

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 420

June 2020

REMINDER OF ORDER OF BUSINESS

July

- 1 On or before this date or 51 days after the tax payment due date the county treasurer shall certify a list of real estate delinquencies for tax sale. [IC 6-1.1-24-1]
On or before July 1 of each year, each county assessor shall certify to the county auditor the assessment value of the personal property in every taxing district. [IC 6-1.1-3-17]
- 2 On or before this date, the county auditor should receive County Form 144 (Statement of Salaries and Wages Proposed to be Paid Officers and Employees) from officers, boards, commissions and agencies [IC 36-2-5-4]. The county auditor shall present these forms to the county executive at its July meeting. The county executive shall review and make its recommendations. Before August 20 the county executive shall present County Form 144 and its recommendations to the county fiscal body.
- 4 Legal Holiday - Independence Day [IC 1-1-9-1]
- 13 Distribute congressional interest to school corporations - second Monday. [IC 20-42-2-7]
- 15 In those counties participating in Public Employee's Retirement Fund, last day to make pension report and payment for the second quarter of 2020 to the Public Employee's Retirement Fund.
- 20 Last day to report and make payment of balance of State and County Income Tax withheld in the month of June to Indiana Department of Revenue.
- 31 Last day to file quarterly contribution and wage reports with Indiana Department of Workforce Development.
Last day for county treasurer to mail demand notices to delinquent personal property taxpayers. [IC 6-1.1-23-1]

August

- 5 Last date for county officers and department heads to file the respective budget estimates with county auditor - Wednesday following first Monday in August. [IC 36-2-5-9]
- 19 Last date for board of commissioners to review "Statements for Salaries and Wages Proposed to be Paid Officers and Employees" and to make its recommendations to the county council. [IC 36-2-5-4(b)]
- 20 Last day to report and make payment of State and County Income Tax withheld in the month of July to Indiana Department of Revenue.

THE COUNTY BULLETIN
and Uniform Compliance Guidelines

Volume 420, Page 2

June 2020

September

- 7 Legal Holiday - Labor Day. [IC 1-1-9-1]
- 20 Last day to report and make payment of State and County Income Tax withheld in the month of August to Indiana Department of Revenue.
- 29-30 Last date to comply with provisions IC 36-2-5-11, "Each ordinance must be read on at least two (2) separate days before its final adoption."

APPROVAL OF ALTERNATIVE FORMS

The State Board of Accounts is charged by law with the responsibility of prescribing and installing a system of accounting and reporting which shall be uniform for every public office and every public account of the same class and contain written standards that an entity that is subject to audit must observe. The system must exhibit true accounts and detailed statements of funds collected, received, obligated and expended for or on account of the public for any and every purpose. It must show the receipt, use and disposition of all public property and the income, if any, derived from the property. It must show all sources of public income and the amounts due and received from each source. Finally it must show all receipts, vouchers, contracts, obligations, and other documents kept, or that may be required to be kept, to prove the validity of every transaction. [IC 5-11-1-2]

The system of accounting prescribed is made up of the uniform compliance guidelines and the prescribed forms. A prescribed form is one which is put into general use for all offices of the same class.

Computer hardware, software and application systems can now produce exact replicas of the forms prescribed by the State Board of Accounts. An exact replica of a prescribed form is a computerized form that incorporates all of the same information as the manual prescribed form. Prescribed form replication is the preferred approach from the State Board of Accounts' position. These exact replicas are the equivalent of the prescribed form and require no further action for the county to install the form within their accounting system.

Governments are required by law to use the forms prescribed by this department. However, if it is desirable to use a form other than the prescribed manual form, that is not an exact replica; the new form must be approved by State Board of Accounts.

All forms previously approved by sending copies to State Board of Accounts and receiving a form approval letter are approved with the conditions contained within the letter. All forms previously approved by the adoption of a resolution as allowed by County Bulletin article on Approval of Accounting Forms and Systems, published in Volume 354, pages 13-16 are also considered approved.

After April 1, 2014, if a government implements, consistent with the provisions of Indiana Code and Uniform Compliance Guidelines, an automated accounting system that is to be considered for approval, the responsible official is not required to maintain the prescribed forms replaced by the automated system while awaiting the approval. New forms must be in place during at least one (1) State Board of Accounts audit and must not be an element of an audit finding or audit result and comment that is responsible or partially responsible for an exception found during an audit to be considered approved. The government is responsible for placing on new forms the year of installation in the upper right corner. This reference should be similar to "Installed in _____ County, (Year)." The county must maintain and present for audit a log of forms installed after April 1, 2014 with the year installed for all forms that replace forms prescribed by State Board of Accounts.

