



## Proposed Definitions for Review by the Subcommittee on Intangible Property

**Table 1. Intangible Property.**

Source	Definition
1. Texas Property Tax Code	<i>Intangible Property.</i> A claim, interest (other than an interest in tangible property), right, or other thing that has value but cannot be seen, felt, weighed, measured or otherwise perceived by the senses, although its existence may be evidenced by a document. It includes a stock, bond, note or account receivable, franchise, license or permit, demand or time deposit, certificate of deposit, share account, share certificate account, share deposit account, insurance policy, annuity, pension, cause of action, contact and goodwill.
2. Texas General Appraisal Manual - State Property Tax Board (now part of Texas Comptroller's Office)	<i>Intangible Property.</i> Property that lacks mass and cannot be seen, felt, weighed, measured or otherwise be perceived by the senses. Its existence may be evidenced by a document, and it can be thought of as a paper evidence of wealth.
3. Black's Law Dictionary, 8 <sup>th</sup> Ed., 2004	<i>adj.</i> Not capable of being touched; impalpable; incorporeal. <i>n.</i> Something that lacks a physical form; an abstraction, such as responsibility; esp., an asset that is not corporeal, such as intellectual property. <i>general intangible.</i> Any intangible personal property other than goods, accounts, chattel paper, documents, instruments, investment property, rights to proceeds of written letters of credit, and money. Some examples are goodwill, things in action, and literary rights.
4. Black's Law Dictionary, Rev. 4 <sup>th</sup> Ed., 1968	<i>Intangible asset.</i> Such values as accrue to a going business as good will, trademarks, copy rights, franchises, or the like. It exists only in connection with something else, as the good will of a business. <i>Intangible Property.</i> Used chiefly in the laws of taxation, this term means such property as has no intrinsic and marketable value, but is merely the representative or evidence of value, such as certificates of stock, bonds, promissory notes, and franchises.
5. Webster's Third New International Dictionary, 1981	<i>Intangible adj.</i> 1. Incapable of being touched or perceived by touch: not tangible: impalpable, imperceptible. 2. Incapable of being defined or determined with certainty or precision" vague, elusive. <i>n.</i> 1. Something intangible; specif : an asset (as goodwill or a patent right) that is not corporeal. <i>Intangible property.</i> Property having no physical substance apparent to the senses: incorporeal property (as choses in action) often evidenced by documents (as stocks, bonds, notes, judgments, franchises) having no intrinsic value or by rights of action, easements, goodwill, trade secrets.
6. Uniform Standards of Professional Appraisal Practice, Appraisal Standards Board, 2004 Edition	<i>Intangible Property (Intangible Assets):</i> nonphysical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, mineral rights, securities, and contracts, as distinguished from physical assets such as facilities and equipment.

<p>7. The Dictionary of Real Estate Appraisal, Appraisal Institute, 3<sup>rd</sup> Ed., 1993</p>	<p><i>Intangible Assets</i>-1. nonphysical items of person property, e.g. franchises, trademarks, patents, copyrights, goodwill; 2. Deferred items such a development or organization expense.</p> <p><i>Intangible Value</i>-A value that cannot be imputed to any part of the physical property, e.g., the excess value attributable to a favorable lease or mortgage; the value attributable to goodwill.</p>
<p>8. Real Estate Appraisal Terminology, Society of Real Estate Appraisers, Revised Edition, 1984</p>	<p><i>Intangible Assets (Property)</i>-Items of property, such as franchises, trademarks, patents, copyrights, and goodwill; also such as deferred items as development or organization expense. May be used synonymously with intangible property.</p> <p><i>Intangible Value</i>-A value not imputable to any part of the physical property, such as the excess value attributable to a favorable lease, or the value attributable to goodwill.</p>
<p>9. Glossary for Property Appraisal and Assessment, International Association of Assessing Officers, 1997</p>	<p><i>Intangible Personal Property</i>-Property that has no physical existence beyond merely representational, nor any extrinsic value; includes rights over tangible real and personal property but not rights of use and possession. Its value lies chiefly in what it represents. Examples include corporate stock, bonds, money on deposit, goodwill, restrictions on activities (for example, patents and trademarks), and franchises. Note: Thus, in taxation, the rights evidenced by outstanding corporation stocks and bonds constitute intangible property of the security holders because they are claims against the assets owned and income received by the corporation rather than by the stockholders and bondholders; interests in partnerships, deeds and the like are not ordinarily considered intangible property for tax purposes because they are owned by the same persons who own the assets and receive the income to which they attach.</p>
<p>10. Wall Street Words: An Essential A to Z Guide for Today's Investor, David L. Scoot, 1997</p>	<p><i>Intangible asset</i>-An asset such as a patent, goodwill, or a mining claim that has no physical properties. Since intangible assets are often difficult to value accurately, such assets when included on a corporate balance sheet may have a true value significantly different from the dollar amounts indicated there.</p>

