

# THE COUNTY BULLETIN

## And Uniform Compliance Guidelines

### ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 368

July 2009

#### REMINDER OF ORDER OF BUSINESS

The dates for the budget process may be subject to change. Please go to the Department of Local Government Finance at [www.in.gov/dlgf](http://www.in.gov/dlgf) for updates.

#### **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 Before this date, the county auditor should receive County Form 144 from officers, boards, commissioners and agencies "Statement of Salaries and Wages Proposed to be Paid Officers and Employees." [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 2009 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 unemployment compensation reports with Indiana Employment Security Division.  
  
Last day for county treasurer to mail demand notices to delinquent personal property taxpayers. [IC 6-1.1-23-1]

#### **August**

- 3 Last date for first publication of county budget. [IC 6-1.1-17-3]
- 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]
- 5-7 County Treasurer's Annual Conference – Evansville
- 10 Last date for second publication of county budget. [IC 5-3-1-2]

**THE COUNTY BULLETIN**  
and Uniform Compliance Guidelines

Volume 368, Page 2

July 2009

REMINDER OF ORDER OF BUSINESS (Continued)

**August (Continued)**

- 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.

**September**

- 7 Legal Holiday - Labor Day. [IC 1-1-9-1]
- 20 Last date for budget public hearing (10 days prior to adoption). [IC 6-1.1-17-5(a)]  
  
Last day to report and make payment of State and County Income Tax withheld in the month of August to Indiana Department of Revenue.
- 22 First meeting of County Tax Adjustment Board, if applicable. [IC 6-1.1-29-4] (On September 22 or on first business day after, if September 22 is not a business day.)
- 29-30 Last date to comply with provisions IC 36-2-5-11, "Each ordinance shall be read on at least two separate days before its final adoption."  
  
Last date for taxing officials to file copies of budgets and tax levy with the county auditor for presentation to County Tax Adjustment Board. [IC 6-1.1-17-5(d)]
- 30 Last date county council may meet to determine budgets and tax rates. [IC 6-1.1-17-5(a)(1)]

**PUBLICATION**

As noted in a recent e-mail, the proof of publication may be a clipping from the qualified publication or an electronic tear sheet of that legal notice. An electronic tear sheet MUST be an exact replica of the legal notice in the newspaper, including being the exact size and type size published.

House Enrolled Act 1230 provided for some changes in publications. New guidelines from State Board of Accounts addressing some of these changes may be forthcoming soon.

**RECORD OF HOURS WORKED**

An employee who works for more than (1) governmental unit should not be paid by more than one governmental unit for the same period of time worked. Such employee should use his/her accumulated leave time from one governmental unit while serving the other governmental unit when there is an overlap in a work schedule. For example, a county employee, who is also a member of a school board, attends a school board meeting during his/her work shift. The employee would be expected to use his/her time accumulated at the county while attending such meeting. IC 5-11-9-4 requires such officers and employees to maintain records showing which hours were worked each day.

An employee of a county who fills two separate positions (deputy auditor and part-time janitor, for example) would be required by IC 5-11-9-4 to maintain a record of hours worked. This requirement can be met by indicating the number of hours worked on each Employee's Service Record General Form No. 99 A and/or General Form No. 99B.

**THE COUNTY BULLETIN**  
and Uniform Compliance Guidelines

Volume 368, Page 3

July 2009

**CANCELLATION OR REJECTION OF BIDS**

IC 5-22-18-2 states that when the purchasing agency determines it is in the best interests of the governmental body:

1. A solicitation may be canceled; or
2. Offers may be rejected; in whole or in part as specified in the solicitation. IC 5-22-7-2 requires this statement to be included in an invitation for bids.

The reason for a cancellation of a solicitation or rejection of offers must be made part of the contract file.

**INTERLOCAL AGREEMENTS**

IC 36-1-7 allows the county to enter into interlocal agreements. Before the interlocal agreement takes effect, the agreement must be recorded with the county recorder. Not later than sixty (60) days after the agreement takes effect, the agreement **must** be filed with the state board of accounts for audit purposes.

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

**Question #1:** June 1st and December 1st – Last day to receive list of public employees; What if the Auditor will not give you a list of county employees?

**Answer #1:** Try educating all fiscal officers of public entities of their duty to certify under IC 6-1.1-22-14.

**Question #2:** Does the automatic deduction form need approval by SBOA?

**Answer #2:** No.

**Question #3:** Does the Reconciliation Statement need approval?

**Answer #3:** No.

**Question #4:** Our county council has just appropriated \$23,000.00 from the riverboat fund to clean the Bull Ditch. The ditch has a maintenance assessment on it currently. It does not have enough collections to do the work. The council has ordered all revenue captured and put back in the riverboat fund until the \$23,000.00 is paid back. My question if two fold. Isn't this the same as a loan between funds that should be paid by year's end? Secondly, under what authority does the council have to order a ditch assessment collection to be put into another fund? If allowable how do we show this in the financial report and the cash book for auditing purposes?

