

# THE COUNTY BULLETIN

## And Uniform Compliance Guidelines

### ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 357

October 2006

#### REMINDER OF ORDER OF BUSINESS

#### October

- 1 Last date for County Board of Tax Adjustment [except Marion County and in a county containing a second class city (November 1)] to complete its duties. (IC 6-1.1-17-9(a))
- 9 Columbus Day - Legal Holiday (IC 1-1-9-1)
- 15 Last day to make pension report and payment for third quarter by counties participating in Public Employee's Retirement Fund.
- 18, 19, 20 County Auditor's Fall Conference – Indianapolis, Indiana
- 20 Last day to report and make payment of State Income Tax withheld in September to Indiana Department of Revenue.
- 31 Last day to file quarterly unemployment compensation report with the Indiana Department of Workforce Development.
- Last day to report and make payment of balance of Federal Income Tax withheld in the third quarter to Internal Revenue Service.
- Last day Annual Tax Sale can be held. (IC 6-1.1-24-2(a)(10))

#### November

- 1 Issue tax sale certificates to County for properties offered in tax sale for two consecutive years and unsold at the 2006 Tax Sale. (IC 6-1.1-24-6)
- Last date for County Board of Tax Adjustment in Marion County and in a county containing a second class city to complete its duties. (IC 6-1.1-17-9(a))
- Last day for county auditor to certify to the division of state court administration the amount, if any, the county will be providing to the judges salary during the ensuing calendar year. (IC 33-38-5-6(b))
- 10 Last day for paying second installment of taxes without penalty. Start preparing for settlement of second installment tax collections. (IC 6-1.1-37-10)
- 10 Veterans' Day - Legal Holiday. (IC 1-1-9-1)

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**REMINDER OF ORDER OF BUSINESS**  
**(Continued)**

**November**

- 20 Last day to report and make payment of State Income Tax withheld in October to Indiana Department of Revenue.
- 23 Thanksgiving Day - Legal Holiday. (IC 1-1-9-1)

**December**

- 1 On or before this date, certify names and addresses of persons who have money due to them for salaries, wages or other reasons to County Treasurer, for determining if such persons owe delinquent taxes. (IC 6-1.1-22-14)

At regular meeting of Board of County Commissioners consideration may be given to appointments of certain personnel and to bids and awards for highway supplies, materials, and equipment for 2007.

- 20 Last day to report and make payment of State Income Tax withheld in November to Indiana Department of Revenue.

- 26 MERRY CHRISTMAS!! Legal Holiday. (IC 1-1-9-1)

- 31 Review year-end duties.

Post and close all records completely and promptly.

The Auditor should balance with the Treasurer and verify the amount of cash in the Treasurer's office, if field examiners or a successor Treasurer are not available to verify the cash count.

Cash Change Funds issued to any county officer whose term expires must be returned to the County General Fund.

**NEWLY ELECTED OFFICERS TRAINING**

The State Board of Accounts will provide training to the newly elected county officials on the following dates:

- December 5 - County Auditors
- December 12 - County Treasurers
- December 7 - County Clerks of the Circuit Court
- December 13 - County Recorders

All the training will be in the Indiana Government Center in Indianapolis. Further information on the location, hotels, etc. will be forthcoming.

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**FEDERAL EXCISE TAXES**

As a general rule, governmental units are exempt from and should not pay any federal excise tax. To obtain the exemption, a properly executed exemption certificate must be filed with the vendor from whom the purchase is made. This exemption certificate may be prepared at the time the order is placed or at the time the payment is made. The exemption certificate may be a printed or mimeographed form and should be substantially in the form currently used. For information concerning the form of the exemption certificate, contact the Internal Revenue Service at 1-800-829-1040.

Claims and invoices should be carefully audited to see that no federal excise taxes are included and paid. Disbursing officers should require that invoices show separately the gross price, the amount of the excise tax, and the final price to the governmental unit.

In some instances, a county may have erroneously paid the excise taxes from which they are exempt. In such instances, the county has three years from the date the tax was paid to the Federal Government in which to file for a refund.

To obtain a refund, the county should submit to the seller an exemption certificate for each item on which excise tax was paid accompanied with documentary evidence that the exemption had not been claimed or received. Such evidence may be copies of invoices, affidavits, records, etc.

The Internal Revenue Service will provide forms on which the original taxpayer may claim reimbursement for excise tax erroneously paid by a county.

Any questions concerning federal excise tax should be directed to the Internal Revenue Service.

