
**ENGROSSED
HOUSE BILL No. 1002**

DIGEST OF HB 1002 (Updated February 18, 1998 3:10 pm - DI 87)

Citations Affected: IC 6-1.1; noncode.

Synopsis: Excess property tax payment refund. Requires a county to notify a taxpayer by mail, at the taxpayer's last known address, that the taxpayer overpaid the taxpayer's taxes before the excess tax payment may be transferred to the county general fund. Strikes a reference specifying that reasonable proof, for the purposes of obtaining a refund of a property tax overpayment, may in part include a receipt from the payment of property taxes. Provides that, for a property interest created from a larger existing parcel or a combination of smaller existing parcels, the owner is required to pay only the property taxes for which the due date has passed before the county auditor may transfer the
(Continued next page)

Effective: July 1, 1998.

**GiaQuinta, Alevizos, Hasler, Sturtz,
Kruse**

(SENATE SPONSORS — LONG, WYSS)

January 6, 1998, read first time and referred to Committee on Local Government.
January 27, 1998, amended, reported — Do Pass.
February 2, 1998, read second time, ordered engrossed. Engrossed.
February 3, 1998, read third time, passed. Yeas 99, nays 0.

SENATE ACTION

February 9, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.
February 19, 1998, amended, reported favorably — Do Pass.

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property on the last assessment list or apportion the assessed value of the property. Requires an assessing official to consolidate existing contiguous parcels of real property into a single parcel if the assessing official has knowledge that an improvement to the real property is located on or otherwise significantly affects the parcels. Allows the county treasurer to serve a written demand upon county residents who are delinquent in the payment of personal property taxes by proof of certificate of mailing. Provides that the county treasurer shall charge as a collection expense for delinquent personal property taxes: (1) \$8 if the demand for payment is made by registered or certified mail; and (2) \$5 if the demand is made in any other manner. Provides that property tax refunds shall be paid after the June or December settlement and apportionment of property taxes or both the June and December settlement and apportionment of property taxes. (Current law provides only for the payment of refunds after the December settlement.).

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February 20, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

ENGROSSED HOUSE BILL No. 1002

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-5-5.5, AS ADDED BY P.L.51-1997,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 5.5. (a) Before an owner records a transfer of a
4 ownership interest in a parcel of real property that is created after the
5 person became owner of the real property and is created either from a
6 larger previously existing parcel or a combination of previously
7 existing smaller parcels, the owner must submit, except as provided in
8 section 9 of this chapter, the instrument transferring the real property
9 to the county auditor to be entered for taxation.
10 (b) The county auditor, except as provided in section 9 of this
11 chapter, shall endorse on the instrument "duly entered for taxation
12 subject to final acceptance for transfer" or another endorsement
13 authorized under section 4 of this chapter.
14 (c) A lien for and the duty to pay property taxes that are due and
15 owing is not released or otherwise extinguished if a county auditor

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1 endorses an instrument of transfer under this section. Property taxes
 2 that are due and owing on the affected parcel of property may be
 3 collected as if the county auditor had not endorsed the instrument of
 4 transfer.

5 (d) Except as provided in section 9 of this chapter, before the county
 6 auditor may transfer real property described in subsection (a) on the
 7 last assessment list or apportion the assessed value of the real property
 8 among the owners, the owner must pay or otherwise satisfy all property
 9 taxes ~~(1) that are due and owing; and (2)~~ for which the due date has
 10 passed as of the date of transfer on each of the parcels of real property
 11 from which the transferred property is derived by paying the property
 12 tax to the county treasurer of the county in which the real property is
 13 located. The county auditor, except as provided in section 9 of this
 14 chapter, may not apportion delinquent taxes described in this
 15 subsection among the owners.

16 SECTION 2. IC 6-1.1-5-16, AS ADDED BY P.L.51-1997,
 17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 1998]: Sec. 16. If an owner of existing contiguous parcels
 19 makes a written request that includes a legal description of the existing
 20 contiguous parcels sufficient for the assessing official to identify each
 21 parcel and the area of all contiguous parcels, the assessing official shall
 22 consolidate more than one (1) existing contiguous parcel into a single
 23 parcel to the extent that the existing contiguous parcels are in a single
 24 taxing district **and the same section**. For existing contiguous parcels
 25 in more than one (1) taxing district **or one (1) section**, the assessing
 26 official shall, upon written request by the owner, consolidate the
 27 existing contiguous parcels in each taxing district **and each section**
 28 into a single parcel. An assessing official shall consolidate more than
 29 one (1) existing contiguous parcel into a single parcel if **the assessing**
 30 **official has knowledge that** an improvement to the real property is
 31 located on or otherwise significantly affects the parcels.

