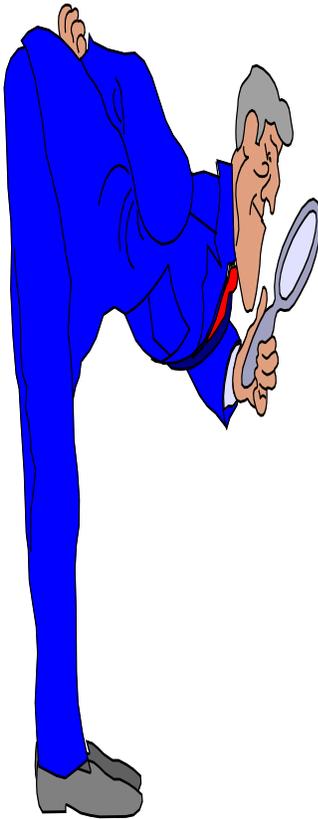


# *Key Ideas*

## *Chapter 9:*

### **The Cumulative Fund Process**



*In this section, we will discuss the following:*

- *The procedures for establishment of a cumulative fund.*
- *The types of cumulative funds available to a township.*
- *The timing requirements for establishment of a cumulative fund.*
- *The public notices required for establishment of a cumulative fund.*
- *The Department's final determination.*

## PROCEDURE FOR ESTABLISHMENT OF A CUMULATIVE FUND

In addition to complying with the budget requirements of IC 6-1.1-17, a taxing unit must follow the steps for establishing a cumulative fund pursuant to Inc. Code § 6-1.1-41. If the establishment is not in compliance with IC 6-1.1-41 and this section, a tax may not be levied in the ensuing year. In addition, the fund may not have a rate that exceeds what is stated in the applicable statute. After a political subdivision complies with IC 6-1.1-41 to establish a cumulative fund, it may levy a property tax annually at the rate approved without further action. The tax levy must be advertised annually as other tax levies are advertised and the rate must be adopted. Steps 1 through 3 must occur before August 2 per IC 6-1.1-17-16.7. (Transcript postmarked or file marked no later than August 2).

### Step 1

If a township decides to levy a new cumulative fund, or increase the rate on an existing cumulative fund that is currently below the statutory maximum rate, it shall hold a public hearing on the proposal. Taxpayers are notified of this public hearing by the publication of a Notice to Taxpayers (a sample is included in this chapter), describing the tax levy and rate to be imposed.

The Notice shall be published two (2) times, at least one (1) week apart, with the first publication being at least ten days before the date of the public hearing and the second publication made at least three (3) days before the date of the hearing in accordance with IC 5-3-1-2(f). The notice must describe the tax rate that will be imposed for the fund. To count the number of days, begin counting days with the day after the notice first appears and count the day of the hearing. Use the same procedure to count days for the second appearance of the legal advertisement.

The following applies for legal notices to various political subdivisions:

Any time a notice is required to be published by the township, it must be placed in two newspapers that are published in the township. If only one newspaper is published in the political subdivision, then the notice is to be published in that newspaper, and if another newspaper is published in the county and circulates within the political subdivision, then in that newspaper also. If no newspapers are published in the township, then one newspaper published in the county may be used. The number of newspapers used has nothing to do with the number of times it must appear in the paper.

### Step 2

The adopting body shall conduct a public hearing on the proposed cumulative fund on the date, time, and at the location indicated in the legal notice. At this meeting, the taxpayers of the affected taxing districts have the right to be heard. Upon completion of the public hearing, the Township Board must pass a resolution adopting the proposed fund as presented or at a lesser tax rate.

### **Step 3**

If a resolution is passed by the township board that proposes a rate for a cumulative fund, the proposal is submitted by the Trustee, on behalf of the adopting body, to the Department for approval. The proposal should consist of:

- 1) Procedure checklist (a sample checklist is included at the end of this chapter);
- 2) the resolution of the adopting body; and
- 3) the proofs of publication from all newspapers where the legal advertisement appeared.

### **Step 4**

The proposal, as submitted, will be reviewed by the Department for completeness. If the proposal contains errors, or the proper procedures were not followed, the packet will be returned to the Trustee for correction, providing that the time constraints can be met.

### **Step 5**

The Department requires that a Notice of Submission be given to affected taxpayers. This notice will be prepared by the Department and mailed to the taxing unit. The taxing unit shall publish the notice one (1) time in two (2) newspapers. If only one (1) newspaper is published within the county, then publication in that newspaper alone is sufficient.