**STATE SALES TAXES**

Governmental units are eligible for an exemption from the state sales tax on purchases. To obtain the exemption a Sales Tax Exemption Certificate must be obtained from the Department of Revenue. Application should be made to the Sales Tax Division of the Department of Revenue. This certificate must be presented at the time a purchase is made to avoid paying sales tax. If sales tax is paid erroneously, a refund application may be obtained from the Sales Tax Division.

Lodging for individuals in hotels and motels is not exempt from state sales tax. Therefore, reimbursements for lodging in approved travel status may include state sales tax. However, it should be kept in mind that claims for all such reimbursements must be supported by a fully itemized receipt showing date(s) of lodging, the name(s) of the person(s) occupying the room and the amount paid.

**COURT REPORTERS – TRANSCRIPT PREPARATION**

For the purposes of determining overtime of court reporters performing transcript work, Title 29 of the United States Code (29 USC 207(o)(6)), states:

- (6)** The hours an employee of a public agency performs court reporting transcript preparation duties shall not be considered as hours worked for the purposes of subsection (a) of this section if:
  - (A)** such employee is paid at a per-page rate which is not less than—
    - (i)** the maximum rate established by State law or local ordinance for the jurisdiction of such public agency,
    - (ii)** the maximum rate otherwise established by a judicial or administrative officer and in effect on July 1, 1995, or
    - (iii)** the rate freely negotiated between the employee and the party requesting the

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**COURT REPORTERS – TRANSCRIPT PREPARATION (Continued)**

transcript, other than the judge who presided over the proceedings being transcribed, and  
**(B)** the hours spent performing such duties are outside of the hours such employee performs other work (including hours for which the agency requires the employee's attendance) pursuant to the employment relationship with such public agency.

For purposes of this section, the amount paid such employee in accordance with subparagraph (A) for the performance of court reporting transcript preparation duties, shall not be considered in the calculation of the regular rate at which such employee is employed.

**SINGLE AUDITS (CIRCULAR A-133)**

Office of Management and Budget Circular A-133 was issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156. OMB Circular A-133 sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards. The latest revisions to the Circular were published in the *Federal Register* June 27, 2003 and are effective for fiscal years ending after December 31, 2003.

States, local governments, and non-profit organizations expending Federal awards of \$500,000 or more in a year in shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133.

OMB Circular A-133 places requirements on recipients of Federal awards. Each recipient of Federal awards is required to identify all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the federal agency, and name of the pass-through agency. These requirements are designed to make each recipient of federal awards more aware of the Federal programs received and disbursed.

In addition to the above requirements, recipients of Federal awards are required to maintain internal control over Federal programs that provides reasonable assurance that the recipient is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs. Compliance with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs is also required. If applicable, the recipient of Federal awards must follow up and take corrective action on audit findings, including the preparation of a plan for corrective action. These requirements also apply to pass-through recipients of Federal awards.

In order to make the audit process as effective and least cumbersome as possible, recipients of Federal awards should be aware of the requirements placed upon them by OMB Circular A-133.

**PLATS**

Except as provided in section 9 of this chapter, the auditor, or, if authorized by county ordinance, the surveyor of each county shall maintain a plat of each civil township of the county the auditor or surveyor serves. The plats shall be divided in such a manner that they clearly exhibit the ownership and assessed value of each parcel of real property. The plats must be in the form and contain the information prescribed by the department of local government finance. The plats shall be kept current. (IC 6-1.1-5-1)

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**PLATS (Continued)**

Indiana Code Section 6-1.1-35-13 authorizes the department of local government finance to prepare a plat if an official fails to deliver a plat to the appropriate officer or board. They may appoint a special representative to prepare the plat. The board shall certify the expenses incurred to the township or county which is served by the official who failed to perform his duty and the township or county may collect amounts which it pays under the section from the official who failed to perform his duty.

**DRAINAGE CONSTRUCTION AND MAINTENANCE - USE OF OWN WORK FORCE**

IC 36-9-27-77(e) allows the Drainage Board to perform maintenance, construction, or reconstruction by its own work force without awarding a contract. However, this would be subject to IC 36-1-12-5 which states the public work project must be less than \$25,000. IC 36-1-12-5(e) states that the Board may purchase or lease materials in the manner provided in IC 5-22 and perform the public work by means of its own work force without awarding a public contract.

In summary, the Drainage Board could perform its own maintenance project with the use of its own work force without awarding a contract if the total project costs are less than \$25,000 (IC 36-1-12-5).

