



**ROBERT B. BERLIN**  
**STATE'S ATTORNEY**  
DUPAGE COUNTY, ILLINOIS

December 4, 2014

Mr. Richard Tarulis, Supervisor  
Lisle Township  
4711 Indiana Avenue  
Lisle, IL 60532

Re: 2013 Tax Levy Objection  
Case 2014 TO 3

Dear Mr. Tarulis:

Enclosed is a copy of the narrative portion of the objections filed against your 2013 levy. The County Clerk will send you a summary of all the objections, but this is a copy of the actual complaint against your district. Please review this complaint and send us in **electronic format**, any factual or legal information you have for our office to present to the Plaintiffs in defense of your levy.

If your district has any objection pertaining to an excess accumulation, please send us the following documents in **electronic format** that we may forward to the Plaintiffs' attorney:

- Annual Financial Report (CPA Audit "Report) for 2014 fiscal year end;
- Ordinance or resolution imposing the tax levy to be extended;
- The Budget(s) disclosing the estimated expenditures which the tax levy to be extended is intended to defray;
- An explanation and supporting data to refute any excess accumulation objection(s) including any public documents evidencing the existence of an "unusual anticipated call upon the fund" of the district.

For the 2013 tax objections, we need to hear from you before the first week of March 2015 because case 2014 TO 3 is scheduled for an initial court status date on March 12, 2015, at 505 N. County Farm Road, Wheaton, Illinois.

Should you have any questions pertaining to your tax rate objection cases, please contact me at telephone number 630-407-8226 or e-mail me at [donna.pindel@dupageco.org](mailto:donna.pindel@dupageco.org). I look forward to receiving your response soon.

Very truly yours,

Donna B. Pindel  
Assistant State's Attorney

DBP:kjw  
Enclosure  
cc: *via email Heidi Katz, [hkatz@rsnl.com](mailto:hkatz@rsnl.com)*

DATA FOR TAX OBJECTIONS, 2013  
DuPage County, Illinois.

Obj: D13-007  
LiTp-1

LISLE TOWNSHIP

The tax levy of Lisle Township for the year 2013, as extended by the County Clerk, is as follows:

Fund	Amount Levied	Rate Extended
Corporate	2,120,250.00	.0466
Social Security	371,000.00	.0082
Total	\$ 2,491,250.00	\$ 0.0548

(A)

CORPORATE PURPOSES

The board of trustees of Lisle Township levied for CORPORATE PURPOSES an amount of \$2,120,250.00 for the year 2013, and the County Clerk extended therefore a rate of \$0.0466 on the \$100 of assessed valuation.

Reference to the Township's Annual Audit Report for Lisle Township, a copy of which was filed with the County Clerk, shows the balance on hand in the CORPORATE FUND at the end of the fiscal year on March 31, 2013, as \$3,479,301.00. At that time, no portion of the 2012 taxes, extended in the amount of \$1,046,945.93, had been received, and the actual assets of the said fund amounted to \$4,526,246.93.

The actual expenditures incurred for CORPORATE PURPOSES during the three preceding years for which audit reports were filed are as follows:

For the fiscal year ended March 31, 2010 .....	\$ 1,917,990.00
For the fiscal year ended March 31, 2011 .....	1,827,263.00
For the fiscal year ended March 31, 2013 .....	1,858,735.00
	<u>\$ 5,603,988.00</u>
Average Annual Expenditure .....	\$ 1,867,996.00

Thus, the assets of the CORPORATE FUND were nearly two and one-half times the average annual expenditure of the three preceding years. The levying of additional taxes for such purposes is illegal and unwarranted. (See Appendix I, attached hereto, for reasons and citations of authority).

The tax levy for CORPORATE PURPOSES and the rate extended therefore, of \$0.0466, are illegal and void.

DATA FOR TAX OBJECTIONS, 2013  
DuPage County, Illinois.

Obj: D13-007  
LiTp-2

Objection is made to the illegal rate of \$0.0466, and to the excessive taxes produced thereby upon the assessed valuation of Objector's properties.

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(B)

GENERAL/PUBLIC ASSISTANCE PURPOSES

The board of trustees of Lisle Township levied for GENERAL/PUBLIC ASSISTANCE PURPOSES an amount of \$371,000.00 for the year 2013, and the County Clerk extended therefore a rate of \$0.0082 on the \$100 of assessed valuation.

