No Good Deed Goes Unrecorded
Assessors’ Conference

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January 2017
IC 6-1.1-5-4
Transfer books
Sec. 4. (a) Except as provided in section 9 of this chapter, the county auditor shall keep a transfer book, arranged by townships, cities, and towns. In the transfer book he shall enter a description, for the purpose of taxation, of land that is conveyed by deed or partition, the date of the conveyance, the names of the parties, and the post office address of the grantee.
(b) In addition, the auditor shall endorse on the deed or instrument of conveyance the words "duly entered for taxation subject to final acceptance for transfer", "not taxable", "has already been listed for taxation", or "duly entered for taxation". The deed or instrument must include on its face the post office address of the grantee.

IC 6-1.1-5-5
Change of ownership; partition; apportionment of assessed value and delinquent taxes
Sec. 5. If a division, partition, or change of ownership of any real property is made by conveyance, sale, devise, or descent, the county auditor, except as provided in sections 5.5 and 9 of this chapter and IC 6-1.1-2-4, shall transfer the real property on the last assessment list. In addition, the auditor, except as provided in sections 5.5 and 9 of this chapter, shall apportion the assessed value of the real property and all delinquent taxes on the real property among the several owners.
IC 6-1.1-5.5

Real property interest created from previously existing parcel or parcels; auditor's endorsement; tax lien; apportionment of assessed value and delinquent taxes

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 enter or transfer real property described in subsection (a) on the last assessment list, enter lots or parcels described in a plat under section 3 of this chapter, consolidate parcels under section 16 of this chapter, or apportion the assessed value of the real property among the owners the owner must pay or otherwise satisfy all property taxes for which the due date has passed as of the date of transfer on each of the parcels of real property from which the platted, consolidated, or 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, subject to section 9 of this chapter, may not apportion delinquent taxes described in this subsection among the owners.
Can we transfer property even if there are delinquent taxes on it?
Generally, yes – see IC 6-1.1-5-5 (“If a . . . change of ownership of any real property is made by conveyance, sale, devise, or descent, the county auditor . . . shall transfer the real property on the last assessment list.”).

BUT

What about a situation where parcels are being combined or a split is occurring? Do delinquent taxes have to be paid before the combination or split can occur?
Yes – see IC 6-1.1-5-5.5 (“before the county auditor may enter or transfer real property described in subsection (a) on the last assessment list, enter lots or parcels described in a plat under section 3 of this chapter, consolidate parcels under section 16 of this chapter, or apportion the assessed value of the real property among the owners the owner must pay or otherwise satisfy all property taxes for which the due date has passed as of the date of transfer.”). The reason for the different treatment of combined/split parcels may have to do with the fact that a new parcel is being created or an old parcel is going away, and tax liability can’t be transferred from one parcel to another. Thus, delinquent taxes must be paid before that parcel can be created or eliminated.

SO . . .
In a straight transfer of a parcel from Bob to Joe, delinquent taxes on the parcel would not prevent the transfer from being processed. But if Bob is splitting, dividing, or partitioning part of his parcel to Joe, any taxes for which the due date has passed must be paid before the transfer can be processed. Likewise, if Bob wants to combine two of his parcels, any delinquent taxes must be paid first.
Endorsements

IC 6-1.1-5-5.7
Auditor's endorsement required for recording of deed creating interest from previously existing parcel or parcels; effect of noncompliance
Sec. 5.7. (a) A county recorder may record or accept for recording a deed or other instrument of conveyance that transfers an ownership interest in real property subject to section 5.5 of this chapter only if the county auditor has endorsed the deed or other instrument of transfer as required by section 5.5 of this chapter.
(b) The failure of any deed or other instrument of conveyance to be endorsed in compliance with section 5.5 of this chapter does not affect the validity of the notice given by the recording of the deed or instrument.

IC 36-2-11-14
Auditor's endorsement required for recording of deed of partition, conveyance of land, or affidavits of transfer to real estate; violation
Sec. 14. (a) The recorder may record:
(1) a deed of partition;
(2) a conveyance of land; or
(3) an affidavit of transfer to real estate;
only if it has been endorsed by the auditor of the proper county as "duly entered for taxation subject to final acceptance for transfer", "not taxable", or "duly entered for taxation" as provided by IC 36-2-9-18.
(b) A recorder who violates this section shall forfeit the sum of five dollars ($5), to be recovered by an action in the name of the county, for the benefit of the common school fund.
Endorsements

IC 36-2-9-18

Endorsement on deed; tax identification number

Sec. 18. (a) Before the auditor makes the endorsement required by IC 36-2-11-14, the auditor may require that a tax identification number identifying the affected real property be placed on an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or a lien on real property. The tax identification number may be established by the auditor with the approval of the state board of accounts. If the tax identification number is affixed to the instrument or if a tax identification number is not required, the auditor shall make the proper endorsement on demand.

(b) On request, a county auditor shall provide assistance in obtaining the proper tax identification number for instruments subject to this section.

(c) The tax administration number established by this section is for use in administering statutes concerning taxation of real property and is not competent evidence of the location or size of the real property affected by the instrument.

