

**TOWNSHIP BULLETIN
AND UNIFORM COMPLIANCE GUIDELINES
ISSUED BY STATE BOARD OF ACCOUNTS**

Volume 317, Page 1

June 2017

ITEMS TO REMEMBER

JUNE

- June 1: Prove all ledgers for the prior month.
- 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 Trustee shall certify a list of the name and address of each person who has money due from the Township to the County Treasurer. [IC 6-1.1-22-14]
- June 20: If your monthly average tax withheld is more than \$1,000, the 20th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.
- June 30: If your monthly average tax withheld is \$1,000 or less, the 30th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.

Deadline for State Budget Agency to provide Assessed Value Growth Quotient to Townships. [IC 6-1.1-18.5-2]

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. [IC 5-13-6-1(e)]

JULY

- July 1: Prove all ledgers for the prior month.
- July 4: Independence Day – Legal Holiday [IC 1-1-9-1]
- July 14: Department of Local Government Finance will provide each Township an estimate of the maximum permissible property tax levy for 2017, along with guidance on calculating allowable adjustments to the maximum levy. [IC 6-1.1-18.5-24]
- July 20: If your monthly average tax withheld is more than \$1,000, the 20th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.
- July 30: If your monthly average tax withheld is \$1,000 or less, the 30th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.

- July 31: Last day to file Employer's Quarterly Federal Tax Return, Form 941, with the Internal Revenue Service for payment of federal tax withheld.

Last day to file report with the Indiana Department of Workforce Development for the quarter ending June 30.

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. [IC 5-13-6-1]

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AUGUST

- August 1: Prove all ledgers for the prior month.
- Post a verified statement showing the indebtedness of the Township in detail and giving the number and total amount of outstanding orders, warrants, and accounts. [IC 36-6-4-10]
- Department of Local Government Finance will provide to each Township that levies a property tax an estimate of the amount by the property tax distributions will be reduced in the ensuing year due to circuit breaker credits. [IC 6-1.1-20.6-11.1]
- Deadline for Townships to submit to the Department of Local Government Finance cumulative fund proposals. [IC 6-1.1-17-16.7]
- At their first meeting in August, the county fiscal body shall review the estimated property tax levy limits and the estimated reductions due to circuit breakers for each Township. The county fiscal body will either prepare and distribute a written recommendation for the taxing units or the county auditor will distribute the minutes of the meeting to all Townships after the minutes are approved by the fiscal body. [IC 6-1.1-17-3.6]
- August 20: If your monthly average tax withheld is more than \$1,000, the 20th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.
- August 30: If your monthly average tax withheld is \$1,000 or less, the 30th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.
- August 31: 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. [IC 5-13-6-1]

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Use of Compensatory Time Off Under the Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) is a federal law that sets standards for minimum wage, overtime, and child labor. Pursuant to an agreement with employees or their representatives, state or local government agencies may arrange for their employees to earn comp time instead of cash payment for overtime hours.

As a condition for use of compensatory time off in lieu of overtime payment in cash, an agreement of understanding must be reached prior to performance of the work. Any comp time arrangement must be established pursuant to the applicable provisions of a collective bargaining agreement, memorandum of understanding, any other agreement between the public agency and representatives of overtime-protected employees, or an agreement or understanding arrived at between the employer and employee before the performance of the work. This agreement may be evidenced by a notice to the employee that compensatory time off will be given in lieu of overtime pay (for example, providing the employee a copy of the personnel regulations). The comp time must be provided at a rate of one-and one-half hours for each overtime hour worked. For example, for most state government employees, if they work 44 hours in a single workweek (4 hours of overtime), they would be entitled to 6 hours (1.5 times 4 hours) of compensatory time off. When used, the comp time is paid at the regular rate of pay.

Most state and local government employees may accrue up to 240 hours of comp time. Law enforcement, fire protection, and emergency response personnel, as well as employees engaged in seasonal activities (such as employees processing state tax returns) may accrue up to 480 hours of comp time. An employee must be permitted to use comp time on the date requested unless doing so would "unduly disrupt" the operations of the agency.

When employees reach these ceilings, any additional overtime that is worked must be paid. FLSA compensatory time off stays on the books until the employee uses the time or until it is paid out. Employees cannot "use or lose" compensatory time off.

For answers to other questions on the Fair Labor Standards Act or the Family and Medical Leave Act, contact your nearest U.S. Department of Labor, Wage and Hour office: Indianapolis: (317) 226-6801; South Bend: (574) 236-8331.

Elected Officials – Leave Policy

We have received questions concerning the authority (or need) for elected officials to be included in the township's vacation leave, sick leave, death leave, or other leave policy. We have not taken audit exception to an elected official's compensation as long as the office to which the official was elected performs the duties and responsibilities of the office. Whether the elected official personally does the work, whether the elected official personally maintains office hours, or whether the elected official shows up at the office are matters to be determined locally. Keep in mind our audit position relates only to elected officials. We recommend the township attorney provide specific written guidance that conflicts do not exist with IC 35-44-1-1-3, Ghost Employment.

