
QUESTIONS AND ANSWERS ABOUT PILT

What are "Payments In Lieu of Taxes"?

Payments in Lieu of Taxes (or PILT) payments are Federal payments to local governments to offset losses in property taxes due to nontaxable Federal lands within their boundaries. The Act recognizes that the inability of local governments to collect property taxes on Federally-owned land can create a financial impact.

The Department of the Interior's (DOI) Office of the Secretary has administrative authority over the PILT program. In addition to other responsibilities, DOI calculates the payments according to the formulas established by law and distributes the funds appropriated by Congress.

Since the first payments in 1977, payments have averaged a total of about \$127 million annually. To date (including the 2006 payments), over \$3.8 billion in payments have been made.

What entities are eligible for payments?

Eligibility is reserved for local governments (usually counties) that contain nontaxable Federal lands and pay for services such as those related to public safety, environment, housing, social services, and transportation.

Payments are made directly to local units (counties in most States) unless the State government concerned chooses to receive the payments and, in turn, pass the money on to local governmental units. Wisconsin is the only State currently employing this option.

What can PILT payments be used for?

PILT payments may be used for any governmental purpose, such as police protection, fire protection, or school and road maintenance.

What is the statutory authority for the payments?

The key law is Public Law 97-258, as amended. This law, known as the Payments in Lieu of Taxes Act (the "Act"), is codified at Chapter 69 of Title 31 of the United States Code. Applicable regulations are in Subpart 1881, Title 43 of the Code of Federal Regulations.

What lands are considered in calculating the payments?

The Act defines three categories of entitlement lands:

- Federal lands in the National Forest System and the National Park System, public lands administered by BLM, lands in Federal water resource projects, dredge areas maintained by the Corps of Engineers, inactive and semi-active Army installations, and some lands donated to the Federal government (Section 6902 of PILT).

EXHIBIT S-3 - LANDS
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- Federal lands acquired after December 30, 1970, as additions to lands in the National Park System or National Forest Wilderness Areas (Section 6904 of PILT).
 - Federal lands in the Redwood National Park or lands acquired in the Lake Tahoe Basin near Lake Tahoe under the Act of December 23, 1980 (Section 6905 of PILT).

How are amounts computed?

Payments are computed based on the number of acres of Federal entitlement land within each county. Entitlement lands include those within the National Forest and National Park Systems, those managed by BLM, those affected by Federal water resources development projects, and other Federal lands, as described in the previous question and answer.

Payments under each section of the Act are calculated as follows:

- *Section 6902 payments* are computed using the higher of the following two alternatives:
 - \$2.15 (in fiscal year 2006) times the number of acres of qualified Federal land in the county, reduced by the amount of funds received by the county in the prior fiscal year under certain other Federal programs.
 - Thirty cents (in fiscal year 2006) times the number of acres of qualified Federal land in the county, with no deduction for prior-year payments.

Payments under either alternative are subject to population payment limitations.

- *Section 6904 and 6905 payments* are computed by taking one percent of the fair market value of the purchased land and comparing the result to the amount of property taxes paid on the land in the year prior to Federal acquisition. The county payment is the lesser of the two.

Payments under Section 6904 of the PILT Act are made for a period of five years from the date the land was purchased, unless mandated otherwise by law. Payments under Section 6905 of the Act are made each year from the date the land was purchased until five percent of the fair market value is fully paid. However, the yearly payment may not exceed the lesser of one percent of the fair market value or the amount of property taxes that were assessed prior to Federal acquisition.

Funding amounts appropriated for PILT are equitably applied to all payments under the program using a pro-ration of the amount available compared to the computed payment amount to each county.

What other factors affect the payments?

The law sets up a sliding scale of maximum PILT payments that may be made to each county based on population. This limitation affects a very few sparsely populated counties with large amounts of entitlement land. The computation also adjusts the payment for the level of prior-year revenue payments.

What are "prior-year revenue payments"?

