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# STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH  
100 NORTH SENATE AVENUE N1058(B)  
INDIANAPOLIS, IN 46204  
PHONE (317) 232-3777  
FAX (317) 974-1629

## Frequently Asked Questions

### COVID-19 & Executive Orders

March 27, 2020

#### *Information for County Assessors*

- 1. With the income tax filing deadline moved to July 15, will the DLGF also move the May 15 business personal property tax deadline?**

As included in the Department's previous guidance memorandum, issued March 20, 2020, the deadline for filing personal property tax returns for the 2020-Pay-2021 tax cycle will remain May 15. However, a taxpayer may on or before May 15 submit a written request with the county or township assessor for a thirty (30) day extension under IC 6-1.1-3-7(b). The assessor is encouraged to inform taxpayers of this extension right and grant this extension to give the taxpayer until **June 14, 2020**, to make a timely filing.

- 2. I don't believe any information has been released regarding Form 136, which is the exemption application for non-profits from tangible business personal property taxes and real estate tax. The due date for those forms is April 1 and some entities are having difficulties getting the information needed to file the form by the April 1 date. What is the department's position on the deadline for exemption applications?**

Executive Order 20-12, issued on March 26, 2020, suspends the deadline for submitting property tax exemption applications under IC 6-1.1-11-3 and IC 6-1.1-11-3.5 from April 1, 2020, until **June 30, 2020**.

- 3. With the department's encouragement of granting an extension for personal property return filings to June 14, does this mean that we will then need to delay the issuance of Form 113/PP to July 14?**

According to IC 6-1.1-3-20, if an assessing official changes a valuation made by a taxpayer on his or her personal property return or adds value to the personal property return, the assessing official must immediately give the taxpayer written notice of the change in the assessment. This change in the assessment value for personal property returns would be provided to the taxpayer via Form 113/PP. While the notice provisions

under IC 6-1.1-3-20 do not specify a deadline for mailing this notice, IC 6-1.1-16-1 specifies that a county assessor must give notice of the change on or before the later of: (1) October 30 of the assessment year; or (2) five (5) months from the date the personal property return is filed if the return is filed after the filing date for personal property tax returns.

For taxpayers that are granted a thirty (30) day extension to file personal property tax returns, the required notice for any change in the assessment would have to be provided within five (5) months of the date of receipt.

**4. For Form 136, do we have to have original signatures, or is a PDF copy of a signature acceptable?**

Since IC 6-1.1-10 and IC 6-1.1-11 do not specify that exemption applications must be submitted with an original signature, counties can accept scanned copies of signed exemption applications or copies of the exemption application with electronic signatures.

**5. Are Form 11s still supposed to be mailed out by April 30?**

Under IC 6-1.1-15-1.1(b)(2), the last day for counties to mail the Notice of Assessment (Form 11) is April 30 for an appeal deadline of June 15 of the assessment year. If the Notice of Assessment is mailed by the county on or after May 1 of the assessment year, the appeal filing deadline is June 15 of the year in which the tax bill is mailed by the county treasurer. In other words, if the Notice of Assessment is mailed on or May 1, 2020, the appeal filing deadline would be June 15, 2021.

**6. Has there been any discussion on delays for the appeal deadline for certain sectors (i.e. hotels, retail, etc.)?**

The Department has not been involved in any discussions regarding a delay for the appeal deadline.

**7. For property tax abatements, there are some designating bodies that want the CF-1/RE Form or the CF-1/PP Form earlier than the May due date, and some jurisdictions will have filings due in mid-April. One local council has indicated that unless the State extends the May 15 business personal property tax filing deadline, they will need to adhere to their scheduled due date and will need the CF-1/RE and CF-1/PP filing by April 15. Is there any guidance related to the personal property filing deadline and the impact on abatement compliance reporting?**

According to IC 6-1.1-12.1-5.1(b), the Compliance with the Statement of Benefits forms must be filed with the county auditor before May 15 or by the due date of the owner's personal property return that is filed in the taxing district where the property is located. While designating bodies may require property owners to complete and submit the Compliance with the Statement of Benefits form prior to May 15, they are not required to do so. If a property owner is granted an extension for the May 15 personal property return

filing deadline, designating bodies should take this extension into account when determining the due date for the Compliance with the Statement of Benefits forms.

### *Information for County Treasurers*

**8. Do we need to change the penalty date from June 10, 2020 to July 10, 2020 on the TS-1?**

County treasurers should proceed with the issuance of tax bills by the April 15 deadline. The Governor has extended the penalty deadline by sixty (60) days. Taxpayers are still encouraged to pay by the May 11, 2020 deadline. It is recommended that counties place information regarding the waived penalties on their website and on any phone messages. Counties may also want to partner with local media outlets to share information about the waivers.