### **Step 6**

#### No Taxpayer Objections

After the required remonstrance period has passed, the adopting unit shall forward the following information to the Department:

- 1) Proof of publication of the Notice of Submission
- 2) Proof of posting of a public hearing (if required)
- 3) County Auditor's Certificate of No Objection (a sample certificate is included at the end of this chapter). It is the responsibility of the applying taxing unit to secure a Certificate of No Objection from the County Auditor. Proofs of the publication of the Notice of Submission must be provided to the Auditor in order to verify that the proper time for filing objections has passed.

#### Taxpayer Objections

Taxpayers who are affected by the proposed Cumulative Fund may file and objecting petition with the County Auditor not later than noon, by the end of the required remonstrance period after publication of the Notice of Submission setting forth their objections to the proposed rate. Pursuant to IC §6-1.1-41, the number of signatures required for a valid objecting petition is specific to each type of Cumulative Fund as follows:

IC 8-16-3-3	Cumulative Bridge Fund	10
IC 8-16-3.1	Major Bridge Fund	10
IC 14-33-21	Cum. Improvement Fund	10
IC 16-22-5-2	Cum. Building Hospital	25
IC 36-10-3-21	Cum. Building Park	30
IC 36-9-14.5-1	Cumulative Capital Development Fund	50
IC 36-9-14-1	Cumulative Courthouse	50
IC 36-9-15-1	Cumulative Jail Fund	50
IC 36-9-27-100	Cumulative Drainage	50
IC 8-22-3-25	Cumulative Building Airport	50
IC 36-9-16-1	Cumulative Building	50
IC 3-11-6-9	Cumulative Voting System Purchase	100

The County Auditor shall immediately certify the objecting petition(s) to the Department by verifying:

- (a) the taxpayers signing the petition reside within the taxing district(s) where the proposed Cumulative Fund will be levied;
- (b) that the proper number of qualified signatures appear on the petition; and
- (c) the petition(s) was filed within the proper number of days after the publication of the Notice of Submission.

If the County Auditor certifies an objecting petition to the Department, the Department shall fix a date for hearing within a reasonable time after receipt. Notice of the hearing, under the signature of the Commissioner of the Department, shall be given to the County Auditor and the first ten (10) taxpayers whose names appear on the petition at least five (5) days before the date of the hearing.

A hearing will be conducted in the County by a hearing officer of the Department at which time all affected taxpayers have the right to be heard. Testimony will be accepted from those in opposition as well as those in favor. The hearing officer(s) will submit a report on the hearing to the Commissioner

In years following the year of adoption and pursuant to IC 6-1.1-41-12, taxpayers of the taxing district(s) where the rate is levied may file with the County Auditor a petition for reduction or revision of the Cumulative Fund levy. Such petitions must be filed on or before August 1 for the next ensuing year. The required number of taxpayers to file an objection is as follows:

<b>Cumulative Fund</b>		<b>Number of Taxpayers</b>
IC 8-16-3-3	Cumulative Bridge Fund	10
IC 8-16-3.1	Major Bridge Fund	10
IC 14-33-21	Cum. Improvement Fund	10
IC 16-22-5-2	Cum. Building Hospital	25

IC 36-10-3-21	Cum. Building Park	30
IC 36-9-14.5-1	Cumulative Capital Development Fund	50
IC 36-9-14-1	Cumulative Courthouse	50
IC 36-9-15-1	Cumulative Jail Fund	50
IC 36-9-27-100	Cumulative Drainage	50
IC 8-22-3-25	Cumulative Building Airport	50
IC 36-9-16-1	Cumulative Building	50
IC 3-11-6-9	Cumulative Voting System Purchase	100

### **Step 7**

The Department shall certify approval, disapproval, or modification of the proposal to the County Auditor. The action of the Department with respect to the proposed levy is final. The approved Cumulative Fund may be levied beginning with the first annual tax levy after approval or the year as stated in the Notice to Taxpayers and the final order approving the fund. The Cumulative Fund does not expire and may be levied from year to year as long as the levy is advertised annually with the annual budget or is not limited by the establishing resolution/ordinance.

For Cumulative Capital Development Funds, the fiscal body shall specify in its establishing resolution the rates for year one, year two, year three (and thereafter). This method will allow for the increasing rates without the unit having to reestablish each of the first three years of the fund. However, the unit must clearly state the increasing rates in its resolution and publications. (Sample resolutions/ordinances and publications are included at the end of this chapter.)

If the appropriate fiscal body for a given calendar year reduces the Cumulative Fund rate and wishes to increase the rate in subsequent years, the fund must again be established and presented to taxpayers. The fund must also be reestablished if the use of the Cumulative Fund is changed.