**Answer #4:** IC 36-9-27-73 states that if a drain's maintenance fund is insufficient, the general drain improvement fund shall be used to pay the deficiency. I am not aware of any authority for the rainy day fund to loan the money for drain maintenance other than through a temporary loan under IC 36-1-8-4, which must be repaid by the end of the budget year or 6 months thereafter in an emergency.

**THE COUNTY BULLETIN**  
and Uniform Compliance Guidelines

Volume 368, Page 4

July 2009

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

**Question #5:** Can liquor license be given if not up to date on taxes for properties other than the property where the liquor license will be in use.

**Answer #5:** IC 7.1-3-21-15 requires the applicant to have paid all property taxes (real and personal) before a clearance may be given.

**Question #6:** For a one time collection we have to sign an agreement with the DLGF and the council had to do an ordinance for 6 equal payments for a tax payer with a homestead. What happens if a payment is missed? Is the agreement with the taxpayer void? Is the penalty added?

**Answer #6:** No, the statute does not provide for the agreement to be void if a payment is missed. Yes, penalty will be added for each late payment.

**Question #7:** Homestead Rebate Checks returned because of bad or incorrect addresses. Can this money be applied to the parcel? I really hate sending money back to the state.

**Answer #7:** For refunds sent out and returned to you that are greater than \$10, we are not aware of any statutory guidance to allow you to apply this "unclaimed" money to the parcel until there is a delinquency. However, you should be trying to get the funds to the people if you find them.

**Question #8:** Is the school general rate coming off of taxes completely for 2008?

**Answer #8:** No, it will be coming off property taxes payable in 2009.

**Question #9:** For remote capture deposits, our bank is recommending retaining the checks for 60 days. Does the SBOA want the checks retained until after the SBOA audit?

**Answer #9:** You must follow the statute and adopted record retention schedules, we recommend you contact the Indiana Commission on Public Records for more guidance on remote capture deposits as they are new to governments.

**Question #10:** Does the SBOA take a position on whether endorsements should be stamped on the checks or if this step can be eliminated?

**Answer #10:** Yes, restrictive endorsements are an important internal control procedure that should be continued.

**Question #11:** If the county Auditor, Treasurer, Commissioners, and Council agree can the Treasurer negotiate penalty that has mounted up on personal property assessment? Because a former Treasurer only certified personal property tax once in seven and a half years.

**Answer #11:** We are not aware of any authority to waive penalty that is required to be added to the tax rolls.

**THE COUNTY BULLETIN**  
and Uniform Compliance Guidelines

Volume 368, Page 5

July 2009

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

**Question #12:** All my excise tax monies are deposited in my bank account by ACH. I receive an EFT for all excise except BMV. My BMV excise matches the report one girl in the auditor's office gives me. However, the Auditor has another girl in the office who gives me excise tax figures for disbursement. I always have money left for taxing period and I can't get her to understand it should zero out. She said she disburses what is given to her. So, slowly I have an excise account with funds going back for years. I tell her this needs to be disbursed but she doesn't know which taxing unit it should go to. Who's responsibility if this? Also shouldn't the SBOA tell someone? This should be taken care of when they do the audit. I keep each taxing period excise separate from the one before and the one after so I know it is there in an excel spread sheet.

**Answer #12:** The Treasurer should prepare a worksheet to reconcile the amounts on the BMV reports to the EFT's received. The county auditor should record amounts received, balance, and distribute excise tax. At settlement, the treasurer includes the excise taxes in the collections reported on the 49TC. These are the amounts the auditor should use to complete settlement and distribute taxes. Bottom line, the treasurer and auditor should both work together on excise and the records of both offices should agree.

**Question #13:** Tax Sale – When fees for the tax sale are charged to tax payers and the tax payers pay their taxed and the fees prior to the sale date and the vendor conducting the sale does not invoice the county for that parcel. What is to be done with the fee(s) collected?

**Answer #13:** If you deposit fees into a separate special revenue fund, act according to the ordinance establishing the fund. If they are deposited to county general you should not have an accounting issue.

**Question #14:** TIF sec 723, what is the redevelopment commission certifying to Auditor and other units? What if they don't certify?

**Answer #14:** The redevelopment commission should certify the amount of excess AV that they will not capture, if any or that there is no excess AV if not. I do not see a penalty in the statute for failure of the redevelopment commission to certify.