32 SECTION 3. IC 6-1.1-23-1 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Annually, after
 34 November 10th but prior to August 1st of the succeeding year, each
 35 county treasurer shall serve a written demand upon each county
 36 resident who is delinquent in the payment of personal property taxes.
 37 The written demand may be served upon the taxpayer:

- 38 (1) by registered or certified mail; **or**
- 39 (2) in person by the county treasurer or his deputy; **or**
- 40 **(3) by proof of certificate of mailing.**

41 (b) The written demand required by this section shall contain:

- 42 (1) a statement that the taxpayer is delinquent in the payment of

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1 personal property taxes;
 2 (2) the amount of the delinquent taxes;
 3 (3) the penalties due on the delinquent taxes;
 4 (4) the collection expenses which the taxpayer owes; and
 5 (5) a statement that if the sum of the delinquent taxes, penalties,
 6 and collection expenses are not paid within thirty (30) days from
 7 the date the demand is made then:

8 (i) (A) sufficient personal property of the taxpayer shall be
 9 sold to satisfy the total amount due plus the additional
 10 collection expenses incurred; or

11 (ii) (B) a judgment may be entered against the taxpayer in the
 12 circuit court of the county.

13 SECTION 4. IC 6-1.1-23-7 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) With respect to
 15 the collection of delinquent personal property taxes, the county
 16 treasurer shall charge the following collection expenses to each
 17 delinquent taxpayer:

18 (1) For making a demand by:

19 (A) **registered or certified mail, eight dollars (\$8); or**

20 (B) **any other manner permitted by section 1 of this**
 21 **chapter, five dollars (\$5).**

22 (2) For making a levy, ten dollars (\$10).

23 (3) For selling personal property, ten percent (10%) of the sale
 24 price.

25 (4) For advertising a sale, the legal rates for advertising.

26 (5) For transfer and storage of personal property, the actual
 27 expense incurred.

28 (6) Other reasonable expenses of collection, including:

29 (A) title search expenses;

30 (B) uniform commercial code search expenses; and

31 (C) reasonable attorney's fees or court costs incurred:

32 (i) in the collection process;

33 (ii) due to a court order; or

34 (iii) due to an order of the treasurer;

35 under IC 6-1.1-23-10.

36 (b) The fees collected under this section are the property of the
 37 county and shall be deposited in the county general fund. The
 38 collection expenses incurred in connection with the levy upon and sale
 39 of personal property shall be paid from the county general fund without
 40 prior appropriation.

41 SECTION 5. IC 6-1.1-26-5 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) When a claim for



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1 refund filed under section 1 of this chapter is allowed either by the
 2 county board of commissioners, the state board of tax commissioners,
 3 or the Indiana tax court on appeal, the claimant is entitled to a refund.
 4 The amount of the refund shall equal the amount of the claim so
 5 allowed plus interest at six percent (6%) from the date on which the
 6 taxes were paid or payable, whichever is later, to the date of the refund.
 7 The county auditor shall, without an appropriation being required, issue
 8 a warrant to the claimant payable from the county general fund for the
 9 amount due the claimant under this section.

10 (b) In the **June or** December settlement and apportionment of taxes,
 11 **or both the June and December settlement and apportionment of**
 12 **taxes**, immediately following a refund made under this section the
 13 county auditor shall deduct the amount refunded from the gross tax
 14 collections of the taxing units for which the refunded taxes were
 15 originally paid and shall pay the amount so deducted into the general
 16 fund of the county. **However, the county auditor shall make the**
 17 **deductions and payments required by this subsection not later than**
 18 **the December settlement and apportionment.**

19 SECTION 6. IC 6-1.1-26-6 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) Notwithstanding
 21 the other provisions of this chapter, each county treasurer shall place
 22 the portion of a tax or special assessment payment which exceeds the
 23 amount actually due, as shown by the tax duplicate or special
 24 assessment records, in a special fund to be known as the "surplus tax
 25 fund". Amounts placed in the fund shall first be applied to the
 26 taxpayer's delinquent taxes in the manner provided in IC 6-1.1-23-5(b).
 27 The taxpayer may then file a verified claim for money remaining in the
 28 surplus tax fund. The county treasurer or county auditor shall require
 29 reasonable proof of payment by the person making the claim. ~~which~~
 30 ~~may include, in part, evidence of payment specified in IC 6-1.1-22-12.~~
 31 If the claim is approved by the county auditor and the county treasurer,
 32 the county auditor shall issue a warrant to the taxpayer for the amount
 33 due the taxpayer.

