

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE
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MEMORANDUM

TO: Assessing Officials, County Auditors, County Commissioners, and
County Council Members

FROM: Cheryl A.W. Musgrave, Commissioner *CWM*

DATE: April 14, 2008

SUBJECT: Transfer of Records, Property, Obligations, and Funds to County Assessor

1. The purpose of this memorandum is to inform all assessing officials (i.e., county assessors, elected township assessors, trustee-assessors), county auditors, and other county officials of the requirements of House Enrolled Act (HEA) 1001 to transfer real and personal property, obligations, and funds from all trustee-assessors and elected township assessors on July 1, 2008 (in a township with less than 15,000 real property parcels as of January 1, 2008) or January 1, 2009 (in townships with more than 15,000 real property parcels as of January 1, 2008 and elected township assessor is defeated at the referendum) to the county assessor.

2. Assessing Officials are Required to Assist Each Other and Coordinate their Efforts

HEA 1001, Section 829 requires assessing officials to assist each other and coordinate their efforts to: (1) ensure an orderly transfer of all township assessor and trustee-assessor records to the county assessor; *and* (2) provide for an uninterrupted and professional transition of the property assessment functions from the township assessor or trustee-assessor to the county assessor consistent with the directions of the Department.

3. Transfer of Real and Personal Property, Obligations, Funds, and Revenue to County Assessor

a. *Real and Personal Property.* HEA 1001, Section 834 transfers to the county assessor on **July 1, 2008** (or January 1, 2009 for elected township assessors defeated at the referendum) the real and personal property "*used solely to carry out property assessment duties*" of elected township assessors and the trustee-assessors.

b. *Obligations.* HEA 1001, Section 834 transfers to the county assessor on **July 1, 2008** obligations outstanding on June 30, 2008 (or January 1, 2009 for elected township assessors defeated at the referendum, obligations outstanding on December 31, 2008) "*relating to the assessment of tangible property*" of elected township assessors and trustee-assessors.

c. *Funds*. HEA 1001, Section 834 transfers to the county assessor on **July 1, 2008** (or January 1, 2009 for elected township assessors defeated at the referendum) funds “on hand *for the purpose of carrying out property assessment duties* in the amount determined by the county auditor” of elected township assessors and trustee-assessors.

d. *Revenue Received After the Date of Transfer of Duties*. HEA 1001, Section 834 states that a township served on June 30, 2008, by a township assessor (i.e., elected township assessor or trustee-assessor) whose assessment duties transfer to the county assessor on either July 1, 2008 or January 1, 2009 must transfer to the county assessor “all revenue received after the date of the transfer [July 1, 2008 or January 1, 2009] that is received by the township *for the purpose of carrying out property assessment duties* in the amount determined by the county auditor.”

4. Guidelines for Transfer of Records and Operations to County Assessor

a. *Department to Approve Manner and Timeline for Transfer to County Assessor*. HEA 1001, Section 829 requires each elected township assessor and trustee-assessor to organize their office records *relating to the assessment of tangible (i.e., real and personal) property* in a manner approved by the Department, and transfer the records to the county assessor as directed by the Department. The elected township assessor and trustee-assessor are to complete the transfer of records and operations to the county assessor before the transfer date of assessing duties to the county assessor (July 1, 2008 or January 1, 2009).

b. *Department Grants Counties Discretion on Timeline for Transfer*. The Department hereby directs that the timeline for the delivery of these records and office operations relating to the assessment of real and personal property is at the discretion of local officials, so long as the transfer of such records and office operations is completed on or before **July 1, 2008** (or January 1, 2009 for those elected township assessors defeated at the referendum).

c. *Department Direction on Uninterrupted and Professional Transfer*. In order to ensure the orderly transfer of all assessing records to the county assessor, and to provide for the “uninterrupted and professional transition” of the assessment functions from the elected township assessor (in townships with less than 15,000 real property parcels as of January 1, 2008) and all trustee-assessors to the county assessor on or before **July 1, 2008**, the Department hereby directs the following actions:

(1) On or before **May 15, 2008**, each county assessor must convene a meeting or series of meetings consisting of elected township assessors and all trustee-assessors in their county to create a detailed timeline to complete the transfer of assessing records, operations, real and personal property, outstanding obligations, funds, and revenues (received after the date of transfer) from the elected township assessor and trustee-assessors to the county assessor on or before **July 1, 2008**. It is highly recommended that the county auditor, a county council member, a county commissioner, and the county attorney(s), or a representative of these offices, participate in this meeting, or series of meetings, to ensure the professional and uninterrupted transition of assessing duties from the subject township assessor offices to the county assessor is complete on or before July 1, 2008.

(2) Elected township assessors and all trustee-assessors in the county must immediately catalogue, inventory, and organize all assessing records, real and personal property, outstanding obligations, and funds for delivery to the county assessor on or before **July 1, 2008**. Participation by the county auditor is necessary to determine the amount of funds of the elected township assessor and trustee-assessor “on hand *for the purpose of carrying out property assessment duties*” that is to be transferred to the county assessor on July 1, 2008. Additionally, consultation with the county attorney(s) will be required to determine the manner in which outstanding obligations as of June 30, 2008 of the elected township assessor and trustee-assessor are to be transferred to the county assessor on or before July 1, 2008 without violating any current contracts or lease agreements.

(3) Since HEA 1001, Section 692 allows the county assessor to establish one (1) or more satellite offices in the county, the county assessor must inform the elected township assessor and trustee-assessors, and other necessary county officials, whether the removal of any and all assessing records from their current township location to a different location under the jurisdiction of the county assessor will be required.

(4) Each elected township assessor and trustee-assessor must catalogue each type of assessing record to be transferred to the county assessor on or before **July 1, 2008**. The Department directs each elected township assessor and trustee-assessor to use the attached inventory form, or a more thorough variation of the form, to document each record, real and personal property, outstanding obligation, and fund transferred to the county assessor on or before July 1, 2008. For the real and personal property of the elected township assessor and trustee-assessor subject to be transferred to the county assessor on or before July 1, 2008, the Department also directs photos be taken of each item to prevent allegations of damage, misuse, or theft of county property. Each assessing record, real and personal property, obligation, and fund transferred to the county assessor on or before July 1, 2008 must be thoroughly documented and inventoried to prevent such allegations. Please use the following list as a non-exclusive guide, and the attached inventory list to assist in the transfer of records, real and personal property, outstanding obligations, and funds to the county assessor on or before July 1, 2008:

d. All records, of any type, and related to any function performed for assessment purposes are required to be delivered to the county assessor. In addition to any other type of record used to assess property these records may include, but are not limited to the following:

(1) All assessing records in all formats:

(A) Hardcopy

(i) Current

(ii) historical

(B) Digital

(i) all data of any type stored on computers

- (ii) backup media of current and historical files
- (2) Real Property records, including current appeals
- (3) Personal Property records
- (4) Maps related to assessing
- (5) Photographs related to assessing
- (6) Correspondence related to assessing, including:
 - (A) taxpayer correspondence
 - (B) contracts
- (7) Financial records
 - (A) current and historical cash receipts
 - (B) current and past budgets
 - (C) current and historical obligations such as leases, debt instruments, etc...
- (8) Other records
 - (A) appeal logs
 - (B) township boundary details
 - (i) by tax code
 - (ii) by street address
 - (iii) other
- (9) Personnel records
 - (A) salary information of employees, assessor
 - (B) hire and release dates
 - (C) disciplinary action records

(5) Each elected township assessor and trustee-assessor must also catalogue each type of *non-assessing* record, real and personal property, outstanding obligations, and funds, which are *not* subject to transfer to the county assessor in order to prevent allegations of damage, misuse, or theft of county property. For example, a microwave purchased with employee's own money and brought into the office remains the property of the employee; however, in order to prevent an allegation of theft of county property, the elected township assessor should inventory and account for the property as the employee's property and provide proof or other documentation to the county assessor to prevent any confusion.