We do note some instances where elected officials choose to be included in an employee benefit policy (and were included in the authorizing resolution), . . . Officials must maintain proper attendance records (the same as all other township employees) in those situations which shall clearly disclose days worked, days missed, type of leave taken, etc. We are of the audit position the requirement for keeping proper attendance records would require these decisions to not be made just prior to the close of the official's term.

A township is authorized to grant ". . . vacation with pay, sick leave, paid holidays, and other similar benefits by ordinance . . ." (resolution) to "Employees of the political subdivisions . . ." pursuant to IC 5-10-6-1. The term "employees" is not defined.

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Fire Protection Territories (FPT)

The Attorney General of the State of Indiana Issued Advisory Letter 04-03 on February 2, 2007, and which stated in part "A township may participate in an FPT by passing a resolution in the manner and with the same statutory formality as required for ordinances under section 36-8-19-6.

The FPT is not a governmental entity or governmental body to which a city, town or township may transfer property to or exchange property with under Indiana Code sections 36-1-11-8 or 5-22-22-10."

Indiana Code section 36-8-19-8.6 allows a participating unit to adopt an ordinance or resolution to transfer any money belonging to the participating unit for fire protection purposes as long as the ordinance or resolution states the amount of money transferred and the source of the money.

Cities, towns and townships may establish various fire protection related funds in accordance with Indiana Code chapters 36-8-13 (township fire protection and emergency services) and 36-8-14 (cumulative firefighting building and equipment fund).

A municipality or Township is not required to disband its fire department when it participates in an FPT. Ind. Code 36-8-19-10. While section 36-1-8-5 controls the disposition of unused balances of general or special tax levies, a local governmental entity is not precluded from entering into an interlocal agreement with other participating entities or the provider unit of the FPT under IC 36-1-7 in order to facilitate cooperation and use existing equipment and other resources.

Supplemental Local Income Tax (LIT) Distributions

Indiana Code 6-3.6-9-15 requires the State Budget Agency to provide the amount of supplemental distributions for qualifying counties to the Department of Local Government Finance before May 2nd. The supplemental distribution is disbursed to counties that have a balance in the county trust account exceeding fifteen percent (15%) of the certified distribution to be made to the county in the year of determination.

It is our understanding that for Townships, LIT distributions will primarily be made up of Certified Shares and possibly Public Safety dollars. We have found Certified Shares are unrestricted in statute and the expectation would be that the distributions are receipted into the Township General Fund unless the Township Board has restricted the funds further by resolution. The Public Safety distributions are restricted in statute and must be receipted into the Fire or Cumulative Fire fund. The Department of Local Government Finance (DLGF) has requested that we notify taxing units that these supplemental distributions should be tracked separately and provided to the DLGF for budgeting purposes. These supplemental distributions are in addition to the normal LIT distributions. Only two Counties have been provided these supplemental LIT distributions this year (Kosciusko and Owen County).

NEW LAWS AFFECTING TOWNSHIPS

The following is a Digest of some of the laws passed by the 2017 Regular Session of the General Assembly affecting townships. Please note the effective dates. Some of the laws do not pertain directly to townships but are included in the Digest for ready reference to the covered subject matter.

The Digest is not intended as an expression of legal interpretation. The Digest is also not intended to be all inclusive. References in the Digest will be to the Indiana Code in the following form (Amends IC 12-20-9-6) (Amends Indiana Code, Title 12, Article 20, Chapter 9, Section 6).

Public Law 176-2017, House Enrolled Act 1031 – Effective July 1, 2017 State Examiner Findings

Amends IC 5-11-5-1. Specifies requirements for corrective action when audited entities fail to comply with certain guidelines or laws. Requires an audited entity to file a corrective action plan following findings of noncompliance in two consecutive examination reports. Specifies actions that the audit committee may take if an audited entity fails to comply with a corrective action plan.

Public Law 247-2017, House Enrolled Act 1129 – Effective July 1, 2017 Local Income Tax and Sales Tax Matters

Amends various sections of the Indiana Code. Adds law enforcement training to the permitted uses of the local income tax. Provides that imposing a new tax or changing an existing tax is not effective until the DLGF notifies the adopting body or governmental entity that the DLGF has received the required information. Authorizes the fiscal body of Guilford Township in Hendricks County to pass a resolution to place on the ballot a local public question on a public transportation project in the township. Requires Guilford Township to fund and carry out a public transportation project in the township if the voters approve the local public question. Specifies the conditions under which Guilford Township may impose an additional local income tax rate on county taxpayers who reside in the township.

