4

### Application No Longer Required

An application for exemption is no longer required every two years if the exempt property is tangible property owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes as described in IC 6-1.1-10. The property must continue to meet the requirements for an exemption under IC 6-1.1-10-16 or IC 6-1.1-10-21, and an application must have been properly filed at least once in accordance with these statutes.

### Change in Property Ownership or Use

An exemption on property is still valid after a change in ownership if the property continues to meet the requirements for an exemption under IC 6-1.1-10-16 or IC 6-1.1-10-21. However, if title to the property changes or the property is used for a non-exempt purpose, the person who obtained the exemption, or the current owner, must notify the county assessor in the year that the change occurs. The Department of Local Government Finance will prescribe how the owner must notify the county assessor. More information about how the owners should make the notification will be sent in August.

The county assessor can suspend an exemption if the county assessor discovers the title to the property has changed and the county assessor has not received an affidavit identifying the new owners and indicating that the property continues to meet the requirements of the exemption. To suspend the exemption, the county assessor must notify the person entitled to the tax bill of the change in title that an affidavit, signed under penalties of perjury, is required. When an affidavit is presented, the county assessor must reinstate the exemption for each year that the property met or continues to meet the requirements.

## **Untimely or Incomplete Exemption Applications**

**[\$479]**

### Applicability

This section applies to exemptions under IC 6-1.1-10-16 for assessment dates after March 1, 2000 and before March 1, 2010, and entities that did not timely file an application for the exemption, or filed on time, but failed to include the proper information for the County Property Tax Assessment Board Of Appeals (PTABOA) to determine eligibility. This section expires January 1, 2010.

### Procedures

An entity for which this section applies may file or re-file an exemption application before September 1, 2009. The application must be filed with the county assessor, who will then forward the application to the PTABOA for review. The PTABOA must grant an exemption claimed under this provision if the requirements of the provision are met and the entity would have qualified for an exemption otherwise. Taxpayers attempting to receive an exemption under this provision are entitled to the same rights for appeal as they would otherwise be entitled to under IC 6-1.1-11-7 and IC 6-1.1-15-3. During the PTABOA review, the county may not attempt to collect unpaid taxes for the year(s) covered by the application(s) or attempt to sell the property at a tax sale.

If the exemption is granted, any unpaid tax and interest is cancelled, and if the entity is due a refund, no refund claim is required. Additionally, the county auditor must issue the refund from the county general fund. No interest is due to the taxpayer on the refund amount. If the taxpayer has an unpaid liability after PTABOA grants an exemption, the taxpayer has 30 days after receiving a revised tax bill to pay the taxes due. However, no interest or a penalty may be imposed on this tax liability.

## **Marion County Provisions**

**[\$478 and §480]**

### Applicability

Section 478 applies only to an entity that is (a) a nonprofit religiously affiliated school that has been in existence for more than forty-five (45) years in Marion County, (b) that received a gift of real property and improvements that, for the assessment date in 2005, was exempt from property taxes under IC 6-1.1-10, (c) that failed to timely file an application for exemption for the property for the assessment date in 2006, (d) that for the assessment dates in 2006, 2007, and 2008 the property owned by the entity would have been eligible for exemption if the entity had timely filed the application, (e) and the entity's property was subject to taxation.

Section 480 applies only to a church (and to land) that meets all of the following conditions: (a) the church owns real property and improvements in Marion County that was exempt from property tax for the assessment dates in 2007 and 2008, (b) the church purchased land located adjacent to the real property after the 2007 assessment date but before the final tax statements for taxes first due and payable in 2007 were mailed, (c) the church failed to timely file an application for property tax exemption for the land purchased after the 2007 assessment date but filed in 2008 an exemption application that will first apply to the 2009

assessment date, and (d) for the assessment date in 2008 the land owned by the church would have been eligible for exemption from property taxes if the church had timely filed the application and the church's property will be subject to taxation.

If you have additional questions, please contact Staff Attorney, Cathy Wolter at [cwolter@dlgf.in.gov](mailto:cwolter@dlgf.in.gov) or Assessment Director, Barry Wood at [bwood@dlgf.in.gov](mailto:bwood@dlgf.in.gov).

## Text of Legislation

(The words in **bold** in the statutes indicate new language added to the Code and the effective dates of the particular sections. The strike-through indicates deletions from the Indiana Code.)

### Text of IC-1.1-11-4

HEA 1001-2009(ss) Section 107 [Effective upon passage] amended IC 6-1.1-11-4 as follows:

(a) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the United States, the state, an agency of this state, or a political subdivision (as defined in IC 36-1-2-13). However, this subsection applies only when the property is used, and in the case of real property occupied, by the owner.