**TAX SALE SURPLUS**

IC 6-1.1-24-7 states in part:

(b) The:

(1) owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed; or

(2) tax sale purchaser or purchaser's assignee, upon redemption of the tract or item of real property; may file a verified claim for money which is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the claimant for the amount due.

(c) If the person described in subsection (b)(1) acquired the property from a delinquent taxpayer after the property was sold at a tax sale under this chapter, the county auditor may not issue a warrant to the person unless the person is named on a tax sale surplus fund disclosure form filed with the county auditor under IC 32-21-8.

(d) An amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection (b) if it is not claimed within the three (3) year period after the date of its receipt.

**PAYMENT FOR PUBLICATION OF PUBLIC NOTICES - PENALTY FOR VIOLATION**

Whenever publication of notice, report, or statement of any kind is required and a county is liable for the cost of that publication, the county commissioners may not make or pay for publication in more than one newspaper, unless publication in two newspapers is required. A person who violates this section commits a Class C infraction. (IC 36-2-2-25)

**TRANSIENT MERCHANTS LICENSE**

All qualifying transient merchants shall file an application for a license for that purpose with the county auditor and shall pay to the county treasurer a license fee of one hundred dollars (\$100) for each six (6) month period in which the applicant proposes to transact business. The applicant shall thereupon file the county treasurer's receipt for such payment with the county auditor of the county with whom the application is filed. (IC 25-37-1-4 and IC 25-37-1-6)

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**TRANSIENT MERCHANTS LICENSE (Continued)**

We recommend the Combination Quietus, Application to Pay, Treasurer's Receipt and Auditor's Copy (Form 20-21 Rev. 1987) be used in processing this type of transaction. All license fees shall be quietused to the County General Fund. We further recommend that the licenses issued to transient merchants be prenumbered by your printing supplier and stored in a safe place to prevent unauthorized use of such licenses. (IC 25-37-1-12)

At the time of filing the application with the county auditor, the applicant shall also file and deposit a bond with sureties to be approved by the county auditor for the penal sum of seven hundred fifty dollars (\$750) or three (3) times the value of the goods, wares, and merchandise to be offered for sale or sold as shown by the inventory filed, whichever sum is greater, running to the State.

The bond shall be forfeited and used for the benefit of:

1. any purchaser of goods, wares, or merchandise sold by the applicant, if the purchaser is awarded a judgment as a result of a cause of action against the applicant that was commenced within one (1) year of and that arose out of the sale;
2. the operating budget of the county's prosecuting attorney, if the applicant is found by a court to have violated IC 25-37-1-9, although the amount forfeited under this subdivision may not exceed one-third (1/3) of the bond;
3. the state, any of its departments or subdivisions, or any unit of local government, if the applicant fails to pay all taxes due from the applicant to that governmental entity; or
4. a court in payment of partial payment of any fines that may be assessed by the court against the applicant, its agents, or employees for violation of this chapter.

However, the aggregate liability of the surety for all taxes, fines, disbursements, and causes of action may not exceed the amount of such bond. There shall be no limitation of liability against the transient merchant or the applicant for the license.

In such bond, the applicant and surety shall appoint the auditor of the county in which the bond is filed, the agent of the applicant, and the surety for the service of process. In the event of such service of process, the agent on whom such service is made shall, within five (5) days after the service, mail by ordinary mail a true copy of the process served upon him to each party for whom he has been served, addressed to the last known address of such party. Failure to mail the copy shall not, however, affect the court's jurisdiction.

The state or any department or subdivision, municipal or otherwise, thereof or any person having a cause of action arising from or out of any sale or sales of goods, wares, or merchandise or against the applicant may join the applicant and the surety on such bond in the same action or may sue either such applicant or the surety alone. (IC 25-37-1-5)

The following persons, organizations or corporations are exempt from the requirements to obtain a transient merchants license:

1. any person, individual, copartner, limited liability company, or corporation which grows the goods, wares, or merchandise that is sold or is offered for sale;
2. a person who makes crafts or items by hand and sells them or offers them for sale;
3. an auctioneer who is licensed under IC 25-6.1;

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**TRANSIENT MERCHANTS LICENSE (Continued)**

4. a resident of the county in which the sale takes place who conducts a sale of tangible personal property for no more than four (4) days per calendar year;
5. an organization that is exempt from the Indiana gross retail tax under IC 6-2.5-5-26;
6. a person who:
  - a. sells merchandise;
  - b. offers to sell merchandise; and
  - c. provides proof that the sale is being conducted as part of an activity sponsored by an organization described in subdivision (5);
7. a person who:
  - a. organizes;
  - b. sells merchandise at;
  - c. offers to sell merchandise at; or exhibits at; a trade show or convention;
8. except as provided in section 15, a person who holds a registered retail merchant's certificate under IC 6-2.5-8. (IC 25-37-1-2)