The government agrees to comply with the following conditions, if applicable, for any new forms installed.

THE COUNTY BULLETIN
and Uniform Compliance Guidelines

Volume 420, Page 3

June 2020

APPROVAL OF ALTERNATIVE FORMS continued...

1. The forms and system installed are subject to review and/or recommendations during audits of the government to ensure compliance with current statutes and uniform compliance guidelines.
2. The government shall continue to maintain all prescribed forms not otherwise covered by an approval.
3. All transactions that occur in the accounting system must be recorded and accessible upon proper request. Transactions can be maintained electronically, with proper backups, microfilmed, or printed on hardcopy. These transactions include, but are not limited to, all input transactions, transactions that generate receipts, transactions that generate checks, master file updates, and all transactions that affect the ledgers in any way. The system must be designed so that changes to a transaction file cannot occur without being processed through an application.
4. The ability must not exist to change data after it is posted. If an error is discovered after the entry has been posted, then a separate correcting entry must be made. Both the correcting entry and the original entry must be maintained.
5. If the unit owns the source code, sufficient controls must exist to prevent unauthorized modification. If the unit does not own the source code, the vendor shall provide representatives of the State Board of Accounts with access to all computer source codes for the system upon request for audit purposes. In addition, the vendor shall provide representatives of the State Board of Accounts with a document describing the operating system used, the language that the source code is written in, the name of the compiler used, and the structure of the data files including data file names, data file descriptions, field names, and field descriptions for the system.
6. Any receipts, checks, purchase orders, or other forms that require numbering shall be either pre-numbered by an outside printing supplier or numbered by the units computer system with sufficient controls installed in the system to prevent unauthorized generation of the form or duplication of numbers.
7. All receipts must be either in duplicate or recorded in a prescribed or approved register of receipts.
8. All checks must be either in duplicate or recorded in a register of checks generated by the computer.
9. Recap sheets for each deposit for deposit advices, if applicable, will be maintained indicating direct deposits. Individual wage assignment agreements will be kept on file to support direct deposit.
10. "Installed by _____ County, (Year)" shall be printed, in the upper right corner, on each approved form furnished by a printing supplier and, when practical, on those printed from accounting systems at the unit. Upon the installation of a new form the form will be entered on a log for this purpose with the date of installation; and the name and number of the prescribed form replaced. The log must be available for audit.
11. The government officials are responsible to ensure that forms and accounting systems installed comply with the uniform compliance guidelines for information technology services published in the County Bulletin and accounting manuals. This includes ensuring that customization of the system done by the vendor for implementation at the government is done in such a manner that the system remains compliant.
12. In the event a change is required due to the passage of a State or Federal law, the government agrees to implement the change in a timely manner.

THE COUNTY BULLETIN
and Uniform Compliance Guidelines

Volume 420, Page 4

June 2020

TRANSFER ON DEATH DEED

In 2011, Indiana Code amended IC 32-17-14-11(i), to specifically state that the endorsement required by IC 36-2-11-14 is not necessary to record a transfer on death deed. The deed would still be considered a conveyance of land under IC 36-2-11-14(a)(2) even though it would not take effect until the affidavit is filed. The deed is the conveyance document that would contain the name of the grantor, grantee, legal description, the words of conveyance and other requirements for recording a deed. The affidavit certifying the death, does not seem to be the conveyance document itself as it would not have the legal description and other information required of a deed. However, also in 2011, the Indiana Code was amended for IC 32-17-14-26(b)(20) to add that the affidavit must be endorsed by the county auditor under IC 36-2-11-14 before it can be recorded.

Even though the transfer on death deed does not need an endorsement from the County Auditor, the information contained on the deed does need to be provided to the Auditor when the affidavit is filed since the affidavit does not contain all of the information needed to complete the documentation of the transfer. The affidavit is to be cross-referenced to the transfer on death deed. Procedures should be established in each county so that all of the necessary information is provided to the County Auditor.

Our position is not a legal opinion but is the position we would take during an audit of the county. During an audit we will respect the written legal opinion of the county attorney regarding the application of and compliance with Indiana Code as it relates to the endorsement of transfer on death deeds

DISASTER RELIEF FUNDS – ACCOUNTING AND BUDGETING

Based upon language contained in IC 10-14-3-17(j)(5) which states that a political subdivision may waive procedures and formalities otherwise required by law pertaining to the appropriation and expenditure of public funds where a national disaster or security emergency had been declared, the following procedures should be followed when disasters relief funds are received.