These are Federal payments made to local governments under programs other than PILT during the previous fiscal year. Payments include those made under the Refuge Revenue Sharing Fund, the National Forest Fund, the Taylor Grazing Act, the Mineral Leasing Act for acquired lands, the Federal Power Act, and the Secure Rural Schools and Community Self-Determination Act of 2000. The PILT Act requires each State to report these payments to DOI each year.

Using these calculations, it appears that the 2006 payment to my county should have been significantly higher than we received. Why?

The actual payments are based on:

- the formulas established in the Act, and
- the total amount appropriated by Congress each year.

Based on the current formula, the 2006 PILT payments would total approximately \$344.3 million. This is the fully authorized amount. However, payments are made using an equitable allocation of the \$232.1 million available for the program in FY 2006. Payments are approximately 67.4 percent of the calculated amounts to conform to the amount available. This allocation is done on a pro-rata basis with all calculated amounts reduced by an identical percentage.

Do the payments take inflation into account?

The law, as amended in 1994, uses the Consumer Price Index to adjust the population limitations and the per acre dollar amounts used to calculate alternative amounts under Section 6902. An individual county's payment may not necessarily increase from one year to the next. Fluctuations in the payment result from variations in the total amount of money available under the PILT program based on the annual appropriation, changes in prior-year payments, and changes in Federal land acreage and population data.

Where can I obtain additional information?

Additional information may be obtained by writing to the Office of Budget, Department of the Interior, 1849 C Street, N.W., Room 4012, Washington, D.C. 20240; or by calling (202) 208-3157.

FY 2006 PILT PAYMENT SUMMARY

PILT Appropriation	\$ 232,527,874	(after rescissions)
Administrative Expenses	<u>\$ - 394,115</u>	
Total amount available for Payments	\$ 232,133,759	
Total 6902 payments	\$ 231,201,248	(Entitlement land Pmts)
Total 6904/05 payments	<u>\$ 932,511</u>	(Nat'l Park & F/W Pmts.)
Total Calculated Payments	\$ 232,133,759	
Payment computation variables	Alt "A" = \$2.15 per acre	
(applicable to 6902 payments only)	Alt "B" = \$0.30 per acre	
	Population scale = \$57.66 - \$144.13 /capita	
Total prior year payments deducted	\$275,380,589	
Fully authorized amount	\$344,356,399	
Pro-ration percentage	67.4 % (\$232,133,759 / 344,356,399)	
Total approximate counties paid	1,850	

CHAPTER 69, 31 UNITED STATES CODE
PAYMENTS IN LIEU OF TAXES ACT
31 U.S.C. 6901-6907

This paper briefly discusses the Payments in Lieu of Taxes (PILT) Act of 1976, as amended in 1994. It describes eligibility for payments, gives examples of how the payments are computed, and summarizes "entitlement" acres.

I. Authorization

In October of 1976, Congress passed Public Law 94-565, commonly referred to as the "Payments in Lieu of Taxes Act". This Act provides for payments to local units of government containing certain federally-owned lands. These payments are designed to supplement other Federal receipt sharing payments local governments may be receiving. Payments received under the Act may be used by the recipients for any governmental purpose. The Act was amended in September 1982, and renotified at Chapter 69, 31 U.S.C.

On July 30, 1983, the PILT Act (31 U.S.C.) was amended by P.L. 98-63 which refined the definition of "unit of general local government" and added a new section (31 U.S.C 6907) that authorized State governments to enact legislation to reallocate PILT payments in whole or in part to other smaller units of general purpose government. The amendment further provides that where States enact such legislation, the PILT funds would be paid to State governments for redistribution to the appropriate units of general local government. The State of Wisconsin is presently the only State to enact legislation (Wisconsin Act 470) under Section 6907.

On October 22, 1994, the PILT Act (31 U.S.C.) was amended by P.L. 103-397 which called for inflationary increases to the \$.75/\$.10 variables used to compute Section 6902 payments and to the population table used to determine each unit of local government's population ceiling. These inflationary increases were effective with the 1995 PILT payment and inflationary adjustments continue to be made on an annual basis.