34 (b) ~~At~~ **Not less frequently than at** the time of each semiannual
 35 settlement, the county treasurer shall prepare a ~~schedule duplicate~~ **schedule duplicate**
 36 **schedules** of all excess payments received. The ~~schedule~~ **schedules**
 37 shall contain the name ~~of the payor on the tax duplicate~~, the amount
 38 of excess paid, and the taxing district. The county treasurer shall
 39 deliver **one (1) copy of** the schedule to the county auditor. **Within**
 40 **fifteen (15) days after receiving the schedule, the county auditor**
 41 **shall review the schedule, and if the county auditor concurs with**
 42 **the schedule, the county auditor shall notify the county treasurer**



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1 **that the notice required under subsection (d) may be sent.** The
 2 county auditor shall preserve the schedule, and if a refund is
 3 subsequently made, he shall note on the schedule **and notify the**
 4 **county treasurer of** the date and amount of the refund. In addition,
 5 when money is transferred from the surplus tax fund to the county
 6 general fund under subsection (c), ~~of this section~~; the county auditor
 7 shall note the date and amount of the transfer on the schedule.

8 (c) If an excess payment is not claimed within the three (3) year
 9 period after November 10 of the year in which the payment was made
 10 **and the county treasurer has given the written notice required**
 11 **under subsection (d)**, the county auditor shall transfer the excess from
 12 the surplus tax fund into the general fund of the county. **If the county**
 13 **treasurer has given written notice concerning the excess under**
 14 **subsection (d)**, the excess may not be refunded under subsection (a)
 15 after the expiration of that three (3) year time period.

16 (d) **This subsection applies only if the amount of an excess**
 17 **payment is more than five dollars (\$5) and exceeds the amount**
 18 **applied under subsection (a) to property taxes that are delinquent**
 19 **at the time that the excess payment is transferred to the surplus tax**
 20 **fund. Not later than forty-five (45) days after receiving the**
 21 **notification from the county auditor under subsection (b), the**
 22 **county treasurer shall give the taxpayer who made the excess**
 23 **payment written notice that the taxpayer may be entitled to a**
 24 **refund. The notice shall be mailed to the last known address of the**
 25 **taxpayer as listed on the tax duplicate or the most current record**
 26 **of the county treasurer. The notice must contain at least the**
 27 **following information:**

- 28 (1) **A statement that the taxpayer may be entitled to a refund**
 29 **because the taxpayer made an excess payment.**
- 30 (2) **The amount of the refund.**
- 31 (3) **Instructions on how to claim the refund.**
- 32 (4) **The date before which the refund must be claimed under**
 33 **subsection (c).**
- 34 (5) **An explanation that the amount of the refund will be**
 35 **reduced by any amount applied to property taxes that are**
 36 **delinquent.**

37 SECTION 7. [EFFECTIVE JULY 1, 1998] IC 6-1.1-26-6, as
 38 amended by this act, applies only to excess payments transferred
 39 to a surplus tax fund after June 30, 1998.



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1002, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 24, delete "one dollar (\$1)" and insert "**five dollars (\$5)**".

and when so amended that said bill do pass.

(Reference is to House Bill 1002 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 8, nays 0.

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SENATE MOTION

Mr. President: I move that Senator Wyss be added as cosponsor of Engrossed House Bill 1002.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill 1002, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-5-5.5, AS ADDED BY P.L.51-1997, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5.5. (a) Before an owner records a transfer of an ownership interest in a parcel of real property that is created after the person became owner of the real property and is created either from a larger previously existing parcel or a combination of previously existing smaller parcels, the owner must submit, except as provided in section 9 of this chapter, the instrument transferring the real property to the county auditor to be entered for taxation.