A transient merchant who:

1. transacts business without having first obtained license under this chapter; or
2. knowingly advertises, offers for sale, or sells any goods, wares, or merchandise contrary to this chapter; commits a Class B infraction for each day a violation occurs. (IC 25-37-1-9)

Notwithstanding IC 25-37-1-5 (requirement to file bond), a county legislative body (as defined in IC 36-1-2-9) may annually:

- (1) set the amount of the bond required under section 5 of this chapter in any amount that is not greater than the amount required in section 5 of this chapter; or
- (2) waive the bond required under section 5 of this chapter.

A county legislative body that reduces or waives the bond must inform the auditor of the county of the following:

- (1) Whether a bond is required to be filed with an application with the auditor for a transient merchant license.
- (2) The amount of the bond if a bond is required.

If filing for a transient merchant license with a county auditor who has been informed of a reduced bond, an applicant filing for a transient merchant license must do the following:

The applicant must file:

- (A) an application; and
- (B) the bond; with the county auditor.

If filing for a transient merchant license with a county auditor who has been informed that a bond has been waived, the applicant must file only on application.

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**TRANSIENT MERCHANTS LICENSE (Continued)**

A bond required, although not in the amount required under IC 25-37-1-5, will for all other purposes be treated like a bond issued under IC 25-37-1-5. (IC 25-37-1-5.5)

Notwithstanding IC 25-37-1-6 (requirement to pay license fee), a county legislative body (as defined in IC 36-1-2-9) may annually:

- (1) set the county license fee required under section 6 of this chapter in any amount that is not greater than the amount required in section 6 of this chapter; or
- (2) waive the county license fee required under section 6 of this chapter.

A county legislative body that reduces or waives the county license fee must inform:

- (1) the treasurer of the county; and
- (2) the auditor of the county; whether a license fee is required to be filed with an application with the auditor for a transient merchant license and the amount of the license fee if a license fee is required.

A treasurer who is informed of a fee changed under subsection (b) shall:

- (1) require each applicant to submit the lesser fee set by the county legislative body; and
- (2) issue a receipt to the applicant.

An applicant filing for a transient merchant license must do the following:

If filing for a transient merchant license with the county auditor who has been informed of a reduced license fee, the applicant must file:

- (A) an application; and
- (B) a receipt from the county treasurer.

If filing for a transient merchant license with a county auditor who has been informed that a license fee has been waived under subsection (b), the applicant must file only an application.

**COUNTY MISDEMEANANT FUND**

The county legislative body (Board of County Commissioners) may adopt an ordinance to elect to receive deposits made by the State and to establish a county misdemeanor fund. The county fiscal body shall administer the county misdemeanor fund. (IC 11-12-6-6)

A county misdemeanor fund may be used only for funding the operation of the county's jail, jail programs, or other local correctional facilities or community based programs. Any money remaining in a county misdemeanor fund at the end of the year does not revert to any other fund, but remains in the county misdemeanor fund. (IC 11-12-6-7)

**LEASE-PURCHASE AGREEMENTS**

In purchasing a truck, accounting machine or any other equipment from budgeted funds, the County Commissioners have the right to enter into a rental with option to purchase agreement if the rental charge is fair and reasonable.

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**LEASE-PURCHASE AGREEMENTS (Continued)**

Before such an agreement can be legally entered into, there must be a sufficient appropriation balance available for payment of the current year's rental charge. The agreement should not obligate the county for payment of rental beyond the current year's appropriation. Provision may be made in the agreement for renewal for succeeding years by rental payments subject to appropriations being available therefore.

If the total annual rental payments of the equipment (without consideration of any trade-in) exceeds the county's threshold the purchasing authority must comply with the "Public Purchases Law," IC 5-22, by advertising for bids and by awarding a contract to the most responsible and responsive bidder. Only by awarding a contract pursuant to IC 5-22 would the county have authority to purchase the equipment at a later date. A lease-purchase agreement will generally contain an option to purchase at the end of the lease term for nominal consideration or no additional consideration.

The specifications for the equipment must be recognized standard specification to allow competitive bidding and should provide for the bidder to quote the total purchase cost, the rental charge to be made, and the percentage of the rental charge that will be credited toward the purchase cost should the county exercise the option to purchase. Any interest or carrying charges must be made a part of the original bid price without specific reference made thereto.