Reference to the Township's Annual Audit Report for Lisle Township, a copy of which was filed with the County Clerk, shows the balance on hand in the GENERAL/PUBLIC ASSISTANCE FUND at the end of the fiscal year on March 31, 2013, as \$438,883.00. At that time, no portion of the 2012 taxes, extended in the amount of \$120,801.45.00, had been received, and the actual assets of the said fund amounted to \$559,634.45.

The actual expenditures incurred for GENERAL/PUBLIC ASSISTANCE PURPOSES during the three preceding years for which audit reports were filed are as follows:

For the fiscal year ended March 31, 2010.....	\$	163,768.00
For the fiscal year ended March 31, 2011.....		198,711.00
For the fiscal year ended March 31, 2013.....		211,330.00
	\$	573,809.00
Average Annual Expenditure .....	\$	191,270.00

Thus, the assets of the GENERAL/PUBLIC ASSISTANCE FUND were nearly three times the average annual expenditure of the three preceding years. The levying of additional taxes for such purposes is illegal and unwarranted. (See Appendix I, attached hereto, for reasons and citations of authority).

The tax levy for GENERAL/PUBLIC ASSISTANCE PURPOSES and the rate extended therefore, of \$0.0082, are illegal and void.

Objection is made to the illegal rate of \$0.0082, and to the excessive taxes produced thereby upon the assessed valuation of Objector's properties.

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## APPENDIX I

### EXCESSIVE ACCUMULATION OF PUBLIC FUNDS

While taxing officials are permitted reasonable latitude in the accumulation of public funds to assure having monies on hand to meet legitimate expenditures as they occur, this discretion must not be abused.

No statutory authority exists for large accumulations to provide for possible emergencies, which may or may not occur, since emergencies engendered by unforeseen circumstances and disaster are amply provided for in the statute, and may not be anticipated, as no resource is ample to meet every emergency which could possibly occur.

Thus, if discretion can be abused, there must exist a yardstick by which discretion can be measured, and the Illinois Supreme Court, in the case of People ex rel. Leaf v. Roth, 389 Ill. 287, approves a formula of average actual expenditures "as established by recent prior experience", using the actual expenditure of the three preceding years as a basis for determining the estimated expenditures for the ensuing year, in the absence of specific predetermined requirements which supplant mere conjecture and judgment of taxing authorities.

This principle was affirmed by the Illinois Supreme Court in the more recent case of People ex rel. Harding v. C. & N.W. Ry. Co., 413 Ill. 93, wherein the Court, at pages 98, 99, held:

"Where a balance is on hand amounting to a little less than two years' requirements, as established by recent prior experience, a levy is unnecessary. (People ex rel. Leaf v. Roth, 389 Ill. 287). Levies which result in an unnecessary accumulation of funds are invalid. (People ex rel. Toman v. Granada Apartment Hotel Corp., 361 Ill. 41)."

The principle laid down in these decisions is not a new one, but has been repeatedly followed by the court in numerous decisions.

In the case of People ex rel. Schaefer v. N.Y.C. & St. L. R. Co., 353 Ill. 518, at page 522, the Illinois Supreme Court held:

"In levying taxes there is but one thing to be considered by the levying officers, i.e., the matter of raising the amount necessary to meet the requirements of expenditures. The amount of money on hand and in process of collection should be considered."

Again, in the case of People ex rel. Nash v. Westminster Bldg. Corp., 361 Ill. 153, at page 160, the Court held:

Appendix I -- 2

"In levying taxes to meet the requirements of expenditures the amount of money on hand and in the process of collection should be considered. The unnecessary accumulation of money in the public treasury is unjust to the people and it is against the policy of the law to raise taxes faster than they are likely to be needed."

In the case of *People ex rel. Kelly v. B. & O. R. Co.*, 376 Ill. 393, the Court said:

"The policy of the law is that no taxing district shall be permitted to accumulate unnecessary surpluses from taxes collected but should confine their levies to the amount actually needed to be determined annually."

In *People ex rel. Brenza v. Morrison Hotel*, 4 Ill. 2d 542, at page 547, the Illinois Supreme Court said:

"It is well-settled rule that levies which result in an unnecessary accumulation of funds are invalid. The authority to levy a tax for building purposes is intended to provide for the needs of the ensuing year and not to provide a fund for possible future needs, (*People ex rel. Reeves v. Bell*, 309 Ill. 387) and a tax levy in an amount largely in excess of the requirements for the particular purpose during the ensuing year is illegal and void. (*People ex rel. Brenza v. Fleetwood*, 413 Ill 530, at page 551; *People ex rel. Toman v. Signode Steel Strapping Co.*, 380 Ill. 633)."

