

## CHAPTER 4

**TAXATION, TAX SALE AND REDEMPTION, AND PERSONL PROPERTY TAX – LEVY AND SALE