If the above requirements are complied with, the purchasing authority can exercise its option to purchase at any time a sufficient appropriation for equipment is available.

**FIREARM DEALER'S LICENSE - ISSUANCE - FEE - DISPOSITION OF FEE**

IC 35-47-2-15 provides for the issuance of Firearm Dealer's License by the Superintendent of the Indiana State Police upon application of a person, desiring a retailing handgun dealer's license, to the sheriff of the county in which he resides. The fee for the license shall be twenty dollars (\$20) which shall be deposited with the officer to whom the application is made, who shall in turn forward to the superintendent. In the event that the application is disapproved, the fee shall be returned to the applicant along with the complete reasons, in writing.

**FORESTRY RESERVE DISTRIBUTIONS**

The law governing distribution of state forestry earnings can be found in IC 14-23-4-5. This law specifically provides that 15% of such earnings be deposited in the County General Fund of the county in which the state forest is located.

In addition, counties in which national forests are located receive a distribution from the Treasurer of the United States through the State of Indiana. There are only a few counties receiving earnings from the national forest reserves and it has been the policy to receipt all of such funds to the County Highway Fund.

**PER DIEM PAYMENTS TO MEMBERS OF AREA PLAN COMMISSION AND BOARDS OF ZONING APPEALS**

Notwithstanding IC 36-2-7-2, a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor who is also a member of a plan commission is entitled to receive the following:

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**PER DIEM PAYMENTS TO MEMBERS OF AREA PLAN COMMISSION AND BOARDS OF ZONING APPEALS (Continued)**

- (1) A sum for mileage for each mile necessarily traveled while performing the duties of a plan commission member in an amount that is equal to the amount paid to state employees for mileage.
- (2) A sum for compensation for services as a member of the plan commission in an amount that the county fiscal body may determine for attendance at meetings of the plan commission.

Since the laws governing Boards of Zoning Appeals fails to address the subject of compensation of board members, we would not be opposed to a county adopting a Home Rule ordinance in accordance with IC 36-1-3 to allow such compensation. As long as those members who are elected officials are excluded, we would not take exception to paying per diem to other members of this board.

**COUNTY LAW ENFORCEMENT CONTINUING EDUCATION FUND**

In each action in which a defendant is found to have:

- (1) committed a crime;
- (2) violated a statute defining an infraction; or
- (3) violated an ordinance of a municipal corporation; the clerk shall collect a law enforcement continuing education program fee of three dollars (\$3). (IC 33-37-5-8)

A county user fee fund is established in each county for the purpose of financing various program services. The county fund shall be administered by the county auditor.

The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under IC 31-34-8-8 or IC 31-37-9-9:

- (1) The pretrial diversion program fee.
- (2) The informal adjustment program fee.
- (3) The marijuana eradication program fee.
- (4) The alcohol and drug services program fee.
- (5) The law enforcement continuing education program fee.
- (6) The deferral program fee.
- (7) The jury fee.
- (8) The drug court fee.
- (9) The reentry court fee.

All of the jury fee and two dollars (\$2) of a deferral program fee collected under IC 33-37-4-2(e) shall be deposited by the county auditor in the jury pay fund established under IC 33-37-11. (IC 33-37-8-5)

Upon receipt of monthly claims submitted on oath to the fiscal body by a program, the county fiscal body shall appropriate from the county fund to that program or fund the amount collected for the program under IC 33-37-5. (IC 33-37-8-6)

There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-6.

The county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the county law enforcement continuing education fund.

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**COUNTY LAW ENFORCEMENT CONTINUING EDUCATION FUND (Continued)**

Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

Money in excess of one hundred dollars (\$100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

To make a claim under IC 33-37-8-6 a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

A law enforcement agency shall submit a claim for fees in the same county fiscal year in which the fees are collected under IC 33-37-4.

A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:
  - (A) minimize the likelihood of injury to the law enforcement officer; and
  - (B) promote the safety of a victim.
- (4) Information about the nature and extent of abuse.
- (5) Information about the legal rights of and remedies available to victims of abuse.
- (6) How to document and collect evidence in an abuse case.
- (7) The legal consequences of abuse.
- (8) The impact on children of law enforcement intervention in abuse cases.
- (9) Services and facilities available to victims of abuse and abusers.
- (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
- (11) Policies concerning arrest or release of suspects in abuse cases.
- (12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
- (13) Landlord-tenant concerns in abuse cases.
- (14) The taking of an abused child into protective custody.
- (15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
- (16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
- (17) Response to a sudden, unexpected infant death.

