

## Briefly

### IMA Meeting Calendar

#### Environmental & Safety Conference

Oct. 22, 2002  
IMA Conference Center  
Indianapolis

#### OSHA One-Day Safety & Health Tune-up

Oct. 29, 2002  
Fort Wayne  
Holiday Inn Downtown

#### OSHA One-Day Safety & Health Tune-up

Nov. 20, 2002  
Location to be announced  
Clarksville

#### OSHA 30-Hour Certification Course

Dec. 3, 4 & 5, 2002  
IMA Conference Center  
Indianapolis

#### Employment Law Conference

Dec. 10, 2002  
Location to be announced  
Indianapolis

To register for any IMA conference, contact Kristin Hursh at 800-462-7762 or a khursh@imaweb.com.

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Indiana Manufacturers Association's

# Tax Talk

Indiana's Leading Voice for Industry

September 2002

## New Assessment Procedures for Industrial Facilities

*The following article was contributed by Jeffrey T. Bennett of Bingham McHale, LLP.*

New statutory procedures have recently taken effect which will dramatically change the way very large, complex industrial facilities are assessed throughout the State of Indiana in the future. However, it remains to be seen whether these new statutes will provide a procedure for improving uniformity and equality across all classes of property as required under Indiana law.

Two new chapters have been added to the Indiana Code which represent a radical departure from past assessment practices with respect to large industrial facilities. Indiana Code § 6-1.1-8.5-1 et seq. was added as part of Public Law 151-2001. This chapter became effective as of January 1, 2002, and sets forth procedures for assessing industrial facilities in a "qualifying county," which is defined as a county having a population of more than 400,000 but less than 700,000 people. I.C. 6-1.1-8.5-3. This means that at present, Chapter 8.5 applies to industrial facilities in Lake County, Indiana.

An industrial facility is defined as a company's real property which: (1) has been classified as an industrial facility under the rules of the Department of Local Government Finance ("DLGF"); and (2) has a true tax value, as estimated by the DLGF, of at least \$25 million dollars in a qualifying county. I.C. 6-1.1-8.5-2. The statutory definition expressly excludes real property which is assessed under I.C. 6-1.1-8 (public utility property). Thus, the definition of "industrial facility" is notable not merely for what it includes, but for what it excludes.

First, many complex, large industrial facilities report most of their value as part of their business personal property, not real property. Thus, because the \$25 million dollar threshold value applies only to real property, and not personal property, only the very largest facilities will qualify as "industrial facilities."

Second, even though many utility properties would otherwise qualify as "industrial facilities," these properties are already assessed by the state, and are thus excluded from this definition.

I.C. 6-1.1-8.5-6 provides that before: (1) January 1, 2004; and (2) January 1 of each year that a general reassessment commences, the County Assessor of each qualifying county shall provide the DLGF with a list of each industrial facility located in the qualifying county. Thus, while these new laws governing assessment of industrial facilities in Lake County are in effect today, they are not intended to apply to assessments of such facilities until assessment year 2004 at the earliest.

I.C. 6-1.1-8.5-8 specifies that the DLGF shall assess each industrial facility in a qualifying county. I.C. 6-1.1-8.5-9 provides that the County Assessor of the qualifying county shall provide "support" to the DLGF's assessor during the course of the assessment of the industrial facility. Thus, while the legislation evidences a clear intent to take from certain local assessors the right to assess "industrial facilities," County Assessors are nevertheless expected to assist the state in this process. After the DLGF determines its final assessment of an industrial facility, it must certify the true tax value to the County Assessor and the County Auditor. I.C. 6-1.1-8.5-10(a).

Either the industrial taxpayer or the County Assessor of the qualifying county in which the Industrial Facility is located may appeal that assessment in the same manner as assessment appeals are made under I.C. 6-1.1-15-4. I.C. 6-1.1-8.5-11(a). A hearing must be held on such a petition within one year after the date the appeal is filed. I.C. 6-1.1-8.5-11(b). Finally, under I.C. 6-1.1-8.5-12, the DLGF must adopt rules to provide for "just valuations" of industrial facilities under

(See *ASSESSMENT* on page 2)

# Assessment (Continued from page 1)

Chapter 8.5. To date, no such rules have been adopted.