<p>11. Reilly, Robert F. and Robert P. Schweihs, <i>Valuing Intangible Assets</i>, (New York: McGraw-Hill, 1999)</p>	<p><i>Intangible assets possess certain common characteristics –</i></p> <ol style="list-style-type: none"> <li>1. An intangible asset should be subject to specific identification and recognizable description.</li> <li>2. An intangible asset should be subject to legal existence and protection.</li> <li>3. An intangible asset should be subject to the right of private ownership, and the private ownership should be legally transferable. Certain intangible assets are typically transferred separately and independently from other properties and others are typically transferred as an assemblage of properties (e.g., two or more intangible assets transferred collectively or intangible assets transferred with tangible assets).</li> <li>4. There should be some tangible evidence or manifestation of the existence of the intangible asset (e.g., a contract, a license, a registration document, a computer diskette, a listing of customers, a set of financial statements, etc.)</li> <li>5. An intangible asset should have been created or have come into existence at an identifiable time or as the result of an identifiable event.</li> <li>6. An intangible asset should be subject to being destroyed or to a termination of existence at an identifiable time or as the result of an identifiable event.</li> </ol> <p><i>Intangible assets include the following items:</i></p> <ol style="list-style-type: none"> <li>1. Marketing-related intangible assets (e.g., trademarks, trade names, brand names, logos).</li> <li>2. Technology-related intangible assets (e.g., process patents, patent applications, technical documentation, such as laboratory notebooks, technical know-how).</li> <li>3. Artistic-related intangible assets (e.g., literary works and copyrights, musical compositions, copyrights, maps, engravings).</li> <li>4. Data processing-related intangible assets (e.g., proprietary computer software, software copyrights, automated databases, integrated circuit masks and masters).</li> <li>5. Engineering-related intangible assets (e.g., industrial design, product patents, trade secrets, engineering drawings and schematics, blueprints, proprietary documentation).</li> <li>6. Customer-related intangible assets (e.g., customer lists, customer contracts, customer relationships, open purchase orders).</li> <li>7. Contract-related intangible assets (e.g., favorable supplier contracts, license agreements, franchise agreements, noncompete agreements).</li> <li>8. Human capital-related intangible assets (e.g., a trained and assembled workforce, employment agreements, union contracts).</li> <li>9. Location-related intangible assets (e.g., leasehold interests, mineral exploitation rights, easements, air rights, water rights).</li> <li>10. Goodwill-related intangible assets (e.g., institutional goodwill, professional practice goodwill, personal goodwill of a professional, celebrity goodwill, general business going-concern value).</li> </ol>
<p>12. Combination of IRS CODE Sec. 197 and Glossary of Terms in the Public Utility Basic Appraisal Course sponsored by the WY DOR.</p>	<p><i>Intangible Personal Property</i> is an asset that represents a right rather than a physical object that is presumed to represent an advantage to the firm’s position in the marketplace. The asset cannot be perceived by the senses and is usually represented by tokens that symbolize value. Intangible Personal Property includes, but are not limited to, accounts receivable, bonds, capitalized advertising costs, cash, contracts, copyrights, customer base, exploration permits and export permits, franchises, going concern, goodwill, leases, licenses, organization costs, patents, software, trademarks and trade names.</p>

<p>13. A. 26 USC Sec. 936 (h)(3)(B) [Puerto Rico and Possession Tax Credit]          B. 26 USC Sec. 865 (d)(2) [Personal property sales]          C. 26 USC Sec. 197 (c) [Amortization]</p>	<p>A. Intangible property means any – (i) patent, invention, formula, process, design, pattern, or know-how; (ii) copyright, literary, musical, or artistic composition; (iii) trademark, trade name, or brand name; (iv) franchise, license, or contract; (v) method, program, system, procedure, campaign, survey, study, forecast, estimate, customer list, or technical data; or (vi) any similar item, which has substantial value independent of the services of any individual.</p> <p>B. Intangible means any patent, copyright, secret process or formula, goodwill, trademark, trade brand, franchise, or other like property.</p> <p>C. Except as otherwise provided in this section, the term "section 197 <i>intangible</i>" means - (A) goodwill, (B) going concern value, (C) any of the following <i>intangible</i> items: (i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment, (ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers), (iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item, (iv) any customer-based <i>intangible</i>, (v) any supplier-based <i>intangible</i>, and (vi) any other similar item, (D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof, (E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and (F) any franchise, trademark, or trade name. (2) Customer-based <i>intangible</i> (A) In general The term "customer-based <i>intangible</i>" means - (i) composition of market, (ii) market share, and (iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers. (B) Special rule for financial institutions In the case of a financial institution, the term "customer-based <i>intangible</i>" includes deposit base and similar items. (3) Supplier-based <i>intangible</i> The term "supplier-based <i>intangible</i>" means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.</p>
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**Table 2. Tangible Property (or other relevant property definitions.)**