Money receives or expected to be received from the Federal Emergency Management Agency (FEMA), the State Emergency Management Agency, or the State Lottery Commission for tornado, flood, ice storm, or other types of declared disasters should be accounted for in the following manner:

1. If the money is to be used to reimburse funds for expenditures already incurred and paid and the conditions of IC 10-14-3-12 have been met, the amount received may be added back to the appropriation balances from which the expenditures have been previously made.
2. If the money is to be used for future expenditures, a separate fund should be set up entitled "Disaster Relief Fund." Such fund would not require appropriation or additional appropriation prior to spending the money in the fund.

It is recommended that all related expenditures records (Claims, minutes, correspondence, contracts, damage survey report, etc) be maintained in separate file for future audits required by State and Federal agencies.

FIREARMS TRAINING FUND – USES

IC 35-47-2-3(b) authorizes the application fee for law enforcement agencies that accept an application for a handgun license. The fee is deposited into the law enforcement agency's firearms training fund and use to "...train law enforcement officers in the proper use of firearms or in other law enforcement duties, or to purchase firearms or firearm related equipment, or both for the law enforcement officers employed by the law enforcement agency..."

INTEREST ON PAYMENTS FOR ROAD WORK

IC 36-1-12-17 requires that each contract for roadwork must provide for final payment within one hundred twenty (120) days after final acceptance and completion of the contract. Final payment may not be made on any amount that is in dispute, but final payment may be made on that part of a contract or those amounts that are not in dispute.

For each day after one hundred twenty (120) days, the county shall pay to the contractor interest for late payment of money due to the contractor. However, interest may not be paid for those days that the delay in payments is not directly attributable to the county. The annual percentage rate of interest on the unpaid balance is twelve percent (12%).

PUBLIC WORKS PROJECTS COSTING LESS THAN \$150,000

We will not take audit exception to expenditures for projects under \$150,000 that maintain the existing condition of the asset or restore the asset to normal operating efficiency and which might qualify as routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property under IC 36-1-12-4.9. Included in our audit position could be expenditures for the replacement and repair of elevators, flooring, ceiling, tile, bathroom fixtures, windows, sidewalks, parking lots, and roofs which would not be part of another public works project. Additionally, the costs associated with reconfiguring the interior of offices (additions/deletions of wiring for electrical outlets, lighting, data lines, and telephones, cubicle walls, etc) and reconfiguring offices with movable walls which would not be part of another public works project, could be considered. Not included would be additions to the structure, reconfiguring offices with permanent walls, change of purpose of an area that involves substantial addition or removal of plumbing or gas lines (adding a kitchen area or bathroom), addition of elevator shafts, parking lots and other like changes to the interior or exterior that involve changes to the structural integrity of the building or improvements to real property, etc. or expenditures for which a determination has been made of the applicability of other provisions of the Public Works Law, IC 36-1-12-1 et seq. Our audit position is with the assumption a determination has been made by the governmental unit in a public meeting of the applicability of IC 36-1-12-4.9 to the proposed public works project.

RETAINAGE ON PUBLIC CONTRACTS IN EXCESS OF \$200,000 AND PERFORMANCE BOND

Pursuant to IC 36-1-12-14, it is required that when public works contracts are awarded by a county for certain public works or improvements and such contracts exceed \$200,000, such contracts shall include provisions for the retainage of portions of payments by the board (defined to mean the board or officer of a political subdivision or agency having the power to award contracts for public work) to contractors, by contractors to subcontractors, and for the payment of subcontractors. This statute applies to the construction, alteration, or repair of all buildings or other improvements the cost of which is paid from public funds or from special assessments imposed and levied on real estate, land and lots benefited thereby but shall not include highways, roads, streets, alleys, bridges and appurtenant structures situated on streets, alleys and dedicated highway right-of way.

At the discretion of the contractor, the retainage shall be held by the board or shall be placed in an escrow account with a bank, savings and loan institution, or the state as escrow agent. The escrow agent shall select by mutual agreement between the board and contractor or contractor and subcontractor under a written agreement among the bank or savings and loan institution and (1) the board and the contractor; or (2) the subcontractor and the contractor.

