

# TOWNSHIP BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES  
ISSUED BY STATE BOARD OF ACCOUNTS

Volume No. 288, Page 1

February 2010

## ITEMS TO REMEMBER

### MARCH

March All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories.

### APRIL

April 2: Good Friday - Legal Holiday (IC 1-1-9-1)

April 15: Last day to make pension report and payment for first quarter by townships participating in PERF.

April 30: Last day to file quarterly report, Form 941, to the Internal Revenue Service for federal and social security taxes for the first quarter.

April 30: Last day to make report for first quarter to the Department of Workforce Development.

April All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories.

### MAY

May 4: Primary Election Day - Legal Holiday (IC 1-1-9-1)

May 31: Memorial Day - Legal Holiday (IC 1-1-9-1)

May 31: On or before June 1 and December 1 of each year (or more frequently if the county legislative body adopts an ordinance requiring additional certifications) the township shall certify a list of the names and addresses of each person who has money due from the township to the county treasurer. (IC 6-1.1-22-14).

May All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories.

## SOCIAL SECURITY WITHHOLDINGS - 2010

We understand that for the maximum amount of taxable and creditable annual earnings subject to social security will remain at \$106,800 in 2010. No maximum base for Medicare will exist. Rates will remain at the 2009 level at a combined rate of 7.65 percent (both employer and employee for a total of 15.3 percent) representing a 6.20 percent rate for social security and 1.45 percent for Medicare.

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**OFFICE AND TELEPHONE EXPENSES**

IC 36-6-8-3 states in part (a) "The annual appropriations to a township executive for the expenses of renting an office and telephone and telegraph expenses must, as nearly as is possible, be equal to the actual cost of those items. If the township executive uses a part of the executive's residence for an office, the township legislative body shall appropriate a reasonable sum for that office space."

The following audit position should cover all situations for reimbursement of telephone expenses:

1. A separate township office exists and has a telephone(s) listing in the telephone directory in the name of the township, 100% of the proper monthly telephone service billing and long distance township business calls may be paid.
2. The township office is in the home with a separate phone line for township business and that phone line is listed separately in the directory. The 100% reimbursement is available for township long distance business calls and also for the monthly billing.
3. If the township office is in the home, and the telephone (only phone) is in the township name in the phone directory, the additional cost of that phone being listed as a township phone is reimbursable. Up to 50% of the base monthly service billing may also be reimbursed if approved by the township board in accordance with IC 36-6-8-3. Additionally, 100% of all documented long distance township business calls may be reimbursed.

Please be advised IC 12-20-5.5-3 provides "(a) The township trustee shall ensure adequate access to township assistance services, including a published telephone number in the name of the township. (b) A township assistance office, if separate from the township trustee's residence, must be designated by a clearly visible sign that lists the: (1) township trustee's name; (2) availability of township assistance; and (3) township assistance office's telephone number. The sign must conform to all local zoning and signage restrictions."

**LEASE PURCHASE AGREEMENTS**

The State Board of Accounts is of the audit position regarding purchasing a computer or any other equipment from public funds, the township has the right to enter into a rental with option to purchase agreement if the rental charge is fair and reasonable.

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

If the original gross cost of the equipment (without consideration of any trade-in) exceeds one hundred fifty thousand dollars (\$150,000) the purchasing agency must comply with IC 5-22-7 of the "Public Purchases Law", (certain exceptions exist). IC 5-22-7 includes advertising for the bids and by awarding with reasonable promptness by written notice a contract to the lowest responsible and responsive bidder. Only by awarding a contract pursuant to IC 5-22 would the township have authority to purchase the equipment at a later date. A lease-purchase agreement will often contain an option to purchase at the end of the lease term for nominal consideration or no additional consideration.

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**LEASE PURCHASE AGREEMENTS**  
(Continued)

The State Board of Accounts is of the audit position specifications should be in accordance with all of the provisions of IC 5-22-5-1 et seq. IC 5-22-5-3 states "A specification must do the following: (1) Promote overall economy for the purposes intended. (2) Encourage competition in satisfying the governmental body's needs."

The specifications for the equipment must be recognized standard specifications to allow competitive bidding and should provide for the bidder to quote the total purchase cost, the rental charge to be made, and the percentage of the amount of the rental charge that will be credited toward the purchase cost should the township exercise the option to purchase. Any interest or carrying charges must be made a part of the original bid price without specific reference made thereto. Compliance with the above requirements will allow the purchasing agency to exercise the option to purchase at any time a sufficient appropriation for equipment is available.

If a proposal is made to trade in used equipment on the new equipment to be purchased under a rental with option to purchase agreement, the trade-in value of the old equipment must be applied on the rental charge to the extent of the amount allowed on the used equipment by the successful bidder. The allowance should not be deducted from the price of the new equipment and the net price used as the basis for determining lease payments. If the trade-in allowance exceeds the current year's rental charge, the township should dispose of the used equipment in the manner required by IC 5-22-22-1 et seq. or by other statutorily authorized procedures.

**PENALTIES AND INTEREST- WAYS TO AVOID**

We encounter situations of townships which have paid penalties and interest for either late or nonpayment of amounts owed. Reasons given for not making timely payments vary but often include references to lack of funds because of a multiple of reasons such as late tax distributions. We often have to take audit exception because our audit position is taxpayer dollars should not be used to pay penalties and interest because officials and employees have the duty to pay claims and remit taxes timely. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit. Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit. Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee.

