

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Township and County Assessors, County Auditors, and Property Tax Boards of Appeal

FROM: Wesley R. Bennett, Commissioner

RE: Legislation Affecting Mobile Homes

DATE: October 23, 2017

Please note that this memorandum is for informational purposes only and is not a substitute for reading the law.

This memorandum addresses 2017 legislative changes affecting mobile home matters. These changes are instituted by Senate Enrolled Act 455-2017 ("SEA 455"), signed into law by Governor Holcomb on April 28, 2017. This memorandum will address those changes as they pertain to property tax. Except as otherwise noted, these provisions are effective January 1, 2018.

I. Definitional changes

SEA 455 begins by making changes to definitions of terms for property tax purposes (found in IC 6-1.1-1) pertinent to mobile homes. Section 1 of SEA 455 amends IC 6-1.1-1-8.4, which defines "inventory," so that the term includes a mobile home or manufactured home that, among other things, is owned and held for sale **or lease** by the owner of the mobile home community. (Amendment in bold.)

In addition, Section 2 of SEA 455 amends IC 6-1.1-1-9, which defines the "owner" of tangible property. The holder of legal title to personal property includes

- (1) the owner of the property, if a title document is not ordinarily issued to an owner for that type of property; or
- (2) the owner of that property who is designated as the grantee, buyer, or other equivalent term in the title document of bureau of motor vehicles ("BMV") affidavit of sale or disposal, if a title document is ordinarily issued to an owner for that type of property.

In essence, in order to be considered the owner of a mobile home assessed as personal property, the owner must have a title document or a BMV affidavit of sale or disposal for that mobile home.

II. Property tax liability for a personal property mobile home

Section 3 of SEA 455 amends IC 6-1.1-2-4(a) so that a person owning a mobile home assessed under IC 6-1.1-7 on the assessment date of a year is liable for the taxes imposed for that year on the property.

III. Amendments to the mobile home moving and disposal process

Sections 4 through 7 of SEA 455 amend the process of moving or disposing of a mobile home.

Section 4 amends IC 6-1.1-7-3 in two ways. First, a person who places a mobile home or allows a mobile home to be placed on land the person owns, possess, or controls must notify the appropriate assessing official thirty (30) days (formerly 10 days) after placement. In addition, if

- (1) a person who operates a mobile home community (“community”) places a mobile home or allows a mobile home to place in the community;
- (2) a sale or lease of a mobile home previously held as inventory occurs; or
- (3) if the status of a mobile home is changed to inventory;

the person who operates the community shall furnish the following to the appropriate assessing official:

- (1) Notice of the sale or lease of the mobile home or the change in status of the mobile home to inventory.
- (2) The name of the owner of the mobile home at the time the entry is made, as shown on the title to the mobile home.
- (3) The VIN of the mobile home.
- (4) A copy of the title held by the owner of the mobile home at the time the entry is made, or, if no title exists,
 - a. a petition filed with a court requesting an order by the court for the title of the mobile home; or
 - b. a BMV affidavit of sale or disposal.
- (5) A copy of the most recent permit issued to the owner of the mobile home or issued under IC 6-1.1-7-10, if applicable.

This information must be given to the assessing official within thirty (30) days after the mobile home is placed in the community, the same or lease of the mobile home occurs, or the change in status of the mobile home to inventory occurs. The 30 day notice window commences the day after the day that the mobile home is placed. This section is effective January 1, 2018.

Section 5 makes the following amendments:

- A mobile home may not be moved from one location to another unless the owner **or the owner’s agent** obtains a permit to move (“permit”) from the county treasurer. (Amendment in bold.)
- A valid permit being held by the owner or the owner’s agent is required for the BMV to transfer title or change names on the title.
- The permit must also include the county treasurer’s embossed seal.
- In addition to the taxes, special assessment, interest, penalties, judgments, and costs on the mobile home being paid, the county treasurer must issue a permit if the person

requesting the permit has a state issued title, a court order, or a BMV affidavit of sale or disposal.