Where an escrow agent is selected, it is required that at the time any retainage is withheld the amount of the retainage shall be placed in an escrow account with the escrow agent, to be promptly invested by the escrow agent in its discretion. The escrowed principal and the income from the investments shall be held by the escrow agent until receipt of a notice releasing the funds in accordance with the terms of the law and the agreement.

RETAINAGE ON PUBLIC CONTRACTS IN EXCESS OF \$200,000 AND PERFORMANCE BOND continued...

When a bank or savings and loan institution is selected as escrow agent, the amount of the retainage withheld shall be paid by warrant to the escrow agent and, when paid, shall be treated in the same manner as any other payment on the contract, with the escrow agent being required to deposit, invest and otherwise account for the escrowed principal and interest, in accordance with the law and the terms of the agreement. The escrow account will not be carried on the records of the county.

Statute provides that the escrow agent shall be compensated for its service as the parties may agree in an amount comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income of the escrowed account.

The escrow agreement must contain the provisions that the escrow agent shall invest all principal in obligations selected by the escrow agent, that the escrow agent shall hold the principle and income until receipt of notice and follow the notices provision of release, and the statutory escrow agent fee provisions.

To determine the amount of retainage to be withheld the board shall:

1. Withhold no more than ten percent (10%) nor less than six percent (6%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed and nothing further after that; or
2. Withhold no more than five percent (5%) nor less than three percent (3%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted within sixty-one (61) days after the date of substantial completion, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed.

If the contractor chooses to have the retainage held by the board, then the board is not required to pay interest on the amounts of retainage it holds. However, such amounts held by the board will be carried on the records of the county as an agency fund.

Required warranties begin not later than the date of substantial completion.

Subject to IC 36-1-12-11 and IC 36-1-12-12 and subject to the value of minor items being withheld as stated above, the board or escrow agent shall pay the contractor within 61 days after the date of substantial completion.

The contractor shall furnish the board with a performance bond equal to the contract price. If acceptable to the board, the performance bond may provide for incremental bonding in the form of multiple or chronological bonds that, when taken as a whole, equal the contract price.

The performance bond must specify that:

- (1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;
- (2) a defect in the public work contract; or
- (3) a defect in the proceedings preliminary to the letting and awarding of the public work contract; does not discharge the surety.

The surety on the performance bond may not be released until one (1) year after the date of the board's final settlement with the contractor.

RETAINAGE ON PUBLIC CONTRACTS IN EXCESS OF \$200,000 AND PERFORMANCE BOND continued...

However, if the public work contract is less than \$250,000, the board may waive the performance bond requirement and accept from the contractor an irrevocable letter of credit. The letter of credit must be for an equivalent amount from an Indiana financial institution approved by the Department of Financial Institutions. Subsections (e) through (g) of IC 36-1-12-14 apply.

COUNTY DRUG FREE COMMUNITY FUND

In 1990, per IC 5-2-11 a county drug free community fund was established in each county to promote comprehensive local alcohol and drug abuse prevention initiatives by supplementing local funding for treatment, education and criminal justice efforts. The fund consists of fees collected by the Clerk of the Circuit Court: under IC 33-37-7-2(c) and IC 33-37-7-8(e). [IC 5-2-11-2] Specifically:

1. Seventy-five percent (75%) of the Drug Abuse, Prosecution, Interdiction, and Correction Fee under IC 33-7-4-1(b)(5);
2. Seventy-five percent (75%) of the Alcohol and Drug Counter-Measures Fees under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4) and IC 33-37-4-3(b)(5). [IC 33-37-7-2(c)]

These fees will be remitted monthly by the Clerk of the Circuit Court to the County Auditor on their Monthly Report of Collections and receipted to the "Drug Free Community Fund."

The remaining twenty-five percent (25%) of these fees are to be receipted by the Clerk of the Circuit Court to the "State User Fee Fund" and semiannually distributed to the Auditor of State.

The County Auditor shall administer the Drug Free Community Fund which requires local appropriation. The fund is non-reverting.

The County Council shall annually appropriate from the fund amounts allocated by the Board of County Commissioners for the use of persons, organizations, agencies and political subdivisions to carry out recommended actions contained in a comprehensive drug free communities plan submitted by the Local Coordinating Council, established by IC 5-2-11-1.6 and approved by the Commission for a Drug Free Indiana established under IC 5-2-6-16.