II. Section 6902 "Entitlement Land" Payments

Section 6902 authorizes payments to local units of government (generally counties, or the equivalent) under one of two alternatives, based on the number of acres of "entitlement lands" within the county. "Entitlement lands" consist of lands in the National Forest System and the National Park System, lands administered by the Bureau of Land Management, and lands dedicated to the use of Federal water resource development projects. Also included are dredge disposal areas under the jurisdiction of the Army Corps of Engineers, National Wildlife Reserve Areas withdrawn from the public domain, inactive and semi-active Army installations used for non-industrial purposes, and certain lands donated to the United States Government by State and local governments. The Act specifically prohibits payments for tax exempt lands (but not donated lands) acquired from State or local governments.

The PILT Act established the amounts to be used in the annual calculation of PILT payments. Amounts have been modified in subsequent amendments and in 1994 the Act was amended to require annual inflationary adjustments.

Alternative A:

- The 75 cents for each acre of entitlement land provision was amended to 93 cents during fiscal year 1995, \$1.11 during fiscal year 1996, \$1.29 during fiscal year 1997, \$1.47 during fiscal year 1998, and \$1.65 during fiscal year 1999.

Alternative B:

- The ten cents for each acre of entitlement land provision was amended to 12 cents during fiscal year 1995, 15 cents during fiscal year 1996, 17 cents during fiscal year 1997, 20 cents during fiscal year 1998, and 22 cents during fiscal year 1999.
- The increase in the population cap during fiscal year 1994 was changed from \$50 to \$62 if the population is less than or equal to 5,000, \$74 during fiscal year 1996, \$86 during fiscal year 1997, \$98 during fiscal year 1998 and \$110 during fiscal year 1999.

Beginning in Fiscal Year 1996 all of the variables mentioned above and the population cap dollar amounts were adjusted for inflation on an annual basis. The yearly inflation percentage is obtained from the Consumer Price Index (CPI).

Fiscal Year 2006 Entitlement Land Payment Formula

The amount to be paid to each unit of general local government is the higher of:

Alternative A: \$2.15 for each acre of "entitlement land" within the boundaries of the unit of government, reduced by the amount of certain Federal land payments (See Table 1) that were received by the unit in the preceding fiscal year. Deductible amounts are reported to the Department each year by the Governor of each State or his delegate.

Only the amount of Federal land payments actually received by units of government in the prior fiscal year are deducted. If a unit receives a Federal land payment, but is required by State law to pass all or part of it to financially and politically independent school districts, or any other single or special purpose district, payments are not deducted from the Section 6902 payment.

- or -

Alternative B: 30 cents for each acre of "entitlement land" within the unit of government. Under this option, no deductions are made for the Federal land payments received by the unit of government in the preceding fiscal year.

Payments to each unit of general local government are subject to population payment limitations or ceilings based on population. This limitation caps payments to jurisdictions with large amounts of entitlement land. Payment ceilings are based on a sliding scale, starting at \$57.66 (for populations of 50,000 and over) and increasing up to \$144.13 per capita (for populations of 5,000 and under) and resulting in a maximum payment of \$2.883 million (Table 2). Under Alternative A, if the total calculated payment ($\$2.15 \times \text{entitlement acres}$) exceeds the ceiling, then the payment is based on the ceiling, including deductions for other Federal land payments received.

The following examples show how the Section 6902 payment is computed.

Example 1 - Payment Alternative A Greater than B:

Population limitation (19,000 x \$81.26)	\$	1,543,940
A. 88,442 acres x \$2.15 per acre	\$	190,150
Deduction for prior year payments	\$	<u>-36,435</u>
Payment to county - Alternative A	\$	153,715
B. 88,442 acres x 30 cents per acre	\$	26,533
No deduction under this alternative	\$	<u>-0</u>
Payment to county - Alternative B	\$	26,533

In this case, the county payment would be calculated as \$153,715 .