The tax rate may not exceed the rate as specified by the statute authorizing the fund. The Department will apply the rate cap calculations to all Cumulative Funds as listed in this chapter. The maximum property tax rate levied must be adjusted each time a reassessment of property takes effect. When a Cumulative Fund is established, the Department order will reflect the (statutory) rate adopted by the taxing unit. The Budget Order will reflect the cap rate adjustment pursuant to IC 6-1.1-18.5-9.8.

### **General**

Taxes collected shall be deposited in a specific fund and may only be used for the purposes as stated in the statute and/or the resolution/ordinance as adopted. All funds must be appropriated before expenditure. The Department must approve all appropriations, except for the Cumulative Bridge Fund. Appropriations may be included in the political subdivision's annual budget or may be established by additional appropriation.

If the political subdivision establishing the fund;

- (1) decides that the purposes for which the fund was established have been accomplished or no longer exists; or
- (2) rescinds the tax levy for the fund;

the governing body establishing the fund for the political subdivision may transfer the balance in the fund to the General Fund of the unit. The money in a Cumulative Fund does not revert to the General Fund at the end of the fiscal year.

**NOTICE TO TAXPAYERS OF HEARING ON PROPOSED  
CUMULATIVE \_\_\_\_\_ FUND**

Notice is given to the taxpayers of \_\_\_\_\_ Township, \_\_\_\_\_ County  
(name) (name)  
that the Township Board will consider at their regular meeting place at \_\_\_\_\_  
(address)  
\_\_\_\_\_, at \_\_\_\_\_ o'clock P.M./A.M., on the  
(time)  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ the establishment of a Cumulative \_\_\_\_\_  
(day) (month) (year) (fund name)  
Fund under the provisions of IC \_\_\_\_\_ for the purposes stated therein.

(State purposes for which the fund will be used)

The proposed fund will be levied outside the maximum levy limitations and will not exceed \$\_\_\_\_\_ cents per \$100 of assessed valuation. The proposed fund will be levied beginning with taxes 20\_\_ payable 20\_\_\_. Taxpayers appearing at such hearing shall (year) (year) have a right to be heard thereon. The proposal for establishment of the Cumulative \_\_\_\_\_ fund is subject to approval by the Department of Local Government Finance, who will require Notice of Submission to be given to the taxpayers through publication. **After the publication of the Notice of Submission**, ten (10) or more taxpayers in the affected taxing districts may file a petition with the County Auditor not later than thirty (30) days after publication, setting forth their objection to the proposed levy.

Township \_\_\_\_\_ Trustee  
\_\_\_\_\_  
\_\_\_\_\_ County



**PROCEDURES FOLLOWED**

(Complete the top portion of this form and submit to the Department of Local Government Finance with proofs-of-publication of Notice to Taxpayers and the adopted ordinance).

TAXING UNIT \_\_\_\_\_ COUNTY \_\_\_\_\_

CUMULATIVE FUND \_\_\_\_\_

IC CODE: \_\_\_\_\_

YEAR TO BE FIRST LEVIED 20 \_\_\_\_ payable 20 \_\_\_\_.

**NOTICE TO TAXPAYERS:**

1<sup>st</sup> Publication: \_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)  
\_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)

2<sup>nd</sup> Publication \_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)  
\_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)

PUBLIC HEARING HELD ON: \_\_\_\_\_, 2\_\_\_\_\_

ORDINANCE ADOPTED ON: \_\_\_\_\_, 2\_\_\_\_\_

PROPOSED RATE : \$ \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_

MAILING ADDRESS OF UNIT: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

E-MAIL ADDRESS (OPTIONAL) \_\_\_\_\_

**CERTIFICATE OF NO OBJECTION**

I, \_\_\_\_\_ Auditor of  
\_\_\_\_\_ County, Indiana, do hereby certify that there  
was no remonstrance filed on the proposed Cumulative \_\_\_\_\_ Fund  
as adopted by the \_\_\_\_\_ (adopting body)  
on \_\_\_\_\_. Notice of Submission provided by the  
Department of Local Government Finance was published on \_\_\_\_\_,  
in the \_\_\_\_\_ newspaper.  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
County Auditor

# *Summary*

## ***Chapter 9: Establishing a Cumulative Fund***



*In this section, we have discussed the following:*

- *A township unit has until August 2<sup>nd</sup> to establish a cumulative fund.*
- *A township unit must consider the cumulative fund during budget preparation.*
- *A township unit must advertise and adopt its cumulative fund.*
- *The Department provides the Notice of Submission to township units establishing a cumulative fund.*
- *The Department approves or disapproves cumulative funds.*