The Board of County Commissioners shall allocate the money, based on the recommendation of the Local Coordinating Council and in accordance with the approved plan, as follows:

1. At least twenty-five percent (25%) of the money is to go to persons, agencies, organizations, and political subdivisions providing prevention and education services in the County, and
2. At least twenty-five percent (25%) of the money is to go to persons, agencies, organizations, and political subdivisions providing intervention and treatment services in the County, and
3. At least twenty-five percent (25%) to persons, agencies, organizations, and political subdivisions providing criminal justice services and activities in the County, and

COUNTY DRUG FREE COMMUNITY FUND continued...

4. The remaining twenty-five percent (25%) in the fund to be allocated by the county fiscal body to persons, organizations, agencies, and political subdivisions to provide services and activities under subdivisions (1) through (3) based on the comprehensive drug free communities plan.

Through the plan the Local Coordinating Council determines the amount of funds the County Council should appropriate to implement the objectives of the plan. If the plan is not approved by the Commission for a Drug Free Indiana the County Council may not appropriate the funds even at the request of the local council.

The fund may not be used to replace other funding for alcohol and drug abuse services provided to the county.

It will be up to the Board of County Commissioners, based on the approved comprehensive plan created by the LLC, to decide what persons, organizations, agencies, and political subdivisions get this money.

As always the recipients of these funds should enter into a contractual agreement with the county commissioners stating:

1. They will use the funds to provide services and activities contained in the plan;
2. The recipient will file periodic financial reports of the services and activities provided; and
3. They will be subject to an audit by the State Board of Accounts.

Additional Clarification

The Commission for a Drug Free Indiana (Commission) approves and appoints the local coordinating council (LCC) which is a countywide citizen body. The purpose of the LCC is to plan, monitor, and evaluate comprehensive local alcohol and drug abuse plans. The LCC works in an advisory capacity to the County Commissioners for the County Drug Free Community funds and develops the comprehensive plan that must be approved by the County Commissioners and ultimately by the Commission.

The County Council will approve appropriations for the County Drug Free Community Fund (fund 1148) and the auditor will administer the funds. Disbursements from the fund must be in compliance with the Comprehensive Plan approved by the Commission. The Indiana Criminal Justice Institute will notify the county auditor when the plan has been approved and provide documentation of the approved plan's budget. The Auditor will administer the Drug Free Community fund similar to a grant fund although the funding comes from the collection of local fees and not a state grant. The auditor should notify the LCC of the fund balance and any amendments to the original comprehensive plan would have to be approved by the Commission.

The administration costs of the LCC that are approved under the Comprehensive plan will be paid through the county's claim processing. The county should not turn over any funds from the Drug Free Community fund to the LCC for the LCC to administer. Any payments for equipment or supplies will also be paid through the county's claims process.

Grant amounts awarded to other entities that will be providing services under the approved plan will be paid by claim, based on the comprehensive plan. The LCC can provide the grant agreement between the county and the other entity, but the Commissioners must approve the agreement. The LCC will monitor the grant activity for the county. The Commissioners should formalize the arrangement between the County and the LCC for implementation of the Drug Free Community plan with a written agreement.

Please contact Sonya Carrico with the Indiana Criminal Justice Institute which supports the Commission for a Drug Free Indiana if you have any questions about this program. Her email is scarrico@cji.in.gov.

UNIFORM ELECTRONIC TRANSACTIONS ACT

The Uniform Electronic Act IC 26-2-8 allows governmental units to determine the extent that the entity will create and retain electronic records and convert written records to electronic records. In addition, the Act allows the governmental unit to send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and signatures.

The State Board of Accounts Accounting and Uniform Compliance Guidelines Manuals document the requirements for computerized accounting systems and storage of accounting information on electronic media. These requirements are documented in the Accounting and Uniform Compliance Guidelines Manual for Indiana Political Subdivisions – Information Technology. This can be found with the other manuals available on our website.

TAX SALE – DUTIES OF COUNTY AUDITOR

The law governing tax sales makes these requirements on the county auditor prior to the sale (these provisions do not apply to vacant or abandoned real property that is on the list prepared by the county auditor under section 1.5:

- (a) Using the certified list prepared by the County Treasurer prepare and record a list of real property eligible for sale in the Tax Sale Record, Form No. 137.
- (b) Prepare a notice with the list mentioned in (a), the location of each parcel, and a statement listing the date, time place and terms of the sale: (IC 6-1.1-24-2).
- (c) Post the notice at a public place of posting in the county courthouse or another public county building at least twenty-one (21) days before the earliest date on which application for judgement; (IC 6-1.1-24-3).
- (d) Give notice by publication once a week for three (3) consecutive weeks before the earliest date on which application for judgement may be made. The expenses of this publication shall be paid out of the county general fund without prior appropriation. (6-1.1-24-3)
- (e) For properties not sold at their initial tax sale, the auditor may omit the descriptions of the tracts or items of real property, if the auditor includes in the notice a statement that descriptions of those tracts or items of property are available on the country government's web site and the information may be obtained in printed form from the auditor. (IC 6-1.1-24-3)
- (f) On or before the date of the sale, list on the record (Tax Sale Record) all properties that will be offered for sale: (IC 6-1.1-24-4)
- (g) Send a notice of such sale to the owner or to at least one of the owners of such real property listed for sale for delinquent taxes or special assessments, to the last known address by certified mail, return receipt requested, and by first class mail at least 21 days before the earliest date on which the application for judgement and order for sale of real property eligible for sale may be made. If both notices are returned, the auditor shall take an additional step to notify the property owner, if the auditor determines that an additional reasonable step is practical. (Use form 137A for this purpose). (IC 6-1.1-24-4)
- (h) Present proof of the mailing to the court along with the application for judgment and order of sale. (IC 6-1.1-24-4)
- (i) At least twenty-one (21) days before application for judgments is made, send a notice by certified mail, return receipt requested, to any mortgagee, or purchaser under an installment land contract recorded in the office of the county recorder, who annually requests by certified mail a copy of the notice. (IC 6-1.1-24-3)
- (j) On the day on which the application for judgment and order of sale is made, the county auditor assisted by the county treasurer shall compile and correct the list, removing delinquencies which have been paid, and subscribe to an affidavit in the form at IC 6-1.1-24-4.6(a).

TAX SALE – DUTIES OF COUNTY AUDITOR continued...

- (k) File the application for judgment and order for sale as one (1) cause of action to any court of jurisdiction jointly by the county treasurer and county auditor and shall include the affidavit and corrected list.
- (l) Auditor shall serve as clerk of the sale. (IC 6-1.1-24-5).
- (m) A business association that has not obtained a certificate of authority from, or registered with, the secretary of state or is not in good standing in Indiana or an agent of that business association is ineligible to purchase tracts or certificate of sales. If an ineligible person purchases a tract under this section, the sale of property is subject to forfeiture. (IC 6-1.1-24-5.1)
- (n) A person who owes delinquent taxes, special assessments, penalties, interest or costs directly attributable from a tax sale on a tract or an item of real property listed, may not purchase a tract offered for sale. A person with an interest in an unsafe building or a vacant and abandoned building may not purchase a property offered for sale. If a person who is ineligible purchases a tract that sale of property is subject to forfeiture. (IC 6-1.1-24-5.3).
- (o) A foreign business association that has not obtained a certificate of authority from, or registered with, the secretary of state or is not in good standing in Indiana and an agent of the business association is not eligible to purchase real property and may not purchase a tract offered for sale. If an ineligible foreign business association purchases a tract offered for sale, the sale of property is subject to forfeiture.

The notice required in (b) above must be published in two newspapers in the county.

It is recommended that the published and posted notice of tax sale indicate which parcels are being offered for the second time. Doing this will not only inform the owner of this fact, but will provide an orderly means of determining which parcels are subject to purchase by the county in not sold to an individual. See item (e) above for additional options for property being offered for the second time.

There are additional statutory requirements for the sale of vacant or abandoned property (IC 6-1.1-24-1.5; IC 6-1.1-24-2.3) and for properties not suitable for tax sale (IC 6-1.1-24-1.7).

REFUND ON ACCOUNT OF ERRONEOUS TAX SALE

IC 6-1.1-25-10 authorizes refunds to purchasers at tax sale when sales are found to be invalid. The purchaser at an erroneous tax sale is entitled to receive interest at the rate of 5% per annum on the amount paid at the sale and all types and special assessments on the property paid by the purchaser.

FAILURE TO PAY TAX SALE BID

If the purchaser fails to pay his bid, the property shall be offered again for sale and the purchaser shall pay a twenty five percent (25%) penalty of the amount bid. The County Prosecuting Attorney shall initiate an action in the name of the State Treasurer and amounts collected are to be deposited in the county general fund. (IC 6-1.1-24-8)

TAX SALE – PARTIAL PAYMENTS

IC 6-1.1-24-1.2 (b) states, "A county treasurer may accept partial payments of delinquent property taxes, assessments, penalties, interest, or costs under subsection (a) after the list of real property is certified under section 1 of this chapter."