A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required. (IC 5-2-8-1)

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**PROSECUTING ATTORNEYS - DISCIPLINARY COMMISSION FEES**

Full-time county prosecutors and deputy prosecutor's disciplinary commission fees can be paid from the county general fund, if an appropriation exists, or from the prosecutor's Title IVD account. These fees are not considered membership dues in a professional organization, but assessments required by an oversight authority.

**MEMBERSHIP DUES**

There is no statutory authority for the payment of dues or related expenses from public funds for individual memberships in professional organizations.

County councils may appropriate necessary funds to provide membership of counties, and the elected and appointed officials and members of their respective boards and councils, in local, regional, state and national associations of a civic, educational or governmental nature which has as their purpose the improvement of government operations.

The county council should designate the associations to which dues could be paid and appropriate necessary funds to defray the expenses of the county representative.

If the county wishes to grant itself authority to continue these memberships, it is required that an authorizing ordinance be enacted by the board of county commissioners.

**QUESTIONS AND ANSWERS FROM COUNTY CLERKS ANNUAL CONFERENCE**

**Question #1:** Is the small claim garnishee fee a one time collection on a case involving more than three garnishees or is it collected on #5 and again on #6?

**Answer #1:** Yes, the \$10 fee is for each garnishee or garnishee defendant in excess of 3; and for each garnishee or garnishee defendant added to the action.

**Question #2:** Is there any training or classes for appeals? Maybe we could talk about this and its procedures during one of our meetings?

**Answer #2:** We have no knowledge of any training classes for appeals (assumption is court cases appealed). We will consider having someone from the appellate court provide training.

**Question #3:** Why is Election Day considered a holiday for state and local offices when government employees do not have to work Election Day? Can State Legislators give the counties authorization to mandate that if you are a government employee you must work Election Day? 1. You would not have to work all day as you can now split the hours of poll workers (except inspectors). 2. You could work as an independent and not state a party preference. 3. It would be part of your government duties to serve as a poll worker. Why don't we have this in place?

**Answer #3:** IC 1-1-9.1 sets forth all legal holidays. There is no requirement for government employees to work those days. State law would have to be changed to mandate a government employee work on Election Day. The assumption is it is very difficult to take away an employee benefit.

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**QUESTIONS AND ANSWERS FROM COUNTY CLERKS ANNUAL CONFERENCE (Continued)**

**Question #4:** We use a local attorney for collections of traffic and misdemeanor costs, and I have a judge that keeps saying it's illegal. The courts are receiving the total costs. Is there a statute we can refer to?

**Answer #4:** IC 5-22-6.5-3 states in part: a unit of local government may: (1) contract with a collection agency to collect any amount owed to the state, state agency, body corporate and politic, state university, or unit of local government, and (2) authorize a collection agency in a contract for collection services to collect from the debtor a collection fee.

**Question #5:** Any future plans on being able to microfilm and destroy old JP and JD cases? We have a big space issue and we would like to film and destroy.

**Answer #5:** Yes, if you follow Administrative Rule 7 and the required microfilming standards.

**Question #6:** Government Entities: When a case is dismissed who pays the court costs?

**Answer #6:** No one, IC 33-37-3-1 states that the State and political subdivisions do not pay court costs. They may only be collected if the government is successful in their case from the defendant.

**Question #7:** When you issue a going out of business license where is the filing fee applied?

**Answer #7:** County General Fund.

**Question #8:** When should we and when should we not collect the sheriffs service of process fee?

**Answer #8:** Per Case after July 1, 2006. It would not be collected: on protective orders; when fees are waived; or from the State and Political Subdivisions.

**Question #9:** Who has the right to know that there is a warrant for arrest? If the person that has a warrant calls and asks do we or do we not tell them? If we do, they may never be seen again. Is there an issue of confidentiality?

**Answer #9:** We are not aware that arrest warrants are covered by confidentiality. However, it is an issue you may want to discuss with the County Sheriff. Maybe you could transfer the call to the Sheriff's Department or put other procedures in place to assist the Sheriff.

**QUESTIONS AND ANSWERS FROM COUNTY TREASURERS ANNUAL CONFERENCE**

**Question #1:** Does Circuit Breaker apply to only owner occupied properties or are rental properties included?

**Answer #1:** Qualified residential property includes residential rental per IC 6-1.1-20.6-4. The circuit breaker applies to qualified residential property which includes rental properties; however, the circuit breaker may be limited by ordinance to homesteads only prior to December 31, 2007.