**Question #15:** If sewer lien comes in July and we send bills out in August with a September due date and a November due date, is the sewer lien due in September?

**Answer #15:** Yes, realistically we all understand that you will have a cutoff date for printing bills that is reasonable. If possible you should work to get sewer liens on the duplicate immediately and billed/collected the next installment.

**Question #16:** Public Employee List – Is it the treasurers responsibility to contact the employer (ie., schools, city) to receive the list, or do we just check the lists we receive and not be concerned about those we don't receive?

**Answer #16:** Even if the law does not require you to request it, it is not wrong to educate those fiscal officers that are not in compliance that they are required to remit the list twice each year under IC 6-1.1-22-14. They are required to remit more often if the county legislative body adopts an ordinance requiring additional certifications.

**THE COUNTY BULLETIN**  
and Uniform Compliance Guidelines

Volume 368, Page 6

July 2009

**QUESTIONS AND ANSWERS FROM COUNTY AUDITORS FALL ANNUAL CONFERENCE**

- Question #1:** If you adopt LOIT can you rescind that in later years?
- Answer #1:** Yes, in most cases. The answer is dependent upon the type of LOIT adopted. You will want to review IC 6-3.5-1.1, IC 6-3.5-6 and IC 6-3.5-7 regarding CAGIT, COIT, and CEDIT respectively. The exceptions appear to be for CAGIT (IC 6-3.5-1.1-24(h)) and COIT (IC 6-3.5-6-30(h)) taxes adopted for property tax levy freeze.
- Question #2:** How long do we have to keep bids and proposals that are approved?
- Answer #2:** Per the County Auditors Record Retention Schedule (COARS 9), you may destroy bids 6 years after completion of the project and SBA Audit.
- Question #3:** Is it mandatory to put delinquent trash collection bills from city on the tax bill?
- Answer #3:** We are not aware of any provision for trash bills to be on the tax duplicate. Please ask the city for statutory authority under which they are certifying these for collection.
- Question #4:** Why is there a date of January 20<sup>th</sup> put at the bottom of the CAR-1 instructions?
- Answer #4:** Supplemental CAR-1's must be turned into you by January 20<sup>th</sup> to enter on CAR.
- Question #5:** What happens when on December 31<sup>st</sup> there are obligations in excess of Appropriations to encumber into 2009? Services rendered in 2008 in family and children fund.
- Answer #5:** We assume you mean obligations that exceed cash balance (not just appropriations). Given this assumption, the matter needs to be decided by the county. Option 1: Borrow and get a debt service levy. Option 2: If amount is not significant, pay from other county sources like county general fund.
- Question #6:** We have several departments that make their hotel reservations for County travel on Priceline.com or some other internet site. They have a receipt from the internet, but are unable to provide an actual hotel bill. Is this acceptable?
- Answer #6:** Yes, the printed receipt from the internet site would be an acceptable receipt. You would still need evidence of the business purpose and actual travel as you would with any trip.
- Question #7:** Whose responsibility is it to transfer deeds? I have always thought this was the duty of the Auditor's office.
- Answer #7:** IC 36-2-9-18 requires the auditor to make the endorsement "Entered for Taxation" on a conveyance document. IC 6-1.1-5-4 makes the County Auditor responsible for the transfer book except in Marion County. (IC 6-1.1-5-9)
- Question #8:** We have an office that orders supplies from Quill. Quill sends gifts along with their orders such as cookies, radios, electronic gadgets, candy, etc. These are used as door prizes at our Christmas party. Is it ok to do this?

**THE COUNTY BULLETIN**  
and Uniform Compliance Guidelines

Volume 368, Page 7

July 2009

**QUESTIONS AND ANSWERS FROM COUNTY AUDITORS FALL ANNUAL CONFERENCE (Continued)**

**Answer #8:** No, any free gifts with purchase, refunds, rebates, etc...belong to the county.

**Question #9:** The clerk gets paid extra for the work done and meetings with the election board, why then does the Auditor not get paid extra for the council and commissioner meetings? Both set of duties are required for both offices.

**Answer #9:** IC 3-6-5-9 states the county fiscal body shall determine the compensation of: 1. the appointed members of the county election board. and 2. the circuit court clerk's services as secretary of the county election board. There is no similar statute for county auditor's duties at commissioner and council meetings.

**Question #10:** Who puts the cumulative jail fund on the tax roles? Council or Commissioner and what is the process?

**Answer #10:** IC 36-9-15-2 authorizes the county fiscal body to establish a cumulative jail or juvenile detention center tax levy.