**9. For the waiver of penalties for property tax payments, do the penalties still stay at 5% for the first 30 days and then the 10% penalty kicks in? Or will the penalties go straight to 10% right away after the 60-day period has ended?**

Since the waiver period under Executive Order 20-05 is meant to provide relief to taxpayers, penalty period should also be pushed back by sixty (60) days. This means that the five percent (5%) penalty would apply to any payments made after July 10, 2020, if there is no delinquent amount, and a ten percent (10%) penalty would apply if there is a previous delinquency or if a payment is made after August 10, 2020.

**10. The executive order only calls out the waiver of late fees or penalties for the taxes paid, with the statutory due date for taxes staying in place. There is the late fee for personal property returns, and an additional 20% penalty we assess. Are they going to be moved as well and apply, or should we just use our authority according to the statute (IC 6-1.1-37-15) to waive those?**

Section 6(B) of Executive Order 20-05 refers to property tax payments that would be due by May 11, 2020 for the Spring Installment, and the penalties related to personal property returns under IC 6-1.1-37-7 have not been addressed by a current executive order.

**11. How is the waiver of penalties for property tax payments going to impact our tax sales with the penalties coming on after the July 1 certification date?**

Under IC 6-1.1-24-1.2(a), a property with a delinquent tax liability that has been placed on a tax sale list must remain on the list unless all of the delinquent taxes, penalties, interests, and costs directly attributable to the tax sale have been paid. Therefore, a property may be placed on a tax sale on July 1, 2020 with delinquent taxes and penalties. If the taxpayer makes the payment for the delinquent taxes between July 1, 2020, and July 10, 2020, the payment does not need to include the penalties otherwise associated with the delinquent taxes in order to be considered "paid in full."

Since IC 6-1.1-24-1 specifies that properties may only be listed for tax sale after three (3) installments are considered delinquent under IC 6-1.1-37-10, the tax list that must be certified by July 1 will likely only include those properties that were previously placed on a tax sale list.

**12. Should we assume that all amounts, no matter if current tax, delinquent tax/penalty, or special assessments/fees, are all to be excluded from penalties for the 60-day waiver period?**

Per Executive Order 20-05, all penalties are to be waived for property tax payments. Penalties for failure to pay special assessments or fees were not contemplated by Executive Order 20-05 because they are not considered property tax payments.

**13. How is a partial payment to be considered? Currently the penalty applies to the entire late amount when it has not been completely paid by payments considered late.**

Under IC 6-1.1-37-10(a), a penalty is imposed unless the property tax liability is paid in full. Therefore, penalties from partial payments are included in the waiver.

**14. How does the 60-day penalty waiver period apply to the Annual Penalty on delinquent taxes? Currently at the time of the due date any unpaid prior year delinquent tax receives a 10% penalty.**

Since Executive Order 20-05 specifies that all penalties on property tax payments made during the 60-day period after May 11, 2020 are waived, this would also apply to penalties from unpaid property taxes from prior years.

**15. Is there a waiver of penalties for delinquent utility bills as well?**

Executive Order 20-05 did not mandate a waiver for delinquent utility payments; however, Section 5 of the executive order does specify that providers of gas and electric utilities, broadband, telecommunication, water and wastewater services are prohibited from discontinuing service to any customer.

**16. Will the tax systems be able to differentiate the payments coming from escrow and those payments that aren't coming from escrow?**

Yes. Per the requirements of 50 IAC 26-14-4, all tax and billing systems that are currently used in the various counties have been tested and certified by the Department on the functionality to indicate when a property record has been marked as "in escrow".

***Information for All Political Subdivisions***

**17. What business are considered to be an “essential” business?**

Section 11 of Executive Order 20-08 specifies that essential business includes services for Essential Governmental Functions, and Essential Governmental Functions has been defined to include all services provided by a municipality or county or by a contractor on behalf of a municipality or county that are needed to ensure the continuing operation of government agencies. If business is providing a service to a municipality or county that would meet this definition, it would be considered an essential business under Executive Order 20-08. However, the Department would encourage anyone with questions regarding what is considered an essential business to review Executive Order 20-08, which can be located at: [https://www.in.gov/gov/files/Executive\\_Order\\_20-08\\_Stay\\_at\\_Home.pdf](https://www.in.gov/gov/files/Executive_Order_20-08_Stay_at_Home.pdf).

**18. Is the department providing any sort of waiver or extension to municipalities that were in the process of establishing a fire protection territory and equipment replacement fund prior to the declaration of the public health emergency?**

Executive Order 20-12, issued March 26, 2020, suspended the deadline for establishing a fire protection territory under IC 36-8-19-6 from April 1, 2020, until **June 30, 2020**.