(b) The county auditor, except as provided in section 9 of this chapter, shall endorse on the instrument "duly entered for taxation subject to final acceptance for transfer" or another endorsement authorized under section 4 of this chapter.

(c) A lien for and the duty to pay property taxes that are due and owing is not released or otherwise extinguished if a county auditor endorses an instrument of transfer under this section. Property taxes that are due and owing on the affected parcel of property may be collected as if the county auditor had not endorsed the instrument of transfer.

(d) Except as provided in section 9 of this chapter, before the county auditor may transfer real property described in subsection (a) on the last assessment list or apportion the assessed value of the real property among the owners, the owner must pay or otherwise satisfy all property taxes ~~(1) that are due and owing; and (2)~~ for which the due date has passed as of the date of transfer on each of the parcels of real property from which the transferred property is derived by paying the property tax to the county treasurer of the county in which the real property is located. The county auditor, except as provided in section 9 of this chapter, may not apportion delinquent taxes described in this subsection among the owners.

SECTION 2. IC 6-1.1-5-16, AS ADDED BY P.L.51-1997, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 16. If an owner of existing contiguous parcels makes a written request that includes a legal description of the existing

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contiguous parcels sufficient for the assessing official to identify each parcel and the area of all contiguous parcels, the assessing official shall consolidate more than one (1) existing contiguous parcel into a single parcel to the extent that the existing contiguous parcels are in a single taxing district **and the same section**. For existing contiguous parcels in more than one (1) taxing district **or one (1) section**, the assessing official shall, upon written request by the owner, consolidate the existing contiguous parcels in each taxing district **and each section** into a single parcel. An assessing official shall consolidate more than one (1) existing contiguous parcel into a single parcel if **the assessing official has knowledge that** an improvement to the real property is located on or otherwise significantly affects the parcels.

SECTION 3. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Annually, after November 10th but prior to August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. The written demand may be served upon the taxpayer:

- (1) by registered or certified mail; ~~or~~
- (2) in person by the county treasurer or his deputy; **or**
- (3) by proof of certificate of mailing.**

(b) The written demand required by this section shall contain:

- (1) a statement that the taxpayer is delinquent in the payment of personal property taxes;
- (2) the amount of the delinquent taxes;
- (3) the penalties due on the delinquent taxes;
- (4) the collection expenses which the taxpayer owes; and
- (5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

- (i) **(A)** sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or
- (ii) **(B)** a judgment may be entered against the taxpayer in the circuit court of the county.

SECTION 4. IC 6-1.1-23-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) With respect to the collection of delinquent personal property taxes, the county treasurer shall charge the following collection expenses to each delinquent taxpayer:

- (1) For making a demand **by:**
 - (A) registered or certified mail, eight dollars (\$8); or**

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(B) any other manner permitted by section 1 of this chapter, five dollars (\$5).

- (2) For making a levy, ten dollars (\$10).
- (3) For selling personal property, ten percent (10%) of the sale price.
- (4) For advertising a sale, the legal rates for advertising.
- (5) For transfer and storage of personal property, the actual expense incurred.
- (6) Other reasonable expenses of collection, including:
 - (A) title search expenses;
 - (B) uniform commercial code search expenses; and
 - (C) reasonable attorney's fees or court costs incurred:
 - (i) in the collection process;
 - (ii) due to a court order; or
 - (iii) due to an order of the treasurer;

under IC 6-1.1-23-10.

(b) The fees collected under this section are the property of the county and shall be deposited in the county general fund. The collection expenses incurred in connection with the levy upon and sale of personal property shall be paid from the county general fund without prior appropriation.

SECTION 5. IC 6-1.1-26-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) When a claim for refund filed under section 1 of this chapter is allowed either by the county board of commissioners, the state board of tax commissioners, or the Indiana tax court on appeal, the claimant is entitled to a refund. The amount of the refund shall equal the amount of the claim so allowed plus interest at six percent (6%) from the date on which the taxes were paid or payable, whichever is later, to the date of the refund. The county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this section.

(b) In the **June or** December settlement and apportionment of taxes, **or both the June and December settlement and apportionment of taxes**, immediately following a refund made under this section the county auditor shall deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. **However, the county auditor shall make the deductions and payments required by this subsection not later than the December settlement and apportionment."**

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to House Bill 1002 as printed January 28, 1998.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 0.

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