STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

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TO: County Auditors, Councils and Treasurers

FROM: Timothy J. Rushenberg, Commissioner TJR 8/7/09

DATE: August 7, 2009

SUBJECT: 2009 Tax Bill Due Dates and Installment Plans

Purpose

This memorandum provides information and guidance regarding the establishment of due dates for property taxes due and payable in 2009.

Establishment of Property Tax Bill Due Dates

In accordance with IC 6-1.1-37-10(d), the Department of Local Government Finance ("Department") may establish a new due date for property taxes when the Department determines an emergency has occurred in a particular county.

For property taxes due and payable for the 2008 pay 2009 tax cycle, the Department has determined it will allow counties to adopt a single tax billing date if requested and justification for the single due date, as opposed to two installment due dates, is provided.

To request a single tax billing date, the County Treasurer should contact me at trushenberg@dlgf.in.gov or (317) 233-6770.

Establishment of Installment Payment Plan

The Department encourages county officials to consider an installment payment plan for homestead taxpayers under IC 6-1.1-22-9.5, or request the county fiscal body to adopt an ordinance to allow all county taxpayers to pay one or more installments of property taxes by any combination of the following:

(1) Automatic monthly deductions from an account of the taxpayer that is held by a financial institution ("monthly deductions"); or

(2) Payments under a monthly installment plan ("monthly installments"). IC 6-1.1-22-9.7

County officials are ***not*** required to offer taxpayers the option of paying through monthly deductions or monthly installments, but based upon the tough economic times being experienced, the Department respectfully requests that such a plan at least be considered.

What do we have to do to offer monthly deductions or installment payments option to our taxpayers?

If county officials decide to offer taxpayers the option of monthly deductions or monthly installments, a plan must be adopted by the county council and approved by the Department.

If an ordinance is adopted under IC 6-1.1-22-9.7, it can be adopted for multiple years, meaning that in 2009, a county council may adopt an ordinance that would allow taxpayers to pay by payment plan or automatic deduction for property taxes first due and payable in 2010, 2011, 2012, and beyond for any year specified in an ordinance. The county council does not have to re-adopt each year if the original ordinance covers multiple years.

The ordinance must include the following:

1. Identification of the property tax installment or installments for which payment is authorized.
2. Provisions for notice to county taxpayers of the option to pay one (1) or more property tax installments.
3. Authority for the county treasurer to make available a form for taxpayers to fill out that directs the county treasurer to accept payment of the taxpayer's property taxes by monthly deduction and authorizes the financial institution that holds the taxpayer's account to deduct monthly the appropriate amount from the account and to pay that amount to the county treasurer (if the county council wants to offer the monthly deduction option.)
4. Authority for the county treasurer to accept payment of the taxpayer's property taxes under a monthly installment plan (if the county council wants to offer the monthly installments option.)

The ordinance may also include a provision authorizing taxpayers to make monthly deductions or monthly installment payments in an amount determined by the taxpayer that is different from the amount otherwise determined by the county treasurer. IC 6-1.1-22-9.7(e).

The Department has attached a sample ordinance for convenience; however, the county may choose to create its own document.

Once the ordinance is passed, what do we have to provide to the county taxpayers?

If the ordinance is passed, the county treasurer must provide the following to the county taxpayers:

1) A form for taxpayers to fill out that directs the county treasurer to accept payment of the taxpayer's property taxes by monthly deduction and authorizes the taxpayer's financial institution to deduct monthly the appropriate amount from the account and to pay that amount to the county treasurer. The Department has provided a sample form for your use or modification.

2) A statement that includes **at least** the following:

   a. The amount to be deducted monthly from the taxpayer's account.

   b. "Identification of the day each month, **as chosen by the taxpayer**, when the deduction will be made." The Department understands this to mean that the taxpayer has the option of selecting any day in each month he would like the money withdrawn, but that day would be consistent month to month. In other words, the taxpayer may choose to have the amount withdrawn on the sixth day of each month. This would mean the Treasurer would withdraw the funds on January 6, February 6, March 6, etc. For the sake of administrative convenience, a Treasurer may suggest specific dates to the taxpayer, i.e. the fifteenth day of the month (January 15, February 15, March 15, etc.); however, the choice, ultimately, is the taxpayer's.

   c. A calculation of the amount to be deducted.

   d. An explanation of the manner in which property taxes for the current year will be reconciled and notice that any property tax payments for the current year made by the taxpayer by means other than automatic deduction from the taxpayer's account will be taken into account in the reconciliation.

   e. An explanation of the penalties that apply if there are insufficient funds in the taxpayer's account to cover one (1) or more automatic deductions. IC 6-1.1-22-9.7(g).

The Department has provided a sample form for convenience; however, the county may choose to create or use its own document.

How does the county treasurer determine the amounts that are due under a monthly deduction or monthly installment option?

If the tax liability for a year is known, the amount of the monthly deduction or monthly installment payment is the amount of the tax liability for the current year payable in the installment or installments identified in the ordinance divided by the number of monthly deductions. In other words, if the county council passes an ordinance that allows taxpayers to pay their bills in six (6) equal deductions or installments, the amount of the tax liability due would be divided by six (6) to determine the amount of each payment.

For example, Mary Smith owes $1200 for her 2008 pay 2009 property tax bill. Mary's county of residence has passed an ordinance that would allow her to pay her property tax bill in six (6) equal installments. Mary would pay $200 per month for six (6) months as part of her monthly installment plan.

