STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

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TO: **County Assessors, County Auditors, and County Treasurers**

FROM: **Brian Bailey, Interim Commissioner** BEB

RE: **Provisional Tax Bills**

DATE: **April 28, 2010**

Purpose

Indiana Code 6-1.1-22.5 was amended by House Enrolled Act (HEA) 1059-2010, effective July 1, 2010, requiring provisional tax bills in some cases. This memorandum outlines the requirements for provisional tax bills beginning for taxes due and payable in 2011.

I. Effective Date

Beginning for taxes **payable in 2011**, counties will be required to issue a provisional property tax bill if the auditor fails to deliver the abstract to the county treasurer by April 1 of a given year.

II. Due Date

Provisional bills are to be issued 15 days prior to May 10 of the year after the assessment date for which the provisional installment is due. This 15-day requirement must be met regardless of whether publication is made under IC 6-1.1-22.5-6(b).

III. Waiver

Counties may request a waiver by the Department of Local Government Finance ("Department") to lift the provisional tax bill requirement. Either the county fiscal body or the county treasurer may request the waiver. However, this waiver may only be granted under the following conditions:

1. The Department determines that the county will be able to issue an actual tax bill with a due date that is no later than June 10 of that calendar year; or
2. The Department determines that the delay is the result of a software conversion. In this instance, the county must still be able to issue an actual tax bill with a due date no later than June 10 of the calendar year.

IV. Amount and Adjustments

Beginning for taxes payable in 2011, the first installment of provisional taxes due is equal to 50% of the property tax liability for the prior year's assessment date, subject to adjustments allowed or required by the Department (see below). The amount of the second installment depends on whether a reconciliation bill is sent before the second installment is due.

If a reconciliation bill is sent before the second installment is due, the amount of the reconciliation bill is equal to the amount of the taxpayer's actual property tax liability calculated upon the completion and delivery of the abstract to the county treasurer less the provisional amount paid for the first installment.

If a reconciliation bill is sent after the second installment is due, then the second installment amount is simply an amount equal to 50% of the property tax liability for the prior year's assessment date.

If the county did not issue tax bills in the year before the provisional billing year, the provisional bill shall be based on an amount that would have been due if a provisional tax statement had been issued in the immediately preceding calendar year. The Department is given the authority to prescribe standards to implement this provision.

The legislation also requires the Department to authorize in writing the types of adjustments to tax liability that a county treasurer may apply. These include adjustments for new construction or damage to the property, as well as any necessary adjustments for credits, deductions, and local option income taxes.

V. Format

The language of the provisional statement has been changed to read as follows:

"Under Indiana law, ________ County (insert county) has sent provisional statements. The statement is due to be paid in installments on __________ (insert date) and ________ (insert date). The first installment is equal to fifty percent (50%) of your tax liability for taxes payable in ______ (insert year), subject to adjustment to the tax liability authorized by the department of local government finance and approved by the county treasurer. The second installment is either the amount specified in a reconciling statement that will be sent to you, or (if a reconciling statement is not sent until after the second installment is due) an amount equal to fifty percent (50%) of your tax liability for taxes payable in ______ (insert year), subject to adjustment to the tax liability authorized by the department of local government finance and approved by the county treasurer. 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."

VI. Reconciling Statement

Regardless of whether one or two provisional installments are paid, the county treasurer is required to issue a reconciling statement under 6-1.1-22.5-12. Homestead Verification Forms are required to be sent with the reconciling statement, rather than the provisional statement for 2010 pay 2011 and 2011 pay 2012. In addition, delinquent taxes, special assessments, penalties, and interest will only be billed on the reconciling statement.

VII. Penalties

Penalties applied to a taxpayer as a result of late payment or nonpayment of the provisional property tax liability are to be deposited in a separate fund established by the county treasurer. This fund is to be used to offset the costs of the mailing or transmission of provisional property tax statements, and any excess in the fund remaining after payment of costs is to be deposited in the county's reassessment fund.

VIII. Advance Draws

If a county auditor fails to distribute an advance draw of tax collections to a political subdivision within the 30-day request window, the county is required to pay interest on the undistributed collections in the same manner as if it had failed to distribute within 51 days of the property tax due date.

Questions about provisional tax bills may be directed to Tim Jorczak, Director of Operations and Policy, at 317.234.5675 or tjorczak@dlgf.in.gov.