**Question #2:** How are we to determine a dog's age?

**Answer #2:** If registration papers (AKC, etc.) are available they may be used. If not, you will have to rely on the owner's assertion regarding the dog's age. A dog is subject to tax if greater than 6 months old and the owner will only be able to not pay the tax for 1 year.

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**QUESTIONS AND ANSWERS FROM COUNTY TREASURERS ANNUAL CONFERENCE (Continued)**

**Question #3:** Please explain the Creditor's Liquidation of Delinquent Personal Property form and when is it to be used?

**Answer #3:** It is to be used when a taxpayer's personal property, on which the taxpayer is delinquent in the payment of personal property taxes, comes into possession of a creditor in satisfaction of a lien on the personal property. When that personal property has an assessed value greater than \$3,200 and comes into the creditor's possession, the creditor would complete the form to determine the amount of delinquent taxes to be paid to the County Treasurer from the proceeds of liquidating that property. IC 6-1.1-23-1(c)(d)

**Question #4:** How many counties have mandatory payroll deposit? Whose decision is this, Council, Commissioner, Auditor, Treasurer or agreement of all?

**Answer #4:** It is unknown how many counties have mandatory payroll deposit. The manner of payment must be authorized by the County Executive IC 36-2-8-2.

**Question #5:** There is talk of a time clock being installed for county employees. Do I as a Treasurer, have a choice in whether I require my employees to clock in or not?

**Answer #5:** You should direct your employees to follow the policies and procedures adopted for your county to ensure their time is properly documented for input into the timekeeping system.

**Question #6:** Concerning the penalty waiver for a death, does this include close family members or the taxpayer only? Is there a deadline for this, or can they come in 3-4 months later and have the penalty waived?

**Answer #6:** The penalty waiver may be requested for the passing of either the taxpayer or a close family member. Close family members are defined as spouse, child, stepchild, parent or stepparent, including adoptive relationships, IC 6-1.1-37-10.7.

Petitions are due the County Treasurer to waive the penalty not later than 30 days after the due date of the installment. The Treasurer then has 30 days to notify the taxpayer of their determination.

**Question #7:** What is the grace period for filing if a taxpayer has a death in the family? How long do they have to file the waiver?

**Answer #7:** They have 30 days to file for a waiver.

**Question #8:** How do you handle non-taxable units that now have a special assessment like solid waste fee going to tax sale? Before we did not have to have mailing addresses due to being non-taxable. Can a non taxable go to tax sale due to this reason?

**Answer #8:** A non-taxable unit should not go to tax sale. The state land office shall receive a listing of those properties subject to special assessments.

**Question #9:** Does the 5% penalty apply to real property, personal property, or both.

**Answer #9:** The 5% penalty will apply to eligible real and personal property.

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**QUESTIONS AND ANSWERS FROM COUNTY TREASURERS ANNUAL CONFERENCE (Continued)**

**Question #10:** Does the 5% penalty for 30 days that becomes effective 1/1/07 begin with 06 pay 07 taxes or 07 pay 08 taxes?

**Answer #10:** The 5% penalty will first be effective for 2006 pay 2007 taxes.

**Question #11:** Is a person eligible for the 5% penalty if paying within 30 days and there are no delinquencies on that parcel from the prior year? What if the person has delinquencies on another parcel from the prior year?

**Answer #11:** The person is eligible for the 5% penalty when they are paying within 30 days of the due date and do not owe any delinquencies from the prior year on the parcel on which they are paying.

**Question #12:** Does the 5% penalty apply to prior installments or Prior Year taxes?

**Answer #12:** The taxpayer cannot have a delinquency on the same parcel from the previous year.

**Question #13:** If a parcel does not sell on the 2006 "A" sale, can it be offered in 2007 on a "B" sale, as the new law doesn't take affect until 2007?

**Answer #13:** Effective January 1, 2007, the expedited tax sale law is repealed so this would not be an option.

**Question #14:** Please explain the process for a "Demolition Lien" that we received?

**Answer #14:** If the lien is filed under the Unsafe Building Law, IC 36-7-9-13.5, the enforcement authority that performed the demolition gives notice of the unpaid costs. If not paid in 30 days, they certify the amount to the County Auditor for collections as a special assessment. Collections go back to the enforcement agency's unsafe building fund.

**Question #15:** Do counties require taxes to be paid in full at the time of a split? (For the current year) Before the property can be transferred.

**Answer #15:** IC 6-1.1-5-5.5 provides that before a county auditor may transfer real property that is being split or created by combination, the owner(s) must pay all property taxes for which the due date has passed as of the date of the transfer.