(6) Each elected township assessor, trustee-assessor, and county assessor must abide by the records retention schedule of the county, and the confidentiality statute, which are discussed below.

5. Records Retention

a. Public records may be destroyed in accordance with statutory retention schedules, or for records not subject to retention schedules, in the ordinary course of business. Ind. Code §§ 5-14-3-4(e)(1)-(2). Statutes provide for the disposition of public records under the supervision of a state commission on public records ("state commission") or county commission of public records ("county commission"). Ind. Code § 5-15-5.1-1 *et seq.*; Ind. Code § 5-15-6-1 *et seq.*

b. For purposes of the Access to Public Records Act (APRA), a public agency (e.g., county or township) has a duty to protect public records against loss, alteration, destruction, and unauthorized enhanced access. Ind. Code § 5-14-3-2(1); Ind. Code § 5-14-3-7.

c. The county commission was created in each county. Ind. Code § 5-15-6-1. The county commission is required to adopt and implement retention schedules for use by local government officials as part of a records management program for local government public records. Ind. Code § 5-15-6-2(a). All requests to destroy, transfer, or otherwise dispose of records that are not covered by an approved retention schedule are to be submitted to the county commission according to the procedure established in Indiana Code chapter 5-15-6. Ind. Code § 5-15-6-2(b).

d. A public official or other person who recklessly, knowingly, or intentionally destroys or damages any public record commits a Class D felony *unless*:

(1) the county commission must have given its approval in writing that the public records may be destroyed;

(2) the county commission must have entered its approval for destruction of the public records on its own minutes; *or*

(3) authority for destruction of the records is granted by an approved retention schedule established under this chapter. Ind. Code § 5-15-6-8.

6. Confidentiality of Assessing Information Related to Earnings, Profits, Income, etc...

a. HEA 1001, Section 279 amended Indiana Code section 6-1.1-35-9, effective on July 1, 2008, but did not change any substantive requirements pertaining to confidentiality of assessing records.

b. Indiana Code section 6-1.1-35-9 still requires that **all information related to earnings, income, profits, losses, or expenditures** and that is:

(1) given by a person to:

(A) an assessing official (i.e., township assessor, county assessor, PTABOA member);

(B) an employee of an assessing official; *or*

(C) an officer or employee of an entity that contracts with county commissioners or a county assessor under IC 6-1.1-36-12 (i.e., contractor to examine undervalued or omitted property); *or*

(2) acquired by

(A) an assessing official;

(B) an employee of an assessing official; or

(C) an officer or employee of an entity that contracts with a board of county commissioners or a county assessor under IC 6-1.1-36-12 --

-- in the performance of the person's duties is ***confidential***. However, the ***assessed valuation of real and personal property is a matter of public record and is not confidential***. Confidential information may be disclosed only in a manner that is authorized below:

c. Confidential information may be disclosed to:

(1) an official or employee of:

(A) this state or another state;

(B) the United States; or

(C) an agency or subdivision of this state, another state, or the United States --

-- if the information is required in the performance of the official duties of the official or employee; *or*

(2) an officer or employee of an entity that contracts with a board of county commissioners or a county assessor under Indiana Code section 6-1.1-36-12 if the information is required in the performance of the official duties of the officer or employee.

d. The following state agencies, or their authorized representatives, must have access to the confidential farm property records and schedules that are on file in the office of a county assessor:

(1) The Indiana State Board of Animal Health, in order to perform its duties concerning the discovery and eradication of farm animal diseases.

(2) The Purdue University Department of Agricultural, in order to perform its duties concerning the compilation and dissemination of agricultural statistics.