(d) The legislative body of a county may adopt an ordinance authorizing the auditor to collect a fee in an amount that does not exceed five dollars ($5) for each:

(1) deed; or

(2) legal description of each parcel contained in the deed;

for which the auditor makes a real property endorsement. This fee is in addition to any other fee provided by law. The auditor shall place revenue received under this subsection in a dedicated fund for use in maintaining plat books.
IC 6-1.1-5-10
Tract descriptions; delivery of title papers
Sec. 10. If a township assessor, or the county assessor if there is no township assessor for the township, believes that it is necessary to obtain an accurate description of a specific lot or tract, the assessor may demand in writing that the owner or occupant of the lot or tract deliver all the title papers in the owner's or occupant's possession to the assessor for the assessor's examination. If the person fails to deliver the title papers to the assessor at the assessor's office within five (5) days after the demand is mailed, the assessor shall prepare the real property list according to the best information the assessor can obtain. For that purpose, the assessor may examine, under oath, any person whom the assessor believes has any knowledge relevant to the issue.
IC 6-1.1-5-11
Rules for determining land within tract; required survey
Sec. 11. (a) In order to determine the quantity of land contained within a tract, an assessor shall follow the rules contained in this section.
(b) Except as provided in subsection (c), the assessor shall recognize the quantity of land stated in a deed or patent if the owner or person in whose name the property is listed holds the land by virtue of:
(1) a deed from another party or from this state; or
(2) a patent from the United States.
(c) If land described in subsection (b) has been surveyed subsequent to the survey made by the United States and if the county assessor is satisfied that the tract contains a different quantity of land than is stated in the patent or deed, the assessor shall recognize the quantity of land stated in the subsequent survey.
(d) Except as provided in subsection (f), a county assessor shall demand in writing that the owner of a tract, or person in whose name the land is listed, have the tract surveyed and that the owner or person in whose name the land is listed return a sworn certificate from the professional surveyor stating the quantity of land contained in the tract if:
(1) the land was within the French or Clark's grant*; and
(2) the party holds the land under original entry or survey.
(e) If the party fails to return the certificate under subsection (d) within thirty (30) days after the demand is mailed, the assessor shall have a professional surveyor survey the land. The expenses of a survey made under this subsection shall be paid for from the county treasury. However, the county auditor shall charge the survey expenses against the land, and the expenses shall be collected with the taxes payable in the succeeding year.
(f) A county assessor shall not demand a survey of land described in subsection (d) if:
(1) the owner or holder of the land has previously had it surveyed and presents to the assessor a survey certificate which states the quantity of land; or
(2) the assessor is satisfied from other competent evidence, given under oath or affirmation, that the quantity of land stated in the original survey is correct.
Clark’s Grant was a tract of land granted to George Rogers Clark and the soldiers who fought with him during the American Revolutionary War by the state of Virginia in honor of their service. The tract was 150,000 acres and located in present-day Clark County, Indiana, and parts of the surrounding counties.

The French Grant (also known as the French-Grant Estates) was a land tract in the Northwest Territory, present day Scioto County, Ohio, that was paid out by the U.S. Congress on March 31, 1795.
IC 6-1.1-5-16
Consolidation of contiguous parcels into single parcel
Sec. 16. (a) An action under this section is subject to section 5.5 of this chapter.
(b) If an owner of existing contiguous parcels makes a written request that includes a legal description of the existing 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.
When it comes to consolidating parcels, the rule of thumb is that the owner must initiate the consolidation. The parcels must be contiguous, in a single taxing district, and in the same section.

By contrast, an assessing official must consolidate more than one 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. This would seemingly contemplate a situation where a house straddles two contiguous parcels.

Counties should be cautious about local ordinances (i.e., zoning) that restrict or impair the assessor’s ability to fulfill IC 6-1.1-5-16’s directive to assessing officials.
• There is growing discontent within the General Assembly about the way some assessors and PTABOAs are handling assessments and assessment appeals.

• See Senate Bill 223-2016! Although this bill did not advance, legislation on assessment activities and appeals WILL be coming in 2017.

• IC 6-1.1-37-2

Assessment violations by public officials or employees

Sec. 2. An assessing official or a representative of the department of local government finance who:

(1) knowingly assesses any property at more or less than what the official or representative believes is the proper assessed value of the property;
(2) knowingly fails to perform any of the duties imposed on the official or representative under the general assessment provisions of this article; or
(3) recklessly violates any of the other general assessment provisions of this article;

commits a Class A misdemeanor.
Ethics

• To help address this issue, the state Assessors’ Association hosted a panel on ethics for PTABOAs this past August at which a couple Deputies Attorney General and a couple other attorneys gave helpful presentations. Copies are available upon request.

• The Department also issued a memorandum (available at http://www.in.gov/dlgf/files/pdf/160610_-_Schaafsma_Memo_- _Appeals_Procedures.pdf) addressing the following:
  • Assessors are obligated to make a good-faith attempt to hold an informal meeting with the appealing taxpayer.
  • The Department fully understands that a high volume of appeals can lengthen the turn-around time. However, chronic delays or intentional stalling of an appeal is unacceptable.
  • Boilerplate or generic PTABOA determinations, determinations made without evidentiary support, and determinations inconsistent with or lacking basis in Indiana law are unacceptable.
  • While it is true that each assessment year stands on its own, assessors are encouraged to be especially mindful of how a property is assessed for the year following a year in which the property’s assessed value is reduced by a reviewing authority.
One last thing . . .

- Please be aware of and ensure your compliance with this provision. When you have reclassified land (e.g., agricultural to excess residential), you must indicate this in the Form 11 and give reasons for the change!

IC 6-1.1-15-17.1
Burden of proof on the assessor in a review of a change in land classification
Sec. 17.1. In the case of a change occurring after February 28, 2015, in the classification of real property:
(1) the county assessor or township assessor must on the notice required by IC 6-1.1-4-22 specify any changes in land classification and the reasons for the change; and
(2) the county assessor or township assessor making the change in the classification has the burden of proving that the change in the classification is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.
Thank you!

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