The use of the phrase "just valuation" is interesting because it implies something broader than merely a "true tax value" assessment. "Just valuation" is the phrase used in Article X, Section 1 of the Indiana Constitution, which requires a uniform and equal rate of assessment and taxation and a "just valuation" for all property, both real and personal. Thus, a phrase such as "just valuation" arguably has more to do with concepts such as equality and uniformity of tax burdens than it has to do with accuracy in applying assessment regulations to a particular industrial facility.

Though it was passed as part of the same general legislative session, and is similar in subject matter to I.C. 6-1.1-8.5, I.C. 6-1.1-8.7-1 et seq. was added by a different act, Public Law 198-2001. The sections in Chapter 8.7 also have a different effective date than those in Chapter 8.5: July 1, 2002.

The definition of "industrial facility" in I.C. 6-1.1-8.7-2 is virtually identical to the definition in Chapter 8.5. However, unlike Chapter 8.5, the new provisions of Chapter 8.7 are not limited to industrial facilities which are located in "qualifying counties" (i.e., Lake County). Rather, Chapter 8.7 appears to be intended to apply to industrial facilities wherever located in the State of Indiana.

I.C. 6-1.1-8.7-3(a) provides that before January 1, 2003, 250 or more owners of real property in a township may petition the DLGF to assess the real property of an industrial facility located in that township with respect to the 2004 assessment date. A similar procedure is available with respect to a year of general reassessment. I.C. 6-1.1-8.7-3(b). An industrial company may, "at any time," petition the DLGF to assess an industrial facility owned or used by that company. I.C. 6-1.1-8.7-3(c). This subsection does not specify the assessment year to which such a petition may apply, but it may not be meant to apply to the current assessment year of 2002 since the effective date of this statute was after the March 1, 2002 assessment date. Depending upon the kind of petition filed, the DLGF must then assess the industrial facility within either six months or three months after receiving the petition. I.C. 6-1.1-8.7-5.

Chapter 8.7 has provisions for support provided by the County Assessor and certification of final assessments by the DLGF which are similar to those provisions in Chapter 8.5. I.C. 6-1.1-8.7-6 and -7. Once the DLGF has rendered such an assessment, then (1) the industrial company that owns or uses the facility, (2) one of the 250 taxpayers originally petitioning for such assessment or (3) the County Assessor may appeal the assessment determination of the DLGF. I.C. 6-1.1-8.7-8(a). The hearing on such a petition must be held within one year of the filing of the petition. I.C. 6-1.1-8.7-8(b). Again, the DLGF is required to adopt rules to provide for "just valuations" of industrial facilities under Chapter 8.7 I.C. 6-1.1-8.7-9.

These new laws would seem to portend that in the future, the assessment of certain large industrial facilities may receive more careful attention than in the past because it will be

conducted directly by the state. Many County Assessors and their staffs lack the expertise or resources to devote to such careful, accurate assessments of extremely complex properties.

While accuracy in assessment is generally a good thing, it probably does not bode well for the problems plaguing industrial facilities involving inequality of assessments and tax burdens, which are disproportionate when compared to the prevailing level of assessments in certain counties. Particularly in Lake County, it is widely thought that an unduly large percentage of the tax burden falls upon industrial and commercial facilities. See generally, *State Board of Tax Commissioners, An Analysis of Assessment Practices in Lake County Indiana* (March 31, 1998). Unless there is a substantial improvement in the accuracy of assessments county-wide to go along with greater accuracy of assessment of industrial facilities under these new laws, it would seem that the inequitable distribution of tax liabilities between industrial facilities and other classes of property, such as residential and agricultural land, will only intensify.

In the coming months, it will be very important to monitor the rules and regulations adopted by the DLGF to govern the assessment of industrial facilities under these two new chapters, so as to ensure that they indeed will be reasonably calculated to secure "just valuations" in the assessment of the industrial facilities, as required by statutory and constitutional law. If all that is accomplished under these new laws is more accurate assessments for certain large industrial facilities, this will do nothing to improve uniformity and equality across all classes of property in Indiana, which is required under the law.

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# Tax Issues Regarding Long-Term Care

*The following article was contributed by Fred Frauhiger of Life Time Care, Inc.*

In the September issue of the *IMANET*, the IMA announced the availability of member-only discounted premiums for long-term care policies.

As a follow up to that announcement, it is appropriate to touch on:

1. the increasing awareness of the need for this type of coverage;
2. the impact of employees becoming caregivers for family; and
3. the tax implications of this coverage as it relates to premium deductibility and benefit taxation for both employers and employees.