This question is again discussed by the Illinois Supreme Court in the decision in the case of *Central Illinois Public Service Company v. Lois E. Miller*, 42 Ill. 2d 542, with respect to taxes levied for general assistance purposes and stresses that a large accumulation is unwarranted since the statute specifically provides the necessary means to finance any contingency or emergency.

Again, in the case of *People ex rel. Toynton v. Commonwealth Edison Company*, 285 Ill. App. 3d 357, the Appellate Court, Third District, at page 362, held:

"Based upon our review of applicable case law, we do not agree with the argument that a taxpayer cannot meet its burden of showing an excess accumulation unless the accumulation is at least 2.84 times the average annual expenditure. . . . we conclude that a tax objector can meet its burden to show an excessive accumulation by presenting evidence that the accumulation in the fund exceeds two to three times the average annual expenditures for the fund. Furthermore, we are not persuaded otherwise by our review of the case law cited by the Township and the District." (Emphasis supplied.)

In the case of *Elk Grove Twp. R. Fire Prot. v. Mt. Prosp.*, 228 Ill. App. 3d 228, the Appellate Court, First District, at page 232, held:

" . . . The cited authorities also provide each of the parties here with the power to contract for fire protection and emergency medical service. They further provide the authority to levy taxes for such purposes. What they do not provide, however, is the authority to execute blanket tax levies for extended periods of time. Illinois case law does not support the proposition that taxes may be levied for needs beyond the ensuing year; rather it provides that tax levies may be adopted after yearly enactment of a budget and appropriation ordinances. . . . Furthermore, taxes are not to be levied for possible future needs, or with the view towards accumulating funds for future needs." (Citations)



And at page 233:

"A tax levied in amounts largely in excess of requirements of a particular purpose during the ensuing year is illegal and void. (See *People ex rel. Brenza v. Morrison Hotel Corp.* (1954), 4 Ill. 2d 542, 123 N.E. 2d 488.) Counsel for the Village argues that the cited authority is not relevant, as the *Brenza* court actually found that the accumulation of tax funds for libraries was appropriate, and further that the tax at issue is not largely in excess of the requirements of fire protection. Although counsel is correct that the *Brenza* court approved the accumulation of tax funds for libraries, what he has neglected to note is that the reason the accumulation of tax money was appropriate is because such accumulation was specifically authorized by the library act (citation), which expressly authorized the accumulation of funds for construction and purchase of libraries. The *Brenza* court specifically noted the general rights of taxpayers to have separately state the purposes for which public money is appropriated and the illegality of excess accumulations. (Emphasis supplied).

The Illinois Supreme Court has repeatedly held that a tax levy for building purposes can be made for the requirements for the ensuing year only, and may not be made to create a fund for possible future needs.

C.C.C. & St. L. Ry. Co., v. People ex rel. Selby, 208 Ill. 9,  
People ex rel. Goodman v. Wabash R. Co., 395 Ill. 520, at page 542.

As to School Districts, the statute (105 ILCS 5/17-5.1 (2012 State Bar Edition)) specifically provides that "No tax for operations and maintenance purposes and the purchase of school grounds as provided in Section 11-9 and no tax for operations and maintenance purposes as provided in Section 17-5 shall be levied at a rate sufficient to accumulate funds nor shall funds for such purposes be accumulated as authorized in said sections until the board of education or school board has by resolution ordered the submission of the proposition of accumulating funds for such purpose to the electors of the district at a regular scheduled election and the proposition has been approved by a majority of the electors voting thereon."

Similar to School Districts, Road District General Funds and Township General Road Funds, under statute (605 ILCS 5/6-501 (2013 State Bar Edition)), "may accumulate funds . . . provided a proposition to accumulate funds for such purposes is first submitted to and approved by the electors of the district."

The accumulation of public funds beyond the actual requirements for the particular purpose for the ensuing year is illegal and contrary to the policy of the law, as well as being an imposition upon the taxpayer, depriving him of funds to which he is entitled.

Our computations conform to the decisions of the Illinois Supreme Court, and objections are made only where the assets of the particular funds, i.e., the balance on hand at the beginning of the fiscal year, together with the taxes theretofore levied and in process of collection equal or exceed two years' requirements on the basis of the actual average expenditure of the three preceding years.

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