Our audit position is with the understanding various mechanisms are available to avoid having to pay penalty and interest payments from taxpayer funds. IC 36-1-8-4 concerning loans between funds provides in part "(a) The fiscal body of a political subdivision may, by ordinance or resolution, permit the transfer of a prescribed amount, for a prescribed period, to a fund in need of money for cash flow purposes from another fund of the political subdivision if all these conditions are met: (1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes. (2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred. (3) Except as provided in subsection (b), the prescribed period must end during the budget year of the year in which the transfer occurs. (4) The amount transferred must be returned to the other fund at the end of the prescribed period. (5) Only revenues derived from the levying and collection of property taxes or special taxes or from operation of the political subdivision may be included in the amount transferred."

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**PENALTIES AND INTEREST- WAYS TO AVOID**  
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IC 36-6-6-15 concerning tax anticipation warrants states "(a) If the legislative body finds that an emergency requires the borrowing of money to meet the township's current expenses, it may take out temporary loans in an amount not more than eighty percent (80%) of the total anticipated revenue for the remainder of the year in which the loans are taken out. (b) The legislative body must authorize the temporary loans by a resolution: (1) stating the nature of the consideration for the loans; (2) stating the time the loans are payable; (3) stating the place the loans are payable; (4) stating a rate of interest; (5) stating the anticipated revenues on which the loans are based and out of which they are payable; and (6) appropriating a sufficient amount of the anticipated revenues on which the loans are based and out of which they are payable for the payment of the loans. (c) The loans must be evidenced by time warrants of the township stating: (1) the nature of the consideration; (2) the time payable; (3) the place payable; and (4) the anticipated revenues on which they are based and out of which they are payable."

IC 5-13-6-3 concerning tax advances states in part "(b) Every county treasurer who, by virtue of the treasurer's office, is the collector of any taxes for any political subdivision wholly or partly within the county shall, not later than thirty (30) days after receipt of a written request for funds filed with the treasurer by a proper officer of any political subdivision within the county, advance to that political subdivision a portion of the taxes collected before the semiannual distribution. The amount advanced may not exceed the lesser of: (1) ninety-five percent (95%) of the total amount collected at the time of the advance; or (2) ninety-five percent (95%) of the amount to be distributed at the semiannual distribution. (c) Upon notice from the county treasurer of the amount to be advanced, the county auditor shall draw a warrant upon the county treasurer for the amount. The amount of the advance must be available immediately for the use of the political subdivision."

IC 36-6-6-14 concerning borrowing states "(a) At any special meeting, if two (2) or more members give their consent, the legislative body may determine whether there is a need for fire and emergency services or other emergency requiring the expenditure of money not included in the township's budget estimates and levy. (b) Subject to section 14.5 of this chapter, if the legislative body finds that a need for fire and emergency services or other emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency. (c) Notwithstanding IC 36-8-13-4(a), the legislative body may authorize the executive to borrow a specified sum from a township fund other than the township firefighting fund if the legislative body finds that the emergency requiring the expenditure of money is related to paying the operating expenses of a township fire department or a volunteer fire department. At its next annual session, the legislative body shall cover the debt created by making a levy to the credit of the fund for which the amount was borrowed under this subsection. (d) In determining whether a fire and emergency services need exists requiring the expenditure of money not included in the township's budget estimates and levy, the legislative body and any reviewing authority considering the approval of the additional borrowing shall consider the following factors: (1) The current and projected certified and noncertified public safety payroll needs of the township. (2) The current and projected need for fire and emergency services within the jurisdiction served by the township. (3) Any applicable national standards or recommendations for the provision of fire protection and emergency services. (4) Current and projected growth in the number of residents and other citizens served by the township, emergency service runs, certified and noncertified personnel, and other appropriate measures of public safety needs in the jurisdiction served by the township. (5) Salary comparisons for certified and noncertified public safety personnel in the township and other surrounding or comparable jurisdictions. (6) Prior annual expenditures for fire and emergency services, including all amounts budgeted under this chapter. (7) Current and projected growth in the assessed value of property requiring protection in the jurisdiction served by the township. (8) Other factors directly related to the provision of public safety within the jurisdiction served by the township. (e) In the event the township received additional funds under this chapter in the immediately preceding budget year for an approved expenditure, any reviewing authority shall take into consideration the use of the funds in the immediately preceding budget year and the continued need for funding the services and operations to be funded with the proceeds of the loan."

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**PENALTIES AND INTEREST- WAYS TO AVOID**

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Additionally, governmental units can contact various creditors to discuss renegotiation of terms to delay payment and change rates, etc., to minimize and help avoid getting into situations that require payments of penalty and interest. Consequently, the State Board of Accounts is of the audit position taxpayer dollars should not be used to pay for penalty and interest which could have been avoided with due diligence.

**MIKE FIWEK**

Mike Fiwek, a former State Board of Accounts Township Supervisor passed away from complications associated with Alzheimer's disease on January 9, 2010. Mike worked with Townships from 1989 until 1996 when he became a Deputy State Examiner until his retirement in 2005. Mike always enjoyed his experience getting to know and work with township officials.