The cost of long-term care may be the greatest risk to the financial security of both individuals and families. Today's cost for home health care, assisted living facilities or nursing home care average between \$40,000 and \$50,000 per year. The need for long-term care is not limited to retirees and those over the age of 65. More than 40 percent of Americans receiving long-term care today are under the age of 65. With today's medical advances, people live longer. Diseases that once caused death are being treated more effectively but are also creating a high morbidity rate and a greater need for skilled care.

More and more people are becoming the caregiver to family members as our population ages. Medicare is not designed to pay for long-term care and Medicaid is only available to impoverished individuals that have spent down their assets. Thus many families find themselves caring for an aging parent or relative. The cost to employers in absenteeism of employees due to this trend is substantial, and the long-term care programs offered through the IMA allow employees to purchase policies on their lives along with all direct family members (parents, grandparents, children) with discounted premiums.

As an employee benefit, long-term care coverage is one of the last benefits that employers can discriminate when offering or contributing towards the premium payment. For example, some employers are purchasing long-term care coverage through their company and are paying all or a portion of the premium for key employees and or certain employee classes and then offering it to the remainder of the employees on a voluntary basis.

The chart on page 4 briefly describes the deductibility of premiums and the taxation of benefits for all categories of taxpaying entities. *(See page 4)*

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Environmental and Safety Conference	Oct. 22, 2002	Indianapolis
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Employment Law Conference	Dec. 10, 2002	TBA




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About 70% of our clients pay less property tax than they did before they met us. The other 30% paid us nothing for reviewing their situation. We believe tax analysis should save you money, not cost you money.



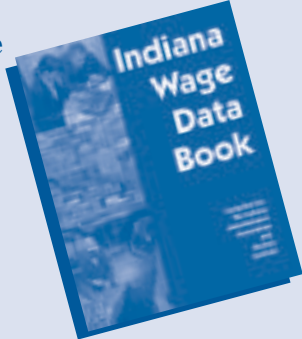
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## Indiana Wage Data Available

The IMA is pleased to announce the release of a new publication entitled the *Indiana Wage Data Book*. The IMA has partnered with Hudson Institute to create the most complete, accurate and affordable wage information found anywhere in Indiana.

The book is designed to be a reference for business owners, human resource professionals or anyone interested in comparative wage information for occupations in Indiana. The book contains easy-to-use wage information covering more than 600 occupations.



The *Indiana Wage Data Book* is sold for only \$95.00 to IMA members and \$115 to nonmembers. For more information, contact IMA at 317-632-2474 or 800-462-7762. ♦