(3) Any other state agency that needs the information in order to perform its duties.

e. Confidential information may be disclosed during the course of a judicial proceeding in which the regularity of an assessment is questioned.

f. Confidential information that is disclosed to an aforementioned government official or employee, or state agency **retains its confidential status**. Thus, that person or state agency may disclose the information only in a manner that is authorized above.

g. Notwithstanding any other provision of law:

(1) a person who:

(A) is an officer or employee of an entity that contracts with a board of county commissioners or a county assessor under Indiana Code section 6-1.1-36-12; **and**

(B) obtains confidential information --

-- may not disclose that confidential information to any other person; **and**

(2) such a person referred to above must return all confidential information to the taxpayer not later than fourteen (14) days after the earlier of:

(A) the completion of the examination of the taxpayer's personal property return under Indiana Code section 6-1.1-36-12; **or**

(B) the termination of the contract.

h. Indiana Code sections 6-1.1-35-11; 6-1.1-35-12; and 6-1.1-37-2 provide penalties for the unauthorized disclosure of confidential information.

7. Confidential Assessing Forms

a. In addition to Indiana Code section 6-1.1-35-9, 50 Indiana Administrative Code (IAC) section 4.2-15-11 addresses confidential property assessment returns.

b. Prescribed Forms 102 [farmer's tangible personal property return], 103 [business tangible personal property], 103-I [return for interstate carriers], 103-N [Information Return of Not Owned Personal Property], 103-O [Information Return of Owned Personal Property], 103-P [Claim for Exemption of Air or Water Pollution Control Facilities], 103-R, 103-T [return for special tools], 103-W [Return of Personal Property in Warehouses, Grain Elevators or Other Storage Places (Claimed to be Exempt from Assessment)], and 106 [Schedule of Adjustments to Business Tangible Personal Property Return](50 IAC 4.2-2-9), together with any schedules or other information attached, are confidential and must not be disclosed to any person unless specifically authorized by law.

c. Because of the serious penalties, it is extremely important that confidential returns be preserved in a locked file or other place of safe keeping, where they cannot fall into unauthorized hands. Also, the returns should not be left unattended at any time when removed from such filing place for use of assessing officials.

8. Please consult with your county officials; particularly, your county attorney about complying with the requirements of HEA 1001 as discussed above. If there are any questions about this memorandum or the attached inventory list, please contact the county's Assessment field representative; or the Assessment Division Director, J. Barry Wood, at (317) 232-3777 or bwood@dlgf.in.gov; or the Department's General Counsel, Timothy J. Rushenberg, at (317) 232-3777 or trushenberg@dlgf.in.gov.

Attachment:

Inventory List form (1 page)

Inventory

I	Furniture & Equipment (*must be used <u>solely</u> to carry out assessing duties)	Serial #	Owned/Leased
	Vehicles		
	Furniture		
	Computers		
	Cameras		
	Other machinery (copier, fax, postage, etc.)		
	Supplies (paper, toner, pens, etc.)		
	Software licenses		
	Cell phone(s)		
II	Office real estate or leases of real estate (*must be used <u>solely</u> to carry out assessment duties)		
	Address	Lessor	Term
III	Office contracts (*must be relating to assessment of real and personal property)		
	Personnel --		
	Equipment --		
	Vehicles --		
	Software --		
	Cell Phone --		
IV	Other Outstanding Obligations (*must be related to assessment of real and personal property)		
	Office Loans --		
V	Funds (*must be for purpose of carrying out assessing duties; county auditor to verify amount)		
	Bank Account --		

<p>_____</p> <p>Elected Township Assessor/Trustee Assessor (typed name)</p> <p>_____</p> <p>(signature)</p> <p>_____</p> <p>Date Signed</p>

<p>_____</p> <p>County Assessor (typed name)</p> <p>_____</p> <p>(signature)</p> <p>_____</p> <p>Date Signed</p>
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