Public Law 140-2017, House Enrolled Act 1171 – Effective July 1, 2017 Disciplinary Process for Firefighters

Adds IC 36-8-2.2. Establishes minimum rights for a full-time, paid, nonprobationary member of a fire department to be represented in a meeting at which the chief of the fire department (chief) notifies the firefighter: (1) of the firefighter's termination or demotion with cause; or (2) that the chief is recommending the firefighter's termination or demotion with cause to the safety board. Provides that the firefighter's meeting with the chief concerning the firefighter's termination or demotion with cause may not proceed until the firefighter is provided at least 72 hours to obtain the requested representation. Excludes from these provisions: (1) a member of the fire department who holds an upper level policy making position; (2) a member of the fire department who holds a position in the fire department: (A) that is not an upper level policy making position; and (B) to which the member was appointed by the chief; and (3) a fire department with a merit system established under IC~36-8-3.5.

Public Law 21-2017, House Enrolled Act 1272 – Effective July 1, 2017 Local Government Matters

Amends IC 5-3-1-2, IC 36-9-23-33, IC 36-9-25-11.7. Provides that if a newspaper or locality newspaper does not refuse to publish a timely notice, but subsequently fails to publish it, notice is nonetheless sufficient if the notice is timely posted: (1) in printed form, in three prominent places in the political subdivision; or (2) on the political subdivision's Internet web site.

Public Law 28-2017, House Enrolled Act 1295 – Effective July 1, 2017 Disposal of Real Property

Amends IC 36-1-11-3, IC 36-1-11-5. Allows the fiscal body of a unit (a county, municipality, or township) to adopt an ordinance (in the case of a county or municipality) or a resolution (in the case of a township) to increase the minimum appraised value of real property for which the fiscal body must approve a sale of the property. (Current law requires the fiscal body to approve a sale of real property if the appraised value is

\$50,000 or more.) Allows the fiscal body of a political subdivision to adopt an ordinance (in the case of a county or municipality) or a resolution (in the case of other political subdivisions) to increase the maximum assessed value of real property for which the political subdivision may negotiate a sale of the real property to an abutting landowner instead of having the property appraised and sold by public bidding. (Current law allows a political subdivision to negotiate with the abutting property owner if the assessed value of the real property is less than \$15,000).

Public Law 90-2017, House Enrolled Act 1370 – Effective July 1, 2017
Completion of Training by Volunteer Firefighters

Adds IC 36-8-17-7.5. Amends IC 36-8-10.5-6. Completion of training by volunteer firefighters. Requires a volunteer firefighter to successfully complete certain minimum basic training requirements before performing the emergency response duties of a volunteer firefighter. Grants police powers to a fire investigator who has successfully completed law enforcement training and meets other specified conditions.

Public Law 255-2017, House Enrolled Act 1450 – Effective July 1, 2017
Property Tax Matters

Amends various sections of the Indiana Code. Provides that a political subdivision must upload a copy of a contract that the political subdivision enters into after June 30, 2016, to the Indiana transparency Internet web site if the total cost of the contract exceeds \$50,000. Provides that Jennings Township in Fayette County may increase its maximum township unit levy and its maximum levy for fire protection and emergency services for 2018. Provides that both the executive of a political subdivision and a majority of the members of the fiscal body of a political subdivision may independently request technical assistance from the distressed unit appeal board in helping prevent the political subdivision from becoming a distressed political subdivision. Removes the requirement that the township firefighting fund be the exclusive fund used for providing fire protection or emergency services. Provides that a fire protection district may be a participating unit in a fire protection territory. Provides that a resolution by a provider unit to withdraw from a fire protection territory is effective on January 1 of the year following the year in which the resolution is adopted. Provides that if the provider unit of a fire protection territory withdraws, a majority of the remaining units must agree on which unit is to become the successor provider unit. Specifies the definition of "public funds" for purposes of public purchasing and public works projects.

Public Law 6-2017, Senate Enrolled Act 456 – Effective July 1, 2017
War Memorials

Amended IC 10-18-3-21 and IC 10-18-5-2. Provides that the fiscal body of a city, county, or township may by ordinance or resolution authorize the sale or donation of a war memorial to certain organizations exempt from federal income taxation. Requires an organization acquiring a war memorial to continue to operate and maintain the war memorial. Provides that ownership of the war memorial reverts to the city, county, or township if the acquiring organization determines that it is unable to continue operating the war memorial, is dissolved, or otherwise ceases to exist.

Other laws passed that could have an impact on Townships

Public Law 193-2017, House Enrolled Act 1395 – Appointment to Local Boards

Public Law 197-2017, House Enrolled Act 1431 – Executive Sessions

Public Law 269-2017, House Enrolled Act 1570 – Management of Government Data

Public Law 40-2017, Senate Enrolled Act 46 – Various Pension Matters

Public Law 210-2017, Senate Enrolled Act 312 – Use of Criminal History Information in Hiring

Public Law 114-2017, Senate Enrolled Act 346 – Donation of certain local funds to a foundation

Public Law 211-2017, Senate Enrolled Act 348 – Regulation of Signs

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