The acceptance of a partial payment after July 1st will not remove the property from the tax sale. IC 6-

THE COUNTY BULLETIN
and Uniform Compliance Guidelines

TAX SALE – PARTIAL PAYMENTS continued...

1.1-24-1.2(a) states: "A tract or an item of real property may not be removed from the list certified under section 1 of this chapter before the tax sale unless all delinquent taxes, special assessments, penalties due on the delinquency, interest, and costs directly attributable to the tax sale have been paid in full."

RECORD OF TAX SALES TO COUNTY

When real property is offered for sale under IC 6-1.1-24-6 for two (2) consecutive years and a bid is not received in an amount equal to or in excess of the minimum sale price the county acquires a lien in the amount of the minimum sale price. This lien attaches on the day after the last date on which the tract or item was offered for sale the second time. When the lien is acquired this fact should be noted in the Tax Sale Record, County Form No. 137, and an immediate record thereof made in the Register of Tax Sales to County, County Form No. 9S. It is also desirable to indicate on the tax duplicate "lien acquired by county on _____ 2____," so that this information will be immediately available in the event any person appears to make a payment. No money is paid by the county on bid by the auditor but such real estate shall be held in trust by the county for the benefit of all the tax levying bodies as their interest therein appear.

The Register of Tax Sales to County, Form 9S, is designed to keep a complete record of all the proceedings on property on which liens are acquired by the county from the date the lien was acquired to the date of redemption or sale of the real estate.

When a county acquires a lien and a tax sale certificate is issued to the county, pursuant to IC 6-1.1-24-6, the redemption should be handled in the same manner as property sold to other purchasers, by issuing a quietus for the amount required for redemption and by crediting the amount to the tax sale redemption fund.

A warrant from that fund should then be issued to the "Treasurer of _____ County" for payment of the taxes, penalties, interest and costs for which a lien was acquired by the county, together with the statutory redemption penalty of 10% or 15% depending upon the date of redemption. The amount of the penalty added on redemption should then be entered in the "additional assessments" section of the duplicate in the column provided for "delinquent tax" and payment thereof entered by the county treasurer when the warrant is processed and a receipt (or receipts) issued for the taxes, penalties, interest and costs.

CHART OF ACCOUNTS**Local Income Tax Funds**

In 2017 we advised that the funds established to account for local option income taxes (LOIT) should no longer be used. New statute located in IC 6-1.1-3.6, Local Income Tax, replaced the LOIT statutes which were repealed. However, in reviewing the Annual Financial Reports (AFR) for 2019, we found that some Counties were still using these funds. We had removed them from the Chart of Accounts and we will be removing them from the AFR on Gateway that will be completed for 2020.

As a reminder:

CAGIT Certified Shares and COIT Distributive Shares were to be closed out and any remaining balance in those funds were to be transferred to the County General fund.

The CEDIT Special Legislation and COIT Special Legislation funds were also to be closed and any remaining balance to be transferred to Fund 1114 LIT Special Purpose.

Within the Settlement Funds, all Property Tax Relief income tax should be deposited into LIT – Property Tax Relief (Fund # 6203); LIT Supplemental Distribution PTR (Fund 6204) or LIT Stabilization (Fund 6006) as appropriate. All funds with LOIT, COIT, and CEDIT should no longer be used.

CHART OF ACCOUNTS continued...

Within the Local Government Remittance funds, use LIT Certified Shares (Fund 7330), LIT Public Safety (Fund 7331) and LIT Economic Development to account for the monthly LIT Distributions received from the State to distribute to the local units.

Other Obsolete Funds

During the review of the AFR's we also found some additional funds being used that should have been closed out earlier.

Child Advocacy Fund (1115) is one of those funds. One of the fees collected by the Clerk is the Child Abuse Prevention Fee. At one time 50% of this fee was retained by the County and 50% was remitted to the State. The Child Advocacy fund was established by statute to account for 50% of the Child Abuse Prevention fee that was retained by the County. However the statute that established this fund has been repealed and currently, 100% of the Child Abuse Prevention fee is to be sent to the State. If the county had a balance in the fund they were advised to use those funds for any ongoing projects at the county level. If your county still has this fund if you have a balance in this fund, you may close this fund out to the General Fund or the Rainy Day Fund. No receipts should be added to this fund.