Source	Definition
1. Texas Property Tax Code	<i>Tangible Property.</i> Personal property that can be seen, weighed, measured, felt or otherwise perceived by the senses, but does not include a document or other perceptible object that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.
2. Texas General Appraisal Manual - State Property Tax Board (now part of Texas Comptroller's Office)	<i>Tangible Property.</i> That property which can be seen, weighed, measured, felt, touched, moved or is in any manner perceptible to the senses.
3. Black's Law Dictionary, 8 <sup>th</sup> Ed., 2004	<i>Tangible. adj.</i> 1. Having or possessing physical form; corporeal. 2. Capable of being touched and seen; perceptible to the touch; capable of being possessed or realized. 3. Capable of being understood by the mind.
4. Black's Law Dictionary, Rev. 4 <sup>th</sup> Ed., 1968	<i>Real property.</i> Land and generally whatever is erected or growing upon or affixed to land.
5. Webster's Third New International Dictionary, 1981	<i>Tangible. adj.</i> 1. a. Capable of being touched: able to be perceived as materially existent esp. by the sense of touch. b. substantially real. 2. Capable of being realized by the mind: conceived or thought of as definable or measurable. 3. Constituting or consisting of a corporeal item capable of being appraised at an actual or approximate value. <i>n.</i> Something that is tangible: as (a): a tangible asset (b): a piece of tangible property. <i>Tangible property.</i> Property (as real estate) having physical substance apparent to the senses; <i>sometimes:</i> intangible property (as stocks, bonds, notes) involved in a government's exercise of its police or taxing power.
6. Uniform Standards of Professional Appraisal Practice, Appraisal Standards Board, 2004 Edition	<i>Personal Property:</i> Identifiable tangible objects that are considered by the general public as being "personal" for example furnishings, artwork, antiques, gems, jewelry, collectibles, machinery and equipment; all tangible property that is not classified as real estate. <i>Real Property:</i> The interests, benefits, and rights inherent in the ownership of real estate.
7. The Dictionary of Real Estate Appraisal, Appraisal Institute, 3 <sup>rd</sup> Ed., 1993	<i>Tangible Property</i> -Property that can be perceived with the senses; includes land, fixed improvements, furnishings, merchandise, cash, and other items of working capital used in an enterprise.
8. Real Estate Appraisal Terminology, Society of Real Estate Appraisers, Revised Edition, 1984	<i>Tangible Property</i> -Property that, by its nature, is perceptible by the senses. Generally, the land, fixed improvements, furnishings, merchandise, cash, and other items of working capital used in carrying on an enterprise. <i>Tangible Value</i> -The value assigned to the physical portion of property, such as land, building, machinery, furnishings, merchandise, cash, and other items which are perceptible by the senses.
9. Glossary for Property Appraisal and Assessment, International Association of Assessing Officers, 1997	<i>Tangible Personal Property</i> -Personal property that has a substantial physical presence beyond merely representational. It differs from real property in its capacity to be relocated. Common examples of tangible real property are automobiles, boats and jewelry.

<p>10. Wall Street Words: An Essential A to Z Guide for Today's Investor, David L. Scoot, 1997</p>	<p><i>Tangible asset</i>-An asset such as a building or piece of equipment that has physical properties.</p>
<p>11. Reilly, Robert F. and Robert P. Schweihs, <i>Valuing Intangible Assets</i>, (New York: McGraw-Hill, 1999)</p>	<p><i>Tangible assets generally possess all of the <u>characteristics</u> (#1-6) of intangible listed in item #11 above as well as the following:</i></p> <ol style="list-style-type: none"> <li>1. A tangible asset should have physical existence and substantial form; it should be corporeal.</li> <li>2. A tangible asset should be capable of being touched and seen.</li> <li>3. A tangible asset should be perceptible to the touch; it should be tactile.</li> </ol>