FIVE WAYS PROPERTY OWNERS MAY QUALIFY FOR PROPERTY TAX EXEMPTIONS IN INDIANA

But in every instance, obtaining an exemption requires timely and accurate applications.

By Brent A. Auberry

It is a common misconception in Indiana that property owners must also be non-profit corporations to qualify for a property tax exemption. While tax-exempt status is critical for the application of some exemptions, Indiana law provides for-profit property owners with opportunities to reduce their tax liabilities by claiming exemption.

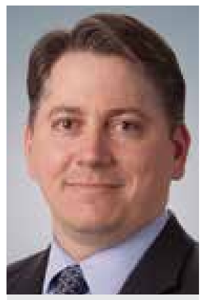
To obtain the exemption, the property owner must show that it uses the property in a manner that qualifies for tax exemption, and the application must clear mandated procedural hurdles.

There are several property uses that may qualify for exemption from property tax liability. Here are five common scenarios:

1. The property is owned, occupied and predominantly used for charitable, educational, religious, literary or scientific purposes — To qualify, the owner must file an exemption application and show that it owns the property to further one of these tax-exempt purposes.

Ownership, occupancy and use need not be unified in one entity, and the statute does not require the owner to be a non-profit.

For example, the tax court in 2014 approved a 100 percent property tax exemption for an office building that a for-profit, limited liability company owned to further the charitable tissue bank operations of its tenant, a related public benefit corporation. The assessor failed to show that the for-profit owner, in fact, had a profit motive for the property.



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Similarly, in a final determination issued that same year, the Indiana Board of Tax Review — the state agency that adjudicates property tax exemption appeals — stated that "involvement of for-profit entities does not preclude a property tax exemption."

In this latter case, a for-profit entity leased a building to another for-profit entity to provide early childhood education.

A year earlier, the tax review board approved the 100 percent exemption of a building owned by an individual and leased to a for-profit, faith-based daycare.

Starting in 2015, the Indiana Legislature explicitly authorized the exemption of property owned by a for-profit provider of certain early childhood education services.

2. The property is leased to a state agency — Property owned by a for-profit entity and leased to an Indiana state agency qualifies for exemption, but the lease must require the state agency to reimburse the property owner for property taxes.

The exemption applies only to the assessed value attributable to the part of the real estate that the agency leases.

3. The property is leased to a political subdivision — Structures leased to political subdivisions, including municipal corporations, are exempt from property tax.

4. The property is leased to a public university — The Indiana Board of Tax Review considered this provision in 2013, applying a 13 percent property tax exemption for the portion of a for-profit commercial property owner's building that was leased to Purdue University for use as classrooms.

5. The property is used as a public airport — To qualify for this measure, the owner of an Indiana airport must hold a valid and current public airport certificate issued by the State Department of Transportation. The law states that the applicant may claim an exemption "for only so much of the land as is reasonably necessary to and used for public airport purposes."

Eligible property includes not only the ground used for taking off and landing of aircraft but also real estate "owned by the airport owner and used directly for airport operation and maintenance purposes" or "used in providing for the shelter, storage, or care of aircraft, including hangars."

The exemption does not apply to areas used solely for purposes unrelated to aviation.

How to apply

What is the process for claiming a tax exemption? Beginning in 2016, applications are due April 1, six weeks earlier than in past years. Indiana's Department of Local Government Finance provides a standard exemption form, Form 136, available on the agency's website at http://www.in.gov/dlgf/8516.htm.

The form can be used to claim both real and personal property tax exemptions. It includes three pages of questions and identifies the information and documents needed to process the request.

The property owner is responsible for explaining why the property is exempt to the assessor and to the county property tax assessment board of appeals, which has the authority to review and approve or reject each application.

Owners may need to provide information beyond what the form requires. For example, assessors often want to review the relevant leases, such as a lease to a state agency or political subdivision. Indiana has 92 counties, and each county has its own procedures for processing applications.

There is no universally reliable test for weighing applications for tax exemption, so each claim stands on its own facts. Whether an owner's property qualifies for the exemption will depend on the statute under which the exemption is claimed and the particular evidence provided to support the claim.

Miss the filing deadline?

Exemptions are not automatically applied each year, but property that has been previously granted an exemption under certain provisions may not require new applications annually, depending on the facts of the case.

If the exemption does not carry forward and the owner fails to properly claim an exemption, it may be waived.

Even if the exemption is waived, however, hope remains. The owner may be able to obtain a legislative solution that permits a retroactive filing for an otherwise untimely application.

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