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Indiana Association
of United Ways

Comments on Nonprofit Property Tax Exemption

Indiana Association of United Ways (IaUW) and our 61 local United Ways work closely with local community- and faith-based organizations that help individuals and their families. Unlike many other states, Indiana does not have a statewide association of nonprofits. When legislative or regulatory issues related to nonprofits arise, we will sometimes convene an ad hoc coalition of nonprofit organizations that provide arts, early education, environmental, faith-based, health and human services. While I do not speak for all these organizations, my comments reflect many of their views and experiences.

First let me describe our philosophy from Indiana Association of United Ways. We believe that local communities thrive when all three sectors are strong: business, government and charitable sectors. IaUW champions the foundations of the charitable sector¹, such as giving incentives, volunteerism and tax exemption. Government provides certain benefits to nonprofits because nonprofits are relieving burden of government, providing services to the community, and advancing the common good of the community.

We would like to address six specific issues:

1. **Nonprofit exempt use should retain property tax exemption:** We have always advocated the principle that *nonprofit (charitable) property that is used for nonprofit mission and purposes should be property tax exempt*. This has been foundational to the nonprofit charitable sector.

In contrast, when a nonprofit charity owns property that is not used for exempt purpose, the nonprofit charity should pay property tax on that specific property.

- For example, a few of our United Ways own multi-office buildings. The property tax exemption is pro-rated to the proportion of the space used for charitable purpose, and property tax is assessed on remaining space.
- Many nonprofits receive contributions of land, buildings or property to be used at a later date. When they use that property for non-exempt purposes (i.e. renting out farmland), appropriate taxes may be applied (Unrelated Business Income Tax, property tax).

2. **Nonprofits seek equitable application of law among similarly situated nonprofits over time.** Donors and volunteer board members expect fair and predictable application of property tax exemption, which helps both with fundraising and budgeting for a nonprofit organization. Often donors and volunteers contribute their hours and time to more than one nonprofit organization and observe differences in treatment by assessors or of types of nonprofits. *Application of the law and rules should be fair and impartial among similar nonprofits and from year to year.*

- Assessed values and exemption status may change with change of ownership of a property or with the election of a new assessor. It is important that similarly situated nonprofits receive similar treatment over time. *A newly elected assessor should not be able to assess current and retroactive property tax on previously classified exempt property that is still used for the same exempt (charitable) purpose.*

Example: Housing Partnerships, Inc. (HPI) in Bartholomew County had been considered property tax exempt for its home office and low-income housing properties. HPI received different interpretations and assessments. HPI utilized the appeal process, incurring significant costs to the organization. After the Indiana Supreme Court declined (3-2) to hear the case last summer, HPI was assessed back taxes in the amount of \$312,953.31, with an additional \$233,992.92 claimed by the

¹ See <http://www.iauw.org/pubpol/publicpolicy.htm> for information on IaUW Policy Priorities.

county for penalties and fees.² HPI has incurred administrative costs and sold properties to pay costs, effectively reducing its ability to carry out its mission to help low-income individuals and families.

- A challenge results in the complexity that a single nonprofit may qualify under multiple exemptions. For example, a charitable nonprofit that is a religious organization that also provides education may qualify under multiple definitions. *Nonprofit property tax exemption is confusing; simplifying the law and rules could increase equity.*

3. **Nonprofits seek consistency across counties.** Multi-county organizations may have similar properties in different counties that are treated differently. For example, a nonprofit provides housing, transportation, meals, and supportive services for low-income seniors and people with disabilities may own nearly identical facilities and provide identical support services and yet be tax-exempt in one community and assessed and taxed in another³. This may result from different interpretation of the statutes or interactions between the nonprofit's and the assessors' offices. *Organizations should expect to be treated similarly across counties.*
4. **The processes for property tax exemption and appeals burden small nonprofits.** Many small nonprofit organizations may not understand the process or may not want to use nonprofit resources to pay for appeal through the PTABOA (Property Tax Assessment Board of Appeals) and up through the Tax Court. The cost of the appeal process appears to increase the "administrative cost" for the organization, as it often requires hiring of outside experts (CPAs, tax consultants, attorneys, etc.).
 - We understand that some policymakers have questioned the relatively low number of appeals. *We assert that for some nonprofits, paying an assessed tax or a settlement is a "rational" and "more cost-effective" choice than incurring costs associated with a protracted appeal process.* Nonprofits, especially small nonprofits, work hard to minimize administrative costs. Therefore, while it may be in a nonprofit's best interest for the long-term to appeal an assessment, some nonprofits will avoid the immediate administrative costs of expert legal, tax and accounting counsel to file an exemption or an appeal.
 - *Donors may be less likely to contribute to support an organization's increased administrative cost than to the programmatic costs that advance the mission.*
5. **Good nonprofits want to be good partners with government.** Many nonprofits seek government as a partner in efforts to advance the common good and to serve the community. Some nonprofits are able to quantify their contributions to community, as they provide critical services that relieve a burden that would otherwise be provided by government or where a private market has failed to provide a service.
6. **IN Association of United Ways and other nonprofits would like to be included in the development of proposed solutions** to address inconsistencies and the inability for some counties to support adequate services under the current property tax structure and tax caps. As partners in serving the community, we are sensitive to the need for adequate local services to serve residents.

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About Us: The Indiana Association of United Ways represents 61 United Ways throughout Indiana. Together, Indiana's United Ways raise and invest approximately \$100 million each year in local communities. To learn more about Indiana Association of United Ways' public policy priorities for 2015, visit www.iauw.org/pubpol/publicpolicy.htm

- **Education** – All children have access to high-quality and affordable early learning opportunities.
- **Financial Stability**- Hoosiers have a chance to become financially stable and independent, as their abilities allow.
- **Health** –Hoosiers have access to affordable, quality health care and minimize risky behaviors.
- **Strong Communities** – Communities thrive when the charitable sector thrives and a statewide 2-1-1 network connects people with services.

² For more information, HPI will provide detail about assessments, appeals, valuation of contributions to community, costs to their organization and to the community.

³ For example, Yellowwood Terrace in Clark County was not treated similarly to other senior housing programs operated by the same organization in other counties. Ultimately, the parent nonprofit organization settled and paid, determining it did not have the nonprofit resources for a protracted appeal process.