Example 2 - Payment Alternative B greater than A:

Population limitation (12,000 x \$95.66)	\$	1,147,920
A. 81,391 acres x \$2.15 per acre	\$	174,991
Deduction for prior year payments	\$	<u>-183,000</u>
Payment to county - Alternative A	\$	0
B. 81,391 acres x 30 cents per acre	\$	24,417
No deduction under this alternative	\$	<u>-0</u>
Payment to county - Alternative B	\$	24,417

In this case, the county payment would be calculated as \$24,417 .

Example 3 - Payment limited to population ceiling:

Population limitation (3,000 x \$144.13)	\$	432,390
A. 1,700,000 acres x \$2.15 per acre	\$	3,655,000
Population ceiling limit	\$	432,390
Deduction for prior year payments	\$	<u>-750,000</u>
Payment to county - Alternative A	\$	0
B. 1,700,000 acres x 30 cents per acre	\$	510,000
Population ceiling limit	\$	432,390
No deduction under this alternative	\$	<u>0</u>
Payment to county - Alternative B	\$	432,390

In this case, the county payment would be the ceiling amount of \$432,390.

II. Section 6904 Payments

Section 6904 of the Act authorizes payments for lands or interests therein, which were acquired after December 31, 1970, as additions to the National Park System or National Forest Wilderness Areas. To receive a PILT payment, these lands must have been subject to local real property taxes within the five year period preceding acquisition by the Federal government. Payments under this section are made in addition to payments under Section 6902. They are based on one percent of the fair market value of the lands at the time of acquisition, but may not exceed the amount of real property taxes assessed and levied on the property during the last full fiscal year before the fiscal year in which acquired. Section 6904 payments for each acquisition are to be made annually for five years following acquisition, unless otherwise mandated by law.

Federal payments of \$100 or more made under Section 6904 must be distributed by the county to those units of local government and affected school districts which have incurred losses of real property taxes due to the acquisition of these lands or interests therein. Distribution shall be in proportion to the tax revenues assessed and levied by the affected units of local governments and school districts in the year prior to the acquisition of these lands by the Federal government.

III. Section 6905 Payments

Section 6905 of the Act authorizes payments for any lands or interests in land owned by the Government in the Redwood National Park or acquired in the Lake Tahoe Basin under the Act of December 23, 1980 (P.L. 96-586, 94 Stat. 3383). Section 6905 payments continue until the total amount paid equals five percent of the fair market value of the lands at the time of acquisition. However, the payment for each year cannot exceed the actual property taxes assessed and levied on the property during the last full fiscal year before the fiscal year in which the property was acquired by the Federal government.

IV. Payment Level

Payments are made using an equitable allocation of the funds available based on enacted appropriations. The allocation is made on a pro rata basis with all amounts reduced by an identical percentage. Payments of less than \$100 are not made, as required by the 2006 Interior, Environment, and Related Agencies Appropriations Act (P.L. 109-54).