If the taxpayer fills out a form in 2009 and the amount of the tax liability for 2010 is not yet known, how does the county treasurer determine the amounts that are due under a monthly deduction or monthly installment option?

If the amount of the tax liability is not known, the county treasurer shall do the following:

1) **STEP ONE:** Determine the amount of tax liability that applied for the preceding year.
2) **STEP TWO:** Determine the quotient of:
    a. the number of property tax installments for the current year identified in the ordinance; divided by
    b. the total number of property tax installments for the current year.
3) **STEP THREE:** Multiply the STEP ONE result by the STEP TWO result.
4) **STEP FOUR:** Determine the quotient of:
    a. the STEP THREE result; divided by
    b. the number of monthly deductions or the number of monthly installments. IC 6-1.1-22-9.7(h).

For example, Mary Smith owed $1200 for her 2008 pay 2009 property taxes on her home. She wants to sign up for a monthly installment plan for 2009 pay 2010, even though she doesn't know how much she will owe.

STEP ONE: Mary's County Treasurer would base her 2009 pay 2010 monthly installment on her 2008 pay 2009 property tax liability -- $1200.

STEP TWO: The ordinance adopted by her County Council identified that 1 installment (the November 10) would be eligible to be paid by monthly installment.

The total number of property tax installments for the current year is 2 (May 10 and November 10 installments). Therefore, the quotient of 1 / 2 = 0.5.

STEP THREE: Multiply STEP ONE result by STEP TWO result -- $1200 * 0.5 = $600.

STEP FOUR: The STEP THREE result is $600. The number of monthly installments or monthly deductions for 1 property tax installment would be 6 (12 months in a year / 2 annual installments = 6 months per installment).

Therefore, the quotient of $600 / 6 = $100. Mary would have to pay $100 per month for 6 months to pay for 1 property tax installment by monthly installments.

How does the county treasurer determine the amount of tax liability mentioned in STEP ONE in the above question?

The amount of the tax liability mentioned in STEP ONE above is one of the following:

- For parcel of real property, the most recently determined amount of tax liability that applied to the parcel for the preceding year.
- For a personal property return, the most recently determined amount of tax liability that applied for the personal property return for the same location for the preceding year.
- For distributable property, the most recently determined amount of tax liability that applied with respect to the statement filed by the taxpayer under IC 6-1.1-8-19 for the preceding year.
- For a mobile home subject to IC 6-1.1-7, the most recently determined amount of tax liability that applied to the mobile home for the preceding year. IC 6-1.1-22-9.7(h).

What happens if the tax liability in 2010 is different than what was originally figured in the above example?

The county treasurer can re-figure the amounts due under the monthly deduction or monthly installment options if the county treasurer determines that changes in circumstances have caused the original amount determined to differ substantially from the tax liability likely to be determined for the current year. In other words, if in 2010, the actual tax liability is different than what was calculated, the county treasurer can work with the taxpayer to make an adjustment in the monthly deductions or monthly installments due. IC 6-1.1-22-9.7(i).

What happens if the county is issuing provisional tax bills for a year that a monthly deduction or monthly installment option is available?

The county treasurer will follow different steps to determine the tax liability for a provisional tax bill year than what was noted in the above examples. In this case, the county treasurer shall substitute for the tax liability that applied to the parcel for the preceding year with the tax liability that will be indicated on the provisional statement. IC 6-1.1-22-9.7(j).

What happens if the taxpayer does not make a payment as required by the monthly installment option or if there are insufficient funds in the bank account to cover the monthly deduction (i.e. a "bounce")?

Penalties under IC 6-1.1-37-10 apply to taxpayers using a monthly deduction or monthly installment plan if the taxpayer misses a payment in the installment or pays less than the amount due in a particular installment or deduction, or if there are insufficient funds available (i.e. a "bounce") to make the monthly deduction from an account. However, if the taxpayer pays the taxes due according to the monthly installment or monthly deduction plan, the taxes are not considered delinquent. IC 6-1.1-22-9.7(m).

What if a taxpayer who originally wanted the monthly deduction decides that he no longer wants the payment automatically deducted?

The taxpayer shall notify the county treasurer in writing of the taxpayer's desire to stop paying property taxes by monthly installment plan or automatic deduction from his or her bank account at least thirty (30) days prior to the next due date. Once this request is made and granted the taxpayer must pay the balance of the next coming installment in full less payments actually made.

How do we determine the date on which the monthly deduction will be made?

According to the statute, the treasurer will provide a statement to the taxpayer that identifies "the day each month, **as chosen by the taxpayer**, when the deduction will be made."

The Department understands this to mean that the taxpayer has the option of selecting any day in each month he would like the money withdrawn, but that day would be consistent month to month. In other words, the taxpayer may choose to have the amount withdrawn on the sixth day of each month. This would mean the Treasurer would withdraw the funds on January 6, February 6, March 6, etc.

For the sake of administrative convenience, a Treasurer may suggest specific dates to the taxpayer, i.e. the fifteenth day of the month (January 15, February 15, March 15, etc.); however, the choice, ultimately, is the taxpayer's.

If you have any questions, please contact Tim Jorczak, Director of Policy and Intergovernmental Affairs, at tjorczak@dlgf.in.gov or (317) 234-5675.