

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
P.O. BOX 20207
NASHVILLE, TENNESSEE 37202

January 15, 2008

Opinion No. 08-06

Statutory Reporting Obligations of Entities Leasing Property from Industrial Development Boards

QUESTION

Pursuant to Public Chapter 449 of the 105th Session of the Tennessee General Assembly, are lessee corporations, specifically those leasing from Industrial Development Boards, required to report pursuant to Tenn. Code Ann. § 7-53-305(e) to the State Board of Equalization?

OPINION

Pursuant to Tenn. Code Ann. § 7-53-305(e), as recently amended, corporations that lease property from Industrial Development Boards are required to submit annual reports to the State Board of Equalization. This reporting requirement is the obligation of the lessee corporations, and not the Industrial Development Boards from which they lease property.

ANALYSIS

As pointed out in your request, the General Assembly recently amended Tenn. Code Ann. § 7-53-305(e), which contains the reporting requirements for lessees of Industrial Development Boards (IDB's). As amended, Tenn. Code Ann. § 7-53-305(e) provides that

- (1) On or before October 1 of each year, the corporation lessee shall submit to the state board of equalization an annual report containing:
 - (A) A list of all the real and personal property owned by the corporation and its associated entities and subsidiaries;
 - (B) The value of each listed property as estimated by the lessee;
 - (C) The date and term of the lease for each listed property;

(D) The amount of payments made in lieu of property taxes for each listed property;

(E) The date each listed property is scheduled to return to the regular tax rolls;

(F) A calculation of the taxes that would have been due for each listed property if the properties were privately owned or otherwise subject to taxation;

(G) The property address and parcel identification number of the property assigned by the assessor of property;

(H) The amount of rents paid to the governing body;

(I) The amount of any property taxes paid on the leasehold assessment under § 67-5-502(d);

(J) Any changes in the name since the last filing;
and

(K) How the payments in lieu of taxes are allocated according to the economic development agreement.

Tenn. Code Ann. § 7-53-305(e)(1) (Supp. 2007). Additionally, pursuant to subsection (e)(2) of the statute, the lessee corporation is required to file a copy of the report “with the assessor of property in the county where the property is located on or before October 15.” Tenn. Code Ann. § 7-53-305(e)(2) (Supp. 2007).

Throughout the statutes governing Industrial Development Boards, the General Assembly often refers to an IDB as an “industrial development corporation” or, simply, the “corporation.” The statute’s reference to the “corporation lessee,” on the other hand, means the entity that leases property from the IDB, and not the IDB itself. In the event any ambiguity exists between the use of the term corporation to describe both entities, subsection (e)(4) makes clear that it is the “lessee of the corporation” that is “responsible for the timely completion and filing of the report.” Tenn. Code Ann. § 7-53-305(e)(4) (Supp. 2007). Thus, the reporting requirements are imposed on the “corporation lessee” or “lessee of the corporation,” and not the IDB itself.

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

MARY ELLEN KNACK
Senior Counsel

Requested by:

The Honorable Robert T. Bibb
State Representative
23 Legislative Plaza
Nashville, Tennessee 37243