**Question #11:** When can we begin to rely on our computer systems for things we now keep as manually done reports? For Example: Veteran Burials and Encumbrances.

**Answer #11:** At the time the County decides to make electronic records or convert to electronic records that are either exact replicas of the prescribed forms or approved in lieu of the prescribed forms. (If there is a prescribed form like county form 7 – veteran's burial claim)

**Question #12:** Our County did not have a spring tax installment yet – we hope to collect one time, both installments in November. Our school district has hinted that the county should have to pay the interest on loans they have incurred because we didn't get money to them in a timely manner. Is there a statute that addresses that?

**Answer #12:** You will have to work with DLGF to establish a single tax due date for both pay 2008 installments. There is no authority for the County to pay finance charges for another government's borrowing. IC 6-1.1-27 provides for the county to apportion interest earned on tax collections if distributions are not made by the 51<sup>st</sup> day after the tax due date.

**Question #13:** When there has been an invalid tax sale and refunded everything to the purchaser do we put the total amount back on the parcel including the 6% interest and the noticing and title search?

**Answer #13:** The parcel would be put back to the status it was if there had been no sale. You would recharge only the delinquent taxes, special assessments and penalties in accordance with IC 6-11-25-10.

**Question #14:** Can we encumber money that is left over in Welfare fund? How do we do this?

**Answer #14:** Yes, if you have contractual obligations or invoices for services delivered. Obtain the appropriate amount of future payables from with the county Office of Family Resources. Post as encumbrance in computer systems or simply carry forward this amount by posting the appropriation after opening the next year's books.

**THE COUNTY BULLETIN**  
and Uniform Compliance Guidelines

Volume 368, Page 8

July 2009

**QUESTIONS AND ANSWERS FROM COUNTY AUDITORS FALL ANNUAL CONFERENCE (Continued)**

**Question #15:** In the July 2008 County Bulletin, page 2 talks about the County Law Enforcement Continuing Education Fund. Currently, the county clerk collects fees and remits them to the county auditor each month. They are quietus into the Law Enforcement User Fee fund. Each law enforcement agency than submits a claim to the county auditor and a check is written from this fund. The county sheriff submits a claim once a year and check is written to the county treasurer from the law enforcement user fee fund and quietus into the law enforcement continuing education fund. The sheriff submits a budget to the county council each year to appropriate the funds in the law enforcement continuing education fund. 1. Are we now required to set up a new fund for law enforcement training fund? 2. If so, does it need to be appropriated by county council each year and are there specific things this fund is to be used for? 3. What difference does it make whether the sheriff appropriates them out of the continuing education fund or the training fund?

**Answer #15:** 1. No, you are not required to establish a new law enforcement training fund.  
2. Not applicable.  
3. The county sheriff should request appropriation in the county law enforcement continuing education fund for use in training law enforcement officers in accordance with IC 5-2-8-1. IC 33-37-8-6 states law enforcement agencies should submit monthly claims for law enforcement continuing education fees and other county user fees.

**Question #16:** Questions on take home vehicles: What box on W-2's (to show total amount of benefit) How to show it on paycheck stub (Bi-weekly) How many times do you count? 10 working day or 14 days (including Sat and Sun) and do you count holidays? Do you count vacation or sick days? Do they do it on a police or sheriff deputies? Are any taxes or social security tax deducted from amount of this vehicle benefit?

**Answer #16:** Please review Publication 15B available on the IRS Web site at [www.irs.gov](http://www.irs.gov).

**Question #17:** Texas Representative Sam Johnson introduced legislation in the House of Representatives that would remove cell phones from the IRS definition of listed property, did this Pass?

**Answer #17:** You will have to check the IRS Web site at [www.irs.gov](http://www.irs.gov) or consult with the Federal State and Local Government Specialists with the IRS, Ms. Beverly Elsner and Ms. Raelane Hoff both with the IRS.

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

**Question #1:** Please explain the recording of crime coverage insurance policies and what statute exempts them from recording fees.

**Answer #1:** IC 5-4-1-18 states the fiscal body may authorize a crime insurance policy in lieu of an official bond. IC 36-2-7-10 exempts these filings from the recording fees.

**Question #2:** Should documents smaller than 8 ½ x 14 be considered non-conforming?

**Answer #2:** IC 36-2-11-16.5 states the nonconforming fee is for those documents that measure more than 8 ½" x 14".

**THE COUNTY BULLETIN**  
and Uniform Compliance Guidelines

Volume 368, Page 9

July 2009

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

**Question #3:** Why are the Recordors and Surveyors singled out with regard to the training in HB 1243?

**Answer #3:** Other affiliates are working on similar legislation but did not get this far in the legislative process this session.