TABLE 1

**CHAPTER 69, 31 U.S. CODE
PAYMENTS IN LIEU OF TAXES
FEDERAL LAND PAYMENTS (SECTION 6903(A)(1))**

<u>Provision of Law</u>	<u>Agency Making Payment</u>	<u>Types of Receipts</u>	<u>Disposition of Receipts</u>
(1) Act of 5/23/08; Dept. of Agriculture Approp. Act; 35 Stat. 251; 16 U.S.C. 500	U.S. Forest Service	Monies received from each National Forest	65% to U.S. Treasury 25% of gross to State for counties 10% to Forest Roads Approp.
(2) Act of 6/20/10 (Sec 35); Act of Arizona and New Mexico; 36 Stat. 557	U.S. Forest Service	Proceeds from all Nat'l Forest as area of land for schools bears to area of all Nat'l Forest in State	100% to States for Schools
(3) Act of 2/25/20 (Sec 35); Mineral Lands Leasing Act; 41 Stat. 450; 30 U.S.C. 191	Bureau of Land Management	Monies received from Mineral Leasing	50% to States 40% to Bur. of Reclamation 10% to U.S. Treasury
(4) Federal Power Act (Section 17); 41 Stat. 1072; 16 U.S.C. 810	Federal Energy Regulatory Commission	Occupancy and use of Nat. Forest and Public Lands	50% to Bur. of Reclamation 37.5% to States 12.5% U.S. Treasury
(5) Taylor Grazing Act (Sec 10); 43 U.S.C. 315i	Bureau of Land Management	Proceeds from section 3 grazing receipts	50% to Range Improvement Fund 37.5% to U.S. Treasury 12.5% to States for counties
		Proceeds from section 15	50% to States for counties
(6) Bankhead-Jones Farm Tenant Act (Section 33); 50 Stat. 526; 7 U.S.C. 1012	Bureau of Land Management	Revenues from use of the lands	50% to Range Improvement Fund 25% to counties 25% to U.S. Treasury
(7) Act of 6/22/48; Superior Nat'l Forest State of Minn.; 62 Stat. 570; 16 U.S.C. 577g	U.S. Forest Service	Percentage of fair appraised value	75% of appraised value paid in addition to Act of 5/23/08 ((1) above)
(8) Act of 6/22/56; Superior Act of 6/22/48; 70 Stat. 328; 16 U.S.C. 577g-1	U.S. Forest Service	Same as (7) above	Same as (7) above
(9) Mineral Leasing Act for Acquired Lands (Sec. 6); 61 Stat. 915; 30 U.S.C. 355	Bureau of Land Management U.S. Forest Service	Monies received from mineral leasing	50% to States 40% to Bureau of Reclamation 10% to U.S. Treasury
(10) Material Disposal Act (Section 3); 61 Stat. 681	Bureau of Land Management U.S. Forest Service	Net revenues from sale of land and materials	varies depending upon type of receipt and agency
(11) Refuge Revenue Sharing Act, as amended; 92 Stat 1321; 16 U.S.C. 715s(c)(2)	U.S. Fish and Wildlife Service	Revenues from sale of timber, grazing and minerals on reserve area lands and sale of carcasses of certain animals	25% of net receipts to counties 75% to Revenue Sharing Fund
(12) Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393)	U.S. Forest Service	Monies received from each National Forest	80 - 85% under Title I to States for counties 15 - 20% under Title II (to Secretary of Agriculture for county projects) and/or Title III (to counties for county projects).

FISCAL YEAR 2006 POPULATION VALUES FOR PILT SECTION 6902

If population is
less than or equal to:

Payment shall not exceed the amount
computed by multiplying such population by:

5,000.....	\$144.13
6,000.....	134.97
7,000.....	127.09
8,000.....	117.94
9,000.....	110.06
10,000.....	100.88
11,000.....	98.29
12,000.....	95.66
13,000.....	91.72
14,000.....	89.10
15,000.....	86.47
16,000.....	85.17
17,000.....	83.84
18,000.....	82.55
19,000.....	81.26
20,000.....	79.96
21,000.....	78.62
22,000.....	77.31
23,000.....	77.31
24,000.....	76.00
25,000.....	74.69
26,000.....	73.38
27,000.....	73.38
28,000.....	73.38
29,000.....	72.08
30,000.....	72.08
31,000.....	70.76
32,000.....	70.76
33,000.....	69.44
34,000.....	69.44
35,000.....	68.12
36,000.....	68.12
37,000.....	66.83
38,000.....	66.83
39,000.....	65.52
40,000.....	65.52
41,000.....	64.21
42,000.....	62.90
43,000.....	62.90
44,000.....	61.57
45,000.....	61.57
46,000.....	60.27
47,000.....	60.27
48,000.....	58.98
49,000.....	58.98
50,000.....	57.66