There were two fund established for Counties to account for E911 fees that were received from landline phone bills and wireless phone bills. The State 911 Board currently collects the fees for the State and distributes those fees to the Local PSAP's. The two funds that have been established are now obsolete and any balance in those fund should be transferred to the Statewide E911 fund (Fund 1222). Only the Statewide E911 Fund (1222) should be used currently.

In the past a separate fund was established to account for the costs of Reassessment. There were two funds on the Chart of Accounts that had been established for the 2009 and 2015 reassessment. Currently, the Counties are all using a four year cycle to reassess all property and a fund was established to account for the costs of the cyclical reassessment. The Reassessment fund (1224) is the only Reassessment fund that should be on your funds ledger.

BACKUPS

All transactions that occur in the accounting system must be recorded and accessible upon proper request. Transactions maintained electronically should include proper backups, whether saved on a server, microfilmed, or printed on hardcopy. These transactions include, but are not limited to, all input transactions, transactions that generate receipts, transactions that generate checks, master file updates, and all transactions that affect the ledgers in any way.

As cybersecurity is becoming more and more crucial due to the ever increasing malware that we are encountering online and through emails. Consider your unit's policies related to the protection of computer information. The most common advice to recover from an attack by malware relies largely on whether a good backup policy is employed. Here is a link to an article on backups
<https://searchdatabackup.techtarget.com/definition/backup>.

A policy should address the frequency and storage of the backups. Backups that are saved on the same server as the financial software will most likely be affected by the malware as well, leaving the backup useless. Storing the backup in a secure location not connected to the main server is the safest option. Backups done more frequently will save time if an attack occurs. Governmental entities also should keep their anti-virus software up-to-date and apply security patches in a timely manner.

QUESTIONS AND ANSWERS FROM THE SPRING 2020 AUDITORS VIRTUAL CONFERENCE

Question 1: It was mentioned that COVID-19 Grants should be separate funds, we are paying most of our expenses out of our Rainy Day Fund, should those have been paid out of a new grant fund so that when we get the FEMA money back it goes in there?

Answer 1: When you receive reimbursements from the State for COVID-19 expenses you will receipt those funds into a COVID-19 fund. The memo explains how to post the reimbursements to the General fund, but would be the same procedures for the Rainy Day fund.

Question 2: Does the Treasurer or the Auditor start the reconciling form for the Excise Tax?

Answer 2: It doesn't matter who starts it but the two offices need to work together to get reconciled.

Question 3: Is there a deadline for the Commissioners to sign the Acceptance Certification (as there is with another COVID grant with a different agency)? And is it correct to assume that the Commissioners need to approve the certification in a public meeting or does the Commissioner President have the discretion to sign on their own?

Answer 3: Please email covid-19@ifa.in.gov.

Question 4: We are almost to the end of our AUDIT for 2019 and it has been very challenging to communicate and meet all the requests. One of the biggest challenges was scanning all the documents for testing.

Answer 4: We are working on making this process a little easier with Gateway and the monthly uploads.

Question 5: Audit started recently but was not told about Gateway upload. We have been emailing our documents

Answer 5: Remote auditing is new to us all, kinks are still being ironed out but Gateway is the preferred method.

Question 6: Have more counties been added to file the required GAAP Statements?

Answer 6: No the requirement to issue GAAP financial statements is still for Counties with a population over 100,000 and issuing debt.

Question 7: Where can a listing and copies of the prescribed forms be found?

Answer 7: The Auditor's Manual has a list of prescribed forms. The forms can be obtained from your print vendor or software vendor.

Question 8: The Cares Act Acceptance Certification needs to be signed by our Commissioner President correct, or may the Auditor sign this?

Answer 8: It says the Executive, which in the case of the county would be the commissioner.

QUESTIONS AND ANSWERS FROM THE SPRING 2020 AUDITORS VIRTUAL CONFERENCE
continued...

Question 9: We have started on budgets and our Plan Commission has asked if she can combine the Inspectors Dept with the Plan Commission this year. Do they need to be kept separate? Just for budget and Annual Reporting. They are different departments on the budget and annual report and would like to just do one budget for them both. Both Departments are ran by the same person.

Answer 9: We will not take audit exception to the departments being combined. We would be auditing to determine if the department stayed within the budget and didn't spend over the appropriation.

Question 10: Our inspector is under the Plan Commission. Is this not correct?

Answer 10: The County can decide what department the inspector is under.

Question 11: Where on your website is the covid-19 information?

Answer 11: COVID-19 information, memos, directives and executive orders are on the State Board of Accounts home page <https://www.in.gov/sboa/>, scroll to the bottom.