(b) The exemption application referred to in section 3 of this chapter is not required if the exempt property is a cemetery:

(1) described by IC 6-1.1-2-7; or

(2) maintained by a township executive under IC 23-14-68.

(c) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the bureau of motor vehicles commission established under IC 9-15-1.

(d) The exemption application referred to in section 3 **or 3.5** of this chapter is not required if:

(1) the exempt property is:

(A) tangible property used for religious purposes described in IC 6-1.1-10-21; ~~or~~

(B) tangible property owned by a church or religious society used for educational purposes described in IC 6-1.1-10-16; ~~and or~~

**(C) other tangible property owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes described in IC 6-1.1-10-16;**

(2) the exemption application referred to in section 3 **or 3.5** of this chapter was filed properly at least once ~~after the property was designated for a religious use as described in~~ **under IC 6-1.1-10-21** or an educational, **literary, scientific, religious, or charitable** use ~~as described in~~ **under IC 6-1.1-10-16; and**

**(3) the property continues to meet the requirements for an exemption under IC 6-1.1-10-16 or IC 6-1.1-10-21.**

**A change in ownership of property does not terminate an exemption of the property if after the change in ownership the property continues to meet the requirements for an exemption under IC 6-1.1-10-16 or IC 6-1.1-10-21.** However, if title to any of the real property subject to the exemption changes or any of the tangible property subject to the exemption is used for a nonexempt purpose after the date of the last properly filed exemption application, ~~this subsection does not apply.~~ **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 the year that the change occurs. The notice must be in the form prescribed by the department of local government finance. If the county assessor discovers that title to property granted an exemption described in IC 6-1.1-10-16 or IC 6-1.1-10-21 has changed, the county assessor shall notify the persons entitled to a tax statement under IC 6-1.1-22-8.1 for the property of the change in title and indicate that the county auditor will suspend the exemption for the property until the persons provide the county assessor with an affidavit, signed under penalties of perjury, that identifies the new owners of the property and indicates that the property continues to meet the requirements for an exemption under IC 6-1.1-10-21 or IC 6-1.1-10-16. Upon receipt of the affidavit, the county assessor shall reinstate the exemption for the years for which the exemption was suspended and each year thereafter that the property continues to meet the requirements for an exemption under IC 6-1.1-10-21 or IC 6-1.1-10-16.

**SECTION 479. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies to:**

**(1) an entity that failed, for an assessment date after March 1, 2000, to:**

**(A) file a timely application under IC 6-1.1-11 for an exemption under IC 6-1.1-10-16; or**

**(B) accompany a timely filed application for an exemption under IC 6-1.1-10-16 with sufficient information for the county property tax assessment board of appeals to determine whether the applicant was eligible for an exemption under IC 6-1.1-10-16, as specified on a response from the county assessor or property tax assessment board of appeals; and**

**(2) any part of the entity's property that would have qualified for an exemption under IC 6-1.1-10-16 as property owned, occupied, and predominately used for a charitable purpose, if the omissions described in subdivision (1) had not occurred.**

**(b) Notwithstanding IC 6-1.1-11 or any other law, an entity described in subsection (a) may, before September 1, 2009, file or refile with the county assessor an application for a property tax exemption under IC 6-1.1-10-16 for an assessment date occurring after March 1, 2000, and before March 1, 2010.**

**(c) Notwithstanding IC 6-1.1-11 or any other law, an application for a property tax exemption that is filed under subsection (b) is considered to be timely filed for the assessment date for which it is filed, and the county assessor shall forward the application to the county property tax assessment board of appeals for review or reconsideration. The board shall grant an exemption claimed under this SECTION for the assessment date covered by the application if, after reviewing all of the information submitted by the applicant, the board determines that:**

**(1) the entity's application for a property tax exemption satisfies the requirements of this SECTION; and**

**(2) except for the omissions described in subsection (a), part or all of the entity's property would otherwise have qualified for an exemption under IC 6-1.1-10-16 for the assessment date covered by the application.**

**IC 6-1.1-11-7 and IC 6-1.1-15-3 apply to a determination under this SECTION.**

**(d) Notwithstanding IC 6-1.1-22-9 or any other law, if an exemption application is filed or refiled under this SECTION and an exemption under IC 6-1.1-10 had been granted for the property for property taxes first due and payable for any year after 1999, any unpaid taxes**

