

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 232-8779

TO: County Auditors, County Assessors, and County Treasurers
FROM: Brian Bailey, General Counsel **BB**
SUBJECT: Guidance on the use of provisional tax bills for cross-county units
DATE: November 2, 2009

Purpose

This memo provides guidance for amendments made by HEA 1001(ss)-2009 to Indiana Code chapter 6-1.1-22.5 regarding the use of provisional tax bills for cross-county units.

Application

These amendments authorize a county treasurer to issue provisional tax bills **solely for the territory of a cross-county unit within the treasurer's own county**. The need for provisional tax bills for cross-county units may occur when a taxing unit is shared by two or more counties; one of the counties has a budget order with final tax rates established by the Department of Local Government Finance ("Department"); but one or more of the other counties that shares the taxing unit does not have a budget order with final tax rates.

Process for giving notice of intent to issue provisional bills for cross-county units

Under IC 6-1.1-22.5-6.5(d), a county treasurer may issue provisional bills solely for a cross-county unit if:

- (1) provisional bills for the entire county are not being issued;
- (2) the county treasurer determines that the property tax rate of a cross-county entity with cross-county area in the county has not been finally determined before the tax bill preparation date; and
- (3) the property tax rate has not been finally determined because the assessed valuation in the cross-county area of the neighboring county has not been finally determined.

Provisional bills only apply to the area of the cross-county unit within the treasurer's county. For areas of the county not within the cross-county unit, the county treasurer shall prepare and deliver "regular" property tax statements under IC 6-1.1-22 ("Property Tax Collection").

Immediately upon determining to use provisional tax bills for cross-county units, the county treasurer shall give notice to the county fiscal body. The treasurer shall also give the notice required under IC 6-1.1-22.5-6(b). This notice includes publication of the method used to determine tax liability to be indicated on the provisional statement. Publication of the notice is required once in the form prescribed by the Department in two (2) newspapers that represent different political parties and are published in the county. If a county does not have two (2) newspapers published in the county that represent different political parties, publication is required in only one (1) newspaper.

Request to waive use of provisional bill and procedure to consider request

The county auditor or fifty (50) taxpayers may request in writing that the Department waive the use of a provisional statement for a cross-county unit. The waiver request must be submitted not more than five (5) days after the treasurer's publication of notice under IC 6-1.1-22.5-6.5(f).

If the Department receives a request for waiver, it shall hold a hearing on the request. The Department shall publish notice of the hearing at least ten (10) days before the hearing and in accord with IC 5-3-1. The notice must state:

- (1) the date and time of the hearing;
- (2) the location of the hearing, which must be in the county; and
- (3) that the purpose of the hearing is to hear:
 - (A) the request of the county treasurer and county auditor to waive the requirements of section 6.5 of this chapter; and
 - (B) taxpayers' comments regarding that request.

After the hearing, the Department may waive the use of a provisional statement for a particular year if the department finds that the petitioners have presented sufficient evidence as follows:

1. Although the property tax rate of one or more cross-county entities was not finally determined before the statement preparation date, that property tax rate either was determined as of the date of the hearing or will be determined not later than a date specified by the county auditor and county treasurer.
2. Sufficient time remains or will remain after the date or anticipated date of determination of the rate, which will permit the timely preparation and delivery of property tax statements in the manner provided by IC 6-1.1-22 and render the use of provisional statements unnecessary.

**Content of provisional statements for entire county
and cross-county units**

The form of the provisional statement no longer requires the approval of the State Board of Accounts but still requires use of a Department prescribed form.

For county-wide (i.e., non-cross county entities) provisional statements, the tax liability indicated must not exceed more than 100% of the tax liability that was payable in the same year as the assessment date—subject to any adjustments to the tax liability as prescribed by the Department. In addition to existing content requirements, the form must also state in the following or substantially similar form, as determined by the Department:

“Under Indiana law, _____ County (insert county) has sent provisional statements because the county did not complete the abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in (insert year) in each taxing district before March 16, (insert year). The statement is due to be paid in installments on _____ (insert date) and _____ (insert date). The statement is based on _____ percent (___%) (insert percentage) of your tax liability for taxes payable in _____ (insert year), subject to adjustment to the tax liability as prescribed by the department of local government finance and adjustment for any new construction on your property or any damage to your property. After the abstract of property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in (insert year), minus the amount you pay under this provisional statement.”

For provisional statements of cross-county entities, the provisional statement must indicate tax liability in an amount determined by the Department. That amount must be based on the property tax rate of the cross-county entity first due and payable in the immediately preceding calendar year and, for all other taxing units that make up the taxing district or taxing units that comprise the cross-county area, the property tax rates of the taxing units first due and payable in the current calendar year. In addition, the form must also state in the following or substantially similar form, as determined by the Department:

“Under Indiana law, _____ County (insert county) has elected to send provisional statements for the territory of _____ (insert cross-county entity) located in _____ County (insert county) because the property tax rate for _____ (insert cross-county entity) was not available in time to prepare final tax statements. The statement is due to be paid in installments on _____ (insert date) and _____ (insert date). The statement is based on the property tax rate of _____ (insert cross-county entity) for taxes first due and payable in _____ (insert immediately preceding calendar year). After the property tax rate of _____ (insert cross-county entity) is determined, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in _____ (insert year), minus the amount you pay under this provisional statement.”

Calculation of provisional property taxes excludes discontinued levy

Provisional statements issued county-wide or for cross-county entities will account for an exclusion from the calculation of property taxes under certain circumstances. If a levy applied in the preceding calendar year no longer applies for the current calendar year, then provisional bills

will exclude the levy in the calculation of the amount of property tax due in the current calendar year.

Estimate for cross-county unit if there was no property tax rate in the preceding year

If there was no property tax rate of the cross-county entity for taxes payable in the immediately preceding calendar year, the Department shall provide an estimated tax rate calculated to approximate the actual tax rate that will apply when the tax rate is finally determined.

Reconciliation bills

As soon as possible after the determination of the tax rate of the cross-county entity, the county treasurer shall give the notice required by I.C. 6-1.1-22-4 (notice in two (2) newspapers if possible, three (3) times, one (1) week apart each time). The treasurer shall also mail the reconciling statements, which must be on a form prescribed by the Department. The amendment to IC 6-1.1-22.5-12 makes clear that the reconciliation statement must state the property tax liability for the "calendar year" for which the statement is issued.

Contact Information

Questions may be directed to Brian Bailey, General Counsel, at (317) 234-5720 or bbailey@dlgf.in.gov.