**Question #4:** Who will provide the training requires in HB 1243? Will there be a fee? If so, how much? Where will this training be held?

**Answer #4:** AIC is working with the Recorder's Education Committee and SBOA on a plan, when that plan is developed it should address these issues.

**Question #5:** Do we need grantee's address on affidavits and survivorships? If yes, who is grantee?

**Answer #5:** IC 32-21-2-3(b) states a conveyance may not be recorded after June 30, 2007, unless it meets the requirements of this subsection. If the mailing address on the conveyance is not a street address or a rural route address of the grantee, the conveyance must also include a street address or rural route address of the grantee after the mailing address. If the affidavit or survivorship is a conveyance document as defined in Indiana Code, then the grantee's address would be required. If it is not a conveyance document, the affidavit or survivorship document would not have this requirement.

**Question #6:** Hospital Lien and releases of Hospital Liens – Do we have to keep these records confidential?

**Answer #6:** IC 32-33-4-4 sets out the information to be verified on hospital liens. You would have to examine each lien for information that would make the document confidential under the Indiana Code.

**Question #7:** Can recorders pay part time help from the recorder's perpetuation fund?

**Answer #7:** Yes, if part-time help is for preservation of records or improvement of the recordkeeping systems or equipment as required for the use of recorders record perpetuation funds under IC 36-2-7-10.

**Question #8:** When recording a copy, does it need to be certified a true copy or just a stamp copy?

**Answer #8:** It must be marked "copy". A certified copy is not required.

**Question #9:** Should we have appropriations set up under the recorders perpetuation fund even if the fund is used for only preservation of records? Our council has not made us use the RPF for our office budget, as of yet.

**Answer #9:** No, appropriations should not be set up. However, disbursements must be classified when made into same categories as used for budgets.

**Question #10:** Are home owner's association liens being mailed to property owners similar to mechanic's liens?

**Answer #10:** IC 32-28-14 on homeowner's association liens does not contain the same mailing requirement for the notice of intention to hold a lien that the mechanic's lien statute has.

**THE COUNTY BULLETIN**  
and Uniform Compliance Guidelines

Volume 368, Page 10

July 2009

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

**Question #11:** Is there any restriction for choosing a "cut off" time for daily recordings (I.E. 3:00) with the exception of accepting all recordings presented after 3:00 for next day recording?

**Answer #11:** We recommended you provide all services until the office is closed.

**Question #12:** According to the recorder's fee schedule, a UCC three pages or more is \$13.00. Does that apply to a UCC that is, for example, 200 pages or can \$2.00 be charged for each additional page after the 3 pages? In other words is it a flat \$13.00 no matter the number of pages?

**Answer #12:** IC 26-1-9.1-525 states that you charge \$4.00 for one or two pages and \$8.00 for more than 2 pages. When you add the \$3.00 supplemental fee and the \$2.00 identify security protection fee you get \$13.00.

**Question #13:** Who can prepare a deed? We have been told you can prepare your own deed but you can't prepare someone else's, that's practicing law. Therefore, are we required to look at the preparer of a deed to make sure that it is prepared by the grantor or an attorney? Do we notify the person recording of the law or do we just record any deed as long as it has a "prepared by statement"?

**Answer #13:** We are not aware of an statute that says it has to be an attorney or the owner. IC 36-2-11-15 covers instruments that may be received for recording. You would record a deed that has the elements required in this statute including a prepared by statement unless 1) the instrument was executed before July 1, 1959 or 2) the instrument was executed or acknowledged outside Indiana.

**Question #14:** If we record documents that lack recording requirements, such as notaries or affirmation statements, what type of penalties do we face, if any? Which state agency has done this enforcement? State code stipulates a five dollar fine if Recorders transfer a deed that doesn't have an auditor's stamp, but State code does not appear to specify any other penalties. If we don't face any penalties, are we still required to tell the document preparers to re-record their documents? What if they don't?

**Answer #14:** IC 36-2-11-14 contains a \$5 penalty on a recorder who records a conveyance document without the auditor's endorsement to be recovered by action in the name of the county. We are not aware of any other specific statutory penalties. However, it is always possible you would be sued or prosecuted.

**Question #15:** Which documents are we still required to keep as hard copies in our offices? UCC's and bonds are the obvious ones, but are there other's? Is there any chance that the State would lift its requirement that we keep hard copies of UCC's?

**Answer #15:** Public Records law would require you to retain the original document as a public record in accordance with the retention schedule. Other than compliance with this statute the county is authorized to establish its own written policies on what records will be created, converted and retained electronically under the uniform electronic transactions act in IC 26-2-8.