STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

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TO: **County and Township Assessors and County Auditors**

FROM: **Micah G. Vincent, Commissioner** MGV

RE: **HEA 1374: Taxation of Certain Public Utilities**

DATE: **June 19, 2013**

On May 7, 2013, Governor Mike Pence signed House Enrolled Act 1374 ("HEA 1374") into law. Section 1 amends IC 6-1.1-8-3 to permit the owner of definite situs property or the owner of property participating in a net metering program or a feed-in-tariff program to file a personal property return with the appropriate assessing official. This amendment is effective July 1, 2013. This memorandum addresses this change. Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law.

Specifically, Section 1 amends IC 6-1.1-8-3 so that companies including, but not limited to:

(1) bridge companies;
(2) bus companies;
(3) express companies;
(4) light, heat, or power companies;
(5) pipeline companies;
(6) railroad companies;
(7) railroad car companies;
(8) sleeping car companies;
(9) street railway companies;
(10) telephone, telegraph, or cable companies;
(11) tunnel companies; and
(12) water distribution companies.

that own definite situs property located in only one taxing district and that file a personal property tax return for the definite situs property with the applicable county or township assessor are not subject to taxation under IC 6-1.1-8. Such companies may elect to file a personal property tax return for the definite situs property with the applicable county or township assessor instead of filing a return for the definite situs property with the Department of Local Government Finance.

A taxpayer that is participating in a net metering program under 170 IAC 4-4.2 or in a feed-in-tariff program offered by a light, heat, or power company and that files a personal property tax return for the property with the applicable county or township assessor is also not subject to

taxation under IC 6-1.1-8.

A company might benefit from filing at the state level because federal tax basis (accelerated) can be used on the UD-45 but the depreciation is built in by year to Form 103 itself. Essentially, as the property ages, the excess depreciation would value the property below the 30% floor, which would lower the net liability of newer property more quickly than could happen through Form 103. The taxpayer has the choice of filing either the UD-45 or Form 103.

Please note that solar energy/power is considered a utility. Solar will be filed on a UD-45 or a 103 and is neither exempt nor is it local real property (although it is for individually-owned homes).

If you have any questions, please contact Utility Specialist Keilah Folkertsma at (317) 232-3756 or kfolkertsma@dlgf.in.gov.