**imposed on property and for a year covered by an exemption application are not due until thirty (30) days after the date the applicant's eligibility for the exemption under this SECTION is finally adjudicated and determined and a revised tax statement under IC 6-1.1-22-8.1 that reflects the final**

determination concerning the exemption application is delivered to the owner. During the pendency of the proceedings concerning an exemption application under this SECTION, no action under IC 6-1.1-24 or another law may be taken to collect the unpaid taxes for a year covered by the exemption application, including any action to sell the property at a tax sale. If an entity is granted an exemption or a partial exemption under this SECTION, any unpaid property tax liability, including interest, for the entity's property shall be canceled by the county auditor and the county treasurer to the extent of the exemption, and, notwithstanding IC 6-1.1-26-1, if the entity has previously paid the tax liability for property with respect to the assessment date covered by the application, the county auditor shall issue a refund of the property tax paid by the entity to the extent of the exemption. No interest or penalty shall be imposed on any tax liability remaining after the application of the exemption for any period before the taxes are due as provided in this subsection. An entity is not required to apply for any refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the entity payable from the county general fund for the amount of the refund, if any, due the entity. No interest is payable on the refund.

(e) This SECTION expires January 1, 2010.

SECTION 478. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies only to an entity and to property that meet all of the following conditions:

(1) The entity is a nonprofit religious affiliated school that has been in existence for more than forty-five (45) years in a county containing a consolidated city.

(2) The entity received a gift of real property and improvements that for the assessment date in 2005 was exempt from property taxes under IC 6-1.1-10.

(3) The entity failed to file a timely application under IC 6-1.1-11 for property tax exemption for the property for the assessment date in 2006.

(4) For the assessment dates in 2006, 2007, and 2008:

(A) property owned by the entity would have been eligible for exemption from property taxes if the entity had timely filed an application under IC 6-1.1-11 for property tax exemption for the property; and

(B) the entity's property was subject to taxation.

(b) Notwithstanding IC 6-1.1-11 or any other law specifying the date by which an application or statement for property tax exemption must be filed to claim or continue an exemption for a particular assessment date, an entity described in subsection (a) may before September 1, 2009, file with the county assessor:

(1) an application for property tax exemption for the 2006 assessment date;

(2) a statement to continue the property tax exemption for the 2007 assessment date; and

(3) an application for property tax exemption for the 2008 assessment date.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application or statement for property tax exemption filed under subsection (b) is considered to be timely filed, and the county assessor shall forward the applications and statement to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the assessment dates in 2006, 2007, and 2008 for property tax exemption if the board determines that:

(1) the entity's applications and statement for property tax exemption satisfy the requirements of this SECTION; and

(2) the entity's property was, except for the failure to timely file an application or statement for

property tax exemption, otherwise eligible for the claimed exemption.

If an entity is granted an exemption under this SECTION, any unpaid property tax liability, including interest, for the entity's property shall be canceled by the county treasurer.

(d) If an entity has previously paid the tax liability for property with respect to the 2006, 2007, or 2008 assessment date and the property is granted an exemption under this SECTION for the assessment date, the county auditor shall issue a refund of the property tax paid by the entity. An entity is not required to apply for any refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the entity payable from the county general fund for the amount of the refund, if any, due the entity. No interest is payable on the refund.

(e) This SECTION expires January 1, 2010.

SECTION 480. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies only to a church and to land that meets all of the following conditions:

(1) The church owns real property and improvements located in a county containing a consolidated city that was exempt from property taxation under IC 6-1.1-10 for the assessment dates in 2007 and 2008.

(2) The church purchased land that is located adjacent to the real property described in subdivision (1) after the 2007 assessment date but before the final tax statements for taxes first due and payable in 2007 were mailed.

(3) The church failed to timely file an application under IC 6-1.1-11 for a property tax exemption for the land described in subdivision (2) for the 2008 assessment date but filed in 2008 an exemption application that will first apply to the 2009 assessment date under IC 6-1.1-11.

(4) For the assessment date in 2008:

(A) the land owned by the church would have been eligible for exemption from property taxes if the church had timely filed an application under IC 6-1.1-11 for a property tax exemption for the land; and

(B) the church's property will be subject to assessment and taxation.

(b) Notwithstanding IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for the 2008 assessment date, a church described in subsection (a) may before September 1, 2009, file with the county assessor an application for property tax exemption for the 2008 assessment date.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application for a property tax exemption that is filed under subsection (b) is considered to be timely filed for the 2008 assessment date, and the county assessor shall forward the application to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the 2008

assessment date if the board determines that:

(1) the church's application for property tax exemption satisfies the requirements of this SECTION; and

(2) the church's land was, except for the failure to timely file an application for a property tax exemption, otherwise eligible for the claimed exemption on the 2008 assessment date.

(d) This SECTION expires January 1, 2010.