
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

TO: Township and County Assessors and Property Tax Assessment Boards of Appeal

FROM: Courtney L. Schaafsma, Commissioner

RE: 2016 Legislative Changes Affecting Property Tax Exemptions

DATE: March 30, 2016

This memorandum addresses various 2016 legislative changes concerning property tax exemptions. Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law.

I. Charges and Fees on Exempt Property

On March 24, 2016, Governor Pence signed into law House Enrolled Act 1180 (“HEA 1180-2016”), which introduces provisions concerning charges, fees, and payments in lieu of taxes (“PILOTs”) for a “qualified property,” meaning property that:

- (1) is located in a tax increment allocation area (or “TIF District”) and:
 - (A) was located in the tax increment allocation area before the designation of the area and the property has been continuously used since the date the area was designated for a tax exempt purpose; or
 - (B) was donated for a tax exempt purpose; and
- (2) is exempt from property taxation.

The changes are effective July 1, 2016.

Specifically, under newly-added IC 36-1-8-18, a political subdivision may not do any of the following after June 30, 2016:

- (1) Impose or otherwise require a PILOT or the payment of any other charge or user fee for or on qualified property.
- (2) Enter into an agreement that does any of the following:
 - (A) Requires a PILOT or the payment of any other charge or user fee for or on qualified property as a condition of:
 - (i) granting, issuing, or approving a building permit, an improvement location permit, a certificate of occupancy, a primary or secondary plat, or any other permit related to the use of qualified property;
 - (ii) granting or approving any zoning variance, special exception, special use, contingent use, or conditional use or any other zoning requirement or permit related to qualified property; or
 - (iii) continuing governmental services to qualified property.

This clause does not prohibit an application fee that is reasonably related to the cost of reviewing or processing the application.

- (B) Requires a person to limit the person's rights to challenge any of the following:
 - (i) The imposition of a PILOT or the payment of any other charge or user fee on qualified property.
 - (ii) The assessment of property taxes imposed on qualified property.

However, this statute does not prohibit the imposing of utility fees or charges, sewer fees or charges, ditch or drainage assessments, storm water fees or charges, or waste collection or disposal fees or charges on qualified property or property that will be used as qualified property.

Upon the request of the owner of qualified property, a political subdivision may do the following:

- (1) Impose or otherwise require a PILOT or the payment of any other charge or user fee for or on the qualified property.
- (2) Enter into an agreement that does any of the following:
 - (A) Requires a PILOT or the payment of any other charge or user fee for or on qualified property as a condition of:
 - (i) granting, issuing, or approving a building permit, an improvement location permit, a certificate of occupancy, a primary or secondary plat, or any other permit related to the use of qualified property;
 - (ii) granting or approving any zoning variance, special exception, special use, contingent use, or conditional use or any other zoning requirement or permit related to qualified property; or
 - (iii) continuing governmental services to qualified property.
 - (B) Requires a person to limit the person's rights to challenge any of the following:
 - (i) The imposition of a payment in lieu of taxes or the payment of any other charge or user fee on qualified property.
 - (ii) The assessment of property taxes imposed on qualified property.

HEA 1180-2016 also amends IC 36-7-4-1314, effective July 1, 2016, so that an impact fee (a monetary charge imposed on new development by a unit to defray or mitigate the capital costs of infrastructure that is required by, necessitated by, or needed to serve the new development) ordinance may not apply to qualified property, and an impact fee may not be imposed on qualified property. However, upon the request of the owner of qualified property, an impact fee may be imposed on the qualified property.

Finally, HEA 1180-2016 adds IC 36-7-25-6.5, effective July 1, 2016, an agreement entered into by a redevelopment commission after June 30, 2016, may not include any of the following:

- (1) A provision requiring a person to:
 - (A) make any PILOT; or
 - (B) pay any other charge or user fee;for or on qualified property.
- (2) A provision requiring a person to limit the person's rights to challenge any of the following:

(A) The imposition of a PILOT or the payment of any other charge or user fee on qualified property.

(B) The assessment of property taxes imposed on qualified property.

However, this statute does not prohibit the imposing of utility fees or charges, sewer fees or charges, ditch or drainage assessments, storm water fees or charges, or waste collection or disposal fees or charges on qualified property.

Upon the request of the owner of qualified property, a redevelopment commission may enter into an agreement described above concerning the qualified property.

II. Homeowners' Association Personal Property

On March 24, 2016, Governor Pence signed into law House Enrolled Act 1273 (“HEA 1273-2016”), which introduces IC 6-1.1-10-37.8, and which is effective retroactive to January 1, 2016. This provision provides that for assessment dates after December 31, 2015, tangible personal property is exempt from property taxation if that tangible personal property:

- (1) is owned by a homeowners association (as defined in IC 32-25.5-2-4); and
- (2) is held by the homeowners association for the use, benefit, or enjoyment of members of the homeowners association.

Again, this exemption will first apply for the 2016 Pay 2017 cycle. Please note that this exemption is automatic and does not require a homeowners association to file an exemption application (Form 136) or a personal property return (Form 103) to claim the exemption. This exemption is not subject to the provisions governing the “de minimis” exemption for personal property with a total acquisition cost of less than \$20,000. Please also remember that 2016 Pay 2017 is the first tax cycle for which the exemption for common areas takes effect. More information about the common are exemption is available at [http://www.in.gov/dlgf/files/pdf/150729 - Schaafsma Memo - Legislative Changes Affecting Property Tax Exemptions.pdf](http://www.in.gov/dlgf/files/pdf/150729_-_Schaafsma_Memo_-_Legislative_Changes_Affecting_Property_Tax_Exemptions.pdf).

III. Property Tax Disclosure Form

HEA 1273-2016 repeals IC 6-1.1-36-18, which was introduced in 2015 and implemented a county-optional “property tax disclosure” that, if adopted by a county, would have required a party to disclose any delinquent taxes when applying for certain benefits, such as property tax deductions or exemptions.

IV. Sunset of and Restriction of Certain Exemptions

On March 24, 2016, Governor Pence signed into law Senate Enrolled Act 309 (“SEA 309-2016”). SEA 309-2016 amends IC 6-1.1-10-16, effective July 1, 2016, so that an exemption granted for a tract of land (or tract of land plus all or part of a structure on the land) acquired for the purpose of erecting, renovating, or improving a single family residential structure that is to be given away or sold in a charitable manner, by a nonprofit organization, and to low income individuals is no longer available beyond the January 1, 2017 assessment date. An existing

exemption under this statute terminates when the property is conveyed by the nonprofit organization to another owner or January 2, 2017, whichever occurs first.

SEA 309-2016 amends IC 6-1.1-10-16.7 to restrict but not eliminate the exemption for improvements on real property that are constructed, rehabilitated, or acquired for the purpose of providing low income housing.

V. Exemption of Certain Airport Property

On March 24, 2016, Governor Pence signed into law Senate Enrolled Act 308 (“SEA 308-2016”), which amends IC 6-1.1-10-15 concerning the exemption of certain authority property. The change is effective July 1, 2016. Specifically, real property owned by the airport owner and used for airport operation and maintenance purposes, which also now includes the following property:

- (A) Leased property that:
 - (i.) is used for agricultural purposes; and
 - (ii.) is located within the area that federal law and regulations of the Federal Aviation Administration restrict to activities and purposes compatible with normal airport operations.
- (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.

Contact Information

Questions may be directed to General Counsel Mike Duffy at (317) 233-9219 or mduffy@dlgf.in.gov.