# Income Tax Deductions for HIPAA Tax-Qualified Long-Term Care Insurance

Type of Taxpayer	Premium Deduction	Taxation of Benefits																														
Individual Taxpayer who does <u>NOT</u> itemize	No deduction <sup>1</sup>	Reimbursement benefits for qualified long-term care services are not taxed.																														
Individual Taxpayer who itemizes deductions	<p>Treated as medical Insurance premiums <sup>9</sup>                      Limited to the lesser of the actual premium paid or the amount per person from an age-related table of maximum deductible premiums. Table is adjusted annually for inflation. For the year 2001 and 2002, the maximum deduction per person is:</p> <table border="1"> <thead> <tr> <th>Age</th> <th>2001</th> <th>Max Ded.</th> <th>2002 Max Ded.</th> </tr> </thead> <tbody> <tr> <td>Age 40 or younger</td> <td></td> <td>\$230</td> <td>\$240</td> </tr> <tr> <td>Age 41-50</td> <td></td> <td>\$430</td> <td>\$450</td> </tr> <tr> <td>Age 51-60</td> <td></td> <td>\$860</td> <td>\$900</td> </tr> <tr> <td>Age 61-70</td> <td></td> <td>\$2,290</td> <td>\$2390</td> </tr> <tr> <td>Age 71 and older</td> <td></td> <td>\$2860</td> <td>\$2990</td> </tr> </tbody> </table> <p>Premium deduction is effective to the extent that the deductible premium above added to the taxpayer-paid medical premiums and deductible out-of-pocket medical expenses exceeds 7.5% of the taxpayers Adjusted Gross Income (AGI)</p>	Age	2001	Max Ded.	2002 Max Ded.	Age 40 or younger		\$230	\$240	Age 41-50		\$430	\$450	Age 51-60		\$860	\$900	Age 61-70		\$2,290	\$2390	Age 71 and older		\$2860	\$2990	<ul style="list-style-type: none"> <li>Per Diem or Indemnity benefits are not taxed except those benefits that exceed the greater of: <sup>5 6 7</sup></li> <li>Total qualified long-term care services charged, or</li> <li>\$210 per day (in 2002 and adjusted each following year for inflation).</li> </ul> <p>Nonforfeiture Benefit (return of premium benefit):</p> <ul style="list-style-type: none"> <li>Available only upon total surrender or death <sup>10</sup></li> <li>May not be borrowed or pledged</li> <li>Not taxable at death<sup>10</sup></li> <li>Taxable upon policy surrender to the extent premiums were deducted. <sup>10</sup></li> </ul>						
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Employees (non-owners)	<p>Premiums paid by the employee are deductible by the employee who itemizes as an individual taxpayer.                      Premiums paid by the employer:</p> <ul style="list-style-type: none"> <li>Deductible by employer <sup>2,9</sup></li> <li>Not taxable to employee <sup>8,9</sup></li> <li>Not limited to the age-related cap maximum deduction</li> </ul> <p>Applies to both individual and group insurance</p>																															
C Corporation Owner	If a corporate employee, treated as employee <sup>4</sup>																															
Other business owners <ul style="list-style-type: none"> <li>Sole Proprietors</li> <li>Sub Chapter S- 2% or more owner</li> <li>Partners</li> <li>LLC owners</li> </ul>	<p>May be treated as a business expense for medical insurance premiums                      Limited to the lesser of the actual premium or the amount on an age-related table of maximum deductible premiums which are adjusted annually for inflation: <sup>13</sup></p> <table border="1"> <thead> <tr> <th>Age</th> <th>2001</th> <th>Max Ded.</th> <th>2002 Max Ded.</th> </tr> </thead> <tbody> <tr> <td>Age 40 or younger</td> <td></td> <td>\$230</td> <td>\$240</td> </tr> <tr> <td>Age 41-50</td> <td></td> <td>\$430</td> <td>\$450</td> </tr> <tr> <td>Age 51-60</td> <td></td> <td>\$860</td> <td>\$900</td> </tr> <tr> <td>Age 61-70</td> <td></td> <td>\$2,290</td> <td>\$2390</td> </tr> <tr> <td>Age 71 and older</td> <td></td> <td>\$2860</td> <td>\$2990</td> </tr> </tbody> </table> <p>Reduced to the self-employed medical insurance allowable percentage, by year:</p> <table border="1"> <tbody> <tr> <td>2001</td> <td>60%</td> </tr> <tr> <td>2002</td> <td>70%</td> </tr> <tr> <td>2003 and thereafter</td> <td>100%</td> </tr> </tbody> </table>	Age	2001	Max Ded.	2002 Max Ded.	Age 40 or younger		\$230	\$240	Age 41-50		\$430	\$450	Age 51-60		\$860	\$900	Age 61-70		\$2,290	\$2390	Age 71 and older		\$2860	\$2990	2001	60%	2002	70%	2003 and thereafter	100%	<p>NOTE: This document refers only to the tax treatment of Qualified Long-Term Care Insurance Policies under the Health Insurance Portability and Accountability Act.</p> <p>The tax treatment of non-qualified Long-Term Care Insurance policies, benefits and premiums is unknown.</p>
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The information provided herein is not intended as legal or tax advice. Consult with an attorney, accountant or tax advisor regarding tax implications of purchasing long term care insurance.

<sup>1</sup> HIPPA 1996. PL 104-49L	<sup>4</sup> IRC Sec. 106(a)	<sup>7</sup> IRC Sec, 104(a)(3)	<sup>10</sup> Sec 7702B(b)(2)(C)	<sup>13</sup> IRC Sec 213(d)(10)(B)
<sup>2</sup> IRC sec 7702B(a)(3)	<sup>5</sup> IRC Sec 7702B(a)(2)	<sup>8</sup> IRC Sec 213(d)(1)	<sup>11</sup> IRC Sec 125(f)	
<sup>3</sup> IRC Sec 105(b)	<sup>6</sup> IRC Sec 7702B(d)	<sup>9</sup> IRC Sec 7702B(a)(1)	<sup>12</sup> IRC Sec 162(i)	