- The owner **or the owner's agent** must obtain a new permit if the owner wishes to move or transfer title to the mobile home after the permit expires. (Amendment in bold.)
- A county treasurer making a good faith effort to collect taxes due and payable for a mobile home is not liable. Good faith efforts include the refusal to issue a permit until all due property taxes for a mobile home are paid to the county treasurer.

This section is effective January 1, 2018.

Section 6 amends IC 6-1.1-7-11 to require the holder of a valid permit to visibly display the permit while the mobile home is in transit. Currently, the holder must only retain possession of the permit.

Section 7 amends IC 6-1.1-7-15 so that the holder of title to a mobile or a **BMV affidavit of sale or approval for the mobile home** may request the county assessor waive the personal property tax liability. (Amendment in bold.) This section is effective upon passage.

IV. Collection of delinquent personal property taxes on mobile homes

Sections 8 and 9 of SEA 455 establish a new procedure for the collection of delinquent personal property taxes on mobile homes.

Section 8, effective July 1, 2017, adds IC 6-1.1-23-0.1. Under this new section, a county treasurer may collect delinquent property taxes, penalties, and collection expenses attributable to a personal property mobile home using the procedures under either IC 6-1.1-23 or IC 6-1.1-23.5 (see Section 9, described below). After a county treasurer has initiated an action under either Indiana Code chapter, the county treasurer must continue to use the procedure initiated until the delinquent taxes, penalties, and collection expenses are paid in full or the mobile home is sold or otherwise disposed of. In other words, the county treasurer cannot switch processes in the middle of a collection action.

Section 9 adds IC 6-1.1-23.5 as a new chapter. This memorandum will not cover the entirety of the chapter as it is very extensive. The chapter generally covers the following:

- The county treasurer shall charge collection expenses for delinquent mobile home property taxes to each delinquent taxpayer. The fees collected shall go into the county general fund (essentially a reimbursement because the collection expenses are to be paid from the general fund).
- The county treasurer shall, between May 10 and August 1, prepare a tentative auction list for delinquent mobile home property taxes and serve a written demand on each taxpayer.
- After 60 days after the written demand, the treasurer shall issue a notice that the mobile home is to be sold at auction. This notice must include descriptions of the mobile home (exceptions apply). This notice is to be posted in accordance with IC 5-3-1-4 and sent to parties with substantial property interests of record by certified mail.
- A taxpayer and county treasurer may enter into an agreement to pay delinquent mobile home personal property taxes. If a taxpayer pays the delinquent taxes in full before the

mobile home is sold or enters into an agreement, the mobile home comes off the auction list.

- A county executive may certify to the treasurer that a mobile home is not suitable for tax sale. Upon certification, the mobile home is not to be sold at auction.
- If a treasurer makes descriptions of the mobile homes available on the county website, the treasurer must still oblige with a request for the information in the manner specified by the requester.
- The treasurer must notify the owner of record of the mobile home at least 21 days prior to the judgment and order of sale of the mobile home. The court must enter judgment three days prior to the advertised sale of the auction. A taxpayer may file a written objection with the court, and the court must hold a hearing at least seven days before the auction.
- At the auction, the treasurer must sell the mobile home to the highest bidder and keep a record of all sales as prescribed by the State Board of Accounts. The owner of the mobile home that is to be sold at auction cannot bid.
- Specifies how proceeds of the sale are to be allocated.
- If a mobile home sells for less than the amount of delinquencies, the treasurer must apply for the court to remove the unpaid amounts from the tax duplicate. If a mobile home does not sell, the delinquent taxes shall be billed and collected as personal property taxes.
- The respective duties of the treasurer or county auditor cannot be performed by other persons except staff, unless the respective officers give written consent.

Please consult Section 9 of SEA 455 and IC 6-1.1-23.5 for further details and information.

Contact Information

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