**Question #16:** Concerning government employee garnishments, in the case of a seasonal or very part time person (such as, substitute teachers, volunteer fireman, etc..) can we put them on tax sale, since the garnishment procedure may not work. Or what should we do?

**Answer #16:** The tax sale is available also as a collection method, even for government employees.

**Question #17:** We billed our state owned drain assessments timely, but, they paid them late and didn't pay the penalties. Do we remove the penalties, even though we billed timely?

**Answer #17:** Consider sending notice of penalty to the State Land Office. You will need to work with them. I'm not aware of any provision to remove the penalty.

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**QUESTIONS AND ANSWERS FROM COUNTY TREASURERS ANNUAL CONFERENCE (Continued)**

**Question #18:** Our Auditor and I.T. department will not put penalties on after the due date and the posting of all current tax payments until after settlement. They tell us that the SBOA won't let them because it will hinder settlement. Is this true?

**Answer #18:** It should not hinder settlement. If it does a better long term solution should be sought.

**Question #19:** Regarding Bankruptcy, when are we or are we at some point suppose to remove penalties?

**Answer #19:** Once you are notified that a person/entity is in bankruptcy they are protected from enforcement. This would mean you may not add penalty after bankruptcy filing. You should remove penalty only by court order or upon written advice of your County Attorney.

**Question #20:** Concerning the new IC 6-1.1-9-10 it states the assessing official shall correct the assessment, does that mean for the current pay period, previous or next pay period?

**Answer #20:** The assessing official should correct the appropriate tax duplicate, even if that means the assessing official initiates the correction of error that will be posted by the County Auditor.

**Question #21:** As far as coding government employees, I have this question: Deeded Owner is W & W Gravel, yet in care of Tim Welker. Tim Welker is a City employee and does not pay his taxes. Company (W & W Gravel) has been sold. Can we code this parcel as a government employee so if delinquent, his wages can be garnished?

**Answer #21:** Garnishments and withholdings should only be made under IC 6-1.1-22-14, when the person or entity "liable" for delinquent tax is a public employee. The County Attorney should be able to assist you in determining if Mr. Welker is actually liable for the taxes of W&W Gravel.

**Question #22:** On the 5% penalty – What is going to be on the tax statement? Also on prior delinquency, if it has been paid do they qualify for the 5% and how far back do we go for delinquency? What of a prior owner was delinquent?

**Answer #22:** Please review the fact sheet to be distributed by the DLGF regarding this new legislation.

**Question #23:** When a person appeals an assessment, can they only appeal the current assessment? (30 days after form II) What are the circumstances when the Assessor can do a C/E over 3 years?

**Answer #23:** IC 6-1.1-15-1 states that procedures for appeal may be exercised if the official's action requires the giving of written notice to a taxpayer. At the time the notice is given the taxpayer is to be informed in writing of:  
1.) the opportunity for review  
2.) the procedures the taxpayer must follow in order to obtain a review

Review of current assessment.

Not later than 45 days after notice is given; or  
On or before May 10, whichever is later.

The taxpayer must request a preliminary conference in writing.

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**QUESTIONS AND ANSWERS FROM COUNTY TREASURERS ANNUAL CONFERENCE (Continued)**

**Question #24:** I have a situation where a personal property mobile home was repossessed and mortgage company name put on same parcel number as previous owner. Mortgage Company not paying taxes and judgments entered. Just had correspondence from Mortgage Company that the mobile home was taken from Mortgage Company by the Indiana Abandoned Mobile Home Law to the mobile home park owner in May'05. Explain the abandoned Mobile Home Law.

**Answer #24:** Abandoned mobile homes are covered under IC 9-22-1.5-2. A private property owner who finds a mobile home that the person believes to be abandoned on property the person owns or controls, including rental property, may sell or salvage the mobile home if it has been left without permission for at least 30 days. Written notice must be given to begin the 30 day period. After this process the real property owner may auction, donate, transfer, salvage, or dispose of the mobile home.

**Question #25:** Major Moves Money – Does the treasurer need to keep the funds separately tracked through an investment and interest quietused into the fund monthly at all times? Or is it up to the Highway Department to manage the fund and contact the Treasurer when they want the money separately invested?

**Answer #27:** Non toll road counties will receive a distribution from the state MVH fund to put into the county MVH fund. This will be invested by the County Treasurer as agreed to in the county's investment policy.

Toll road counties also receive distribution from the major moves construction fund to be placed in a separate fund at the County. This may be invested separately or with total monies on deposit.