

**COUNTY AUDITORS' SPRING  
2012  
CONFERENCE**

**Late Payment Penalties**

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**Topics**

- Late payment penalty rule
- Timing of applying late payment penalties
- Collection of late payment penalties
- Settlement certification of late payment penalty collections
- Distribution of late payment penalty collections

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**Late Payment Penalty Rule**

- IC 6-1.1-37-10(a) if an installment of tax is not completely paid on or before the due date, a penalty shall be add to the unpaid tax in the year of the initial delinquency equal to 5%
  - If an installment of real property taxes is fully paid on or before 30 days after the due date and a previous installment is not delinquent for the same parcel
  - If an installment of personal property taxes is fully paid on or before 30 days after the due date and taxpayer is not liable for personal property taxes in the same taxing district
- If neither of the above apply, then the penalty is 10%

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### Late Payment Penalty Rule

- IC 6-1.1-37-10(b) on the day immediately following the due dates of the first and second installments in each year following the year of the initial delinquency a 10% penalty shall be applied to the unpaid tax

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### Timing of applying late payment penalties

- Initial delinquency is a key term in determining when a late payment penalty is applied
- Initial delinquency is the year when the taxpayer is first billed
- A late payment penalty can only be charged after the taxpayer has been billed and the tax charge is not fully paid on or before the applicable property tax due date

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### Timing of applying late payment penalties - continued

- The application of penalties on original (included on Abstract) current first and second installments is very straight forward
- The penalties are applied to the installments if either installment is not fully paid on or before the installment due date
- And the 5%/10% rule applies

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### Timing of applying late payment penalties - continued

- The application of penalties on original (included on Abstract) prior year tax is very straight forward
- Penalties are applied to the unpaid tax at each first and second installment due date that the prior year tax is not fully paid
- The penalty is 10%

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### Timing of applying late payment penalties - continued

- The application of penalties on added current year first and/or second installment taxes is dependent on when the taxes are added
- The penalties on added current year first and/or second installments is discussed on the next couple of slides

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### Timing of applying late payment penalties - continued

- An added current year first installment is eligible for a first installment penalty if:
  - The taxpayer is billed for the added first installment more than 15 days before the first installment due date and
  - The added first installment is not fully paid on or before the first installment due date
  - The 5%/10% rule does apply
  - If the added first installment is billed after 15 days before the first installment due date, then the added first installment is first eligible for a late payment penalty if it is not fully paid by the next first installment due date and the penalty is 10%

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### Timing of applying late payment penalties - continued

- An added current year second installment is eligible for a second installment penalty if:
  - The taxpayer is billed for the added second installment more than 15 days before the second installment due date and
  - The added second installment is not fully paid on or before the second installment due date
  - The 5%/10% rule does apply
  - If the added second installment is billed after 15 days before the second installment due date, then the added second installment is classified as a prior year tax due at the first installment due date which will be discussed in the next few slides

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### Timing of applying late payment penalties- continued

- The treatment of added prior tax for the purposes of applying late payment penalties is determined by when the taxpayer is billed the added prior tax

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### Timing of applying late payment penalties - continued

- Prior year tax added and billed between 14 days before the prior year second installment due date and 15 days before the current year first installment due date is treated the same as current year first installment tax for the purposes of applying late payment penalty
  - A late payment penalty is added if the added prior year tax is not fully paid on or before the first installment due date
  - The 5%/10% rule does apply for the penalty
  - If not fully paid on or before the second installment due date, a second late payment penalty is not applied
  - If not fully paid on or before the second installment due date, then the unpaid tax and penalty rolls forward as delinquent prior year tax and penalty
  - The prior year tax late payment penalty rule applies in the rolled forward year

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### Timing of applying late payment penalties - continued

- Prior year tax added and billed between 14 days before the current year first installment due date and 15 days before the current year second installment due date is treated the same as current year second installment tax for the purposes of applying late payment penalty
  - A late payment penalty is added if the added prior year tax is not fully paid on or before the second installment due date
  - The 5%/10% rule does apply for the penalty
  - If not fully paid on or before the second installment due date, then the unpaid tax and penalty rolls forward as delinquent prior year tax and penalty
  - The prior year tax late payment penalty rule applies in the rolled forward year

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### Timing of applying late payment penalties - continued

- The late payment penalties added to unpaid special assessments is determined by when the special assessment is added to the tax duplicate and billed
- Examples of special assessments are sewer liens, weed cutting assessments, line fence assessments and delinquent Barrett Law assessments
- Special assessments do not include drainage/ditch assessments, conservancy districts
- Special assessments added and billed 15 days or more before a property tax installment due date is eligible for a late payment penalty if:
  - The special assessment charges are not fully paid on or before the property tax installment due date
  - The late payment penalty is 10%
  - The special assessment continues to be eligible for a late payment penalty until the charges are fully paid

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### Timing of applying late payment penalties - continued

- The rules for adding late payment penalties to the back taxes and civil penalty charges added to the tax duplicate for ineligible homesteads are the same rules as the late payment penalty rules for added prior year taxes
- The late payment penalties are added to the unpaid back taxes and civil penalty

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### **Collection of late payment penalties**

- **The collection of late payment penalties on**
  - Current year taxes, prior year taxes, added current year taxes and added prior year taxes
  - Are recorded in the tax collections section of the treasurer's cash book
- **The collection of late payment penalties on**
  - Special assessments and ineligible homestead back taxes and civil penalties
  - Are recorded in the other sources section of the treasurer's cash book

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### **Settlement certification of late payment penalty collections**

- **The treasurer certifies as tax collections on the Treasurer's Certification of Tax Collections - Form 49TC the late payment penalties collected on**
  - Current year taxes, prior year taxes, added current year taxes and added prior year taxes

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### **Settlement certification of late payment penalty collections**

- **The treasurer certifies as other collections on the Treasurer's Certification of Tax Collections - Form 49TC the late payment penalties collected on**
  - Special assessments and ineligible homestead back taxes and civil penalties

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**Distribution of late payment penalty collections**

- Auditor distributes late payment penalties to taxing units
  - This occurs automatically with current year taxes, prior year taxes, added current year taxes and added prior year taxes late payment penalty collections because the penalty collections are included in tax collections

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**Distribution of late payment penalty collections**

- Auditor distributes late payment penalties to taxing units
  - This occurs for late payment penalty collections on special assessments and ineligible homestead back taxes and civil penalties by auditor entering a before apportionment adjustment on the apportionment sheet for each applicable taxing district and on the settlement sheet
  - The before apportionment adjustment is equal to the late payment penalties certified by the treasurer in the other collections section of the Form 49TC

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