To the extent possible, the governing bodies of the participating units should attempt to hold the establishment meetings electronically. Executive Order 20-09, issued on March 23, 2020, amends Executive Order 20-04 regarding the use of electronic means of holding public hearings. Essentially, a public meeting can be held electronically during the time of the current public health emergency and without a member of the board physical present at a public place, so long as there is a quorum of the board and the public and media are given the ability to access the meeting electronically. The Public Access Counselor has provided guidance on how to conduct a public hearing in compliance with the Open Door Law (IC 5-14-1.5), as modified by these executive orders. This guidance is available at: <https://www.in.gov/pac/files/FAQs-for-Open-Door-Law-in-light-of-Covid-19.pdf>.

**19. Do we need to have a public meeting for an additional appropriation?**

A public hearing for an additional appropriation is still required by IC 6-1.1-18-5(a) and the Open Door Law. Executive Order 20-09, issued on March 23, 2020, amends Executive Order 20-04 regarding the use of electronic means of holding public hearings. Essentially, a public meeting can be held electronically during the time of the current public health emergency and without a member of the board physical present at a public place, so long as there is a quorum of the board and the public and media are given the ability to access the meeting electronically. The Public Access Counselor has provided guidance on how to conduct a public hearing in compliance with the Open Door Law (IC 5-14-1.5), as modified by these executive orders. This guidance is available at: <https://www.in.gov/pac/files/FAQs-for-Open-Door-Law-in-light-of-Covid-19.pdf>.

Please note that, as required by IC 6-1.1-18-5(a), the notice of public hearing must be published in accordance with IC 5-3-1. The notice should explain that the hearing will be conducted electronically as permitted under Executive Order 20-09 and include instructions for how to access the electronic meeting and how public comments can be submitted, such as via phone or internet.

**20. If a local unit decides to not continue with the referendum process for the upcoming primary election, what steps need to be taken?**

The local unit will need to work with the local county election board on the proper procedures to take to remove the referendum from the ballot. The local unit should also notify the Department that it is not going to continue with the referendum so that it can update its website and referendum calculator, accordingly. Should the local unit proceed with the referendum for the 2020 general election, it will have to have the proposed question resubmitted to the Department for recertification, whether or not it is the same language the Department previously certified for the spring primary election.

**21. Is the department going to provide a waiver or extension of the deadline to establish or re-establish a cumulative fund?**

Executive Order 20-12, issued March 26, 2020, suspended the deadline for establishing or re-establishing a cumulative fund under IC 6-1.1-41-4 and IC 6-1.1-17-16.7 from May 1, 2020, until **June 30, 2020**. This means that the adopting body has until June 30, 2020, to submit the proposal establishing or re-establishing a cumulative fund to the Department.

To the extent possible, the adopting body should attempt to hold the establishment meetings electronically. Executive Order 20-09, issued on March 23, 2020, amends Executive Order 20-04 regarding the use of electronic means of holding public hearings. Essentially, a public meeting can be held electronically during the time of the current public health emergency and without a member of the board physical present at a public place, so long as there is a quorum of the board and the public and media are given the ability to access the meeting electronically. The Public Access Counselor has provided guidance on how to conduct a public hearing in compliance with the Open Door Law (IC 5-14-1.5), as modified by these executive orders. This guidance is available at: <https://www.in.gov/pac/files/FAQs-for-Open-Door-Law-in-light-of-Covid-19.pdf>.

Please note that, as required by IC 6-1.1-41-3(b), the notice of public hearing must be published in accordance with IC 5-3-1. The notice should explain that the hearing will be conducted electronically as permitted under Executive Order 20-09 and include instructions for how to access the electronic meeting and how public comments can be submitted, such as via phone or internet. When submitting the proposal, please indicate that the hearing was done electronically.

The Department strongly encourages that units act as expeditiously as possible in taking action and submit any proposal to the Department as soon as possible. The 60-day extension is not a reason to prolong proposal adoption until later in the year.

**22. Local officials have been told that during this time there is an increased risk of cyber-attacks. What should unit be doing to protect their operations?**

Local units should continue to be diligent against phishing attacking through email and also work with their IT and Security teams to ensure that the industry best practices have been implemented in their system (i.e. up-to-date firewalls and virus protections). Additionally, units should ensure that automated back-up procedures are working properly to provide an additional safeguard if networks are penetrated. Additional resources for local units can be located at: <https://www.in.gov/cybersecurity/> and <https://www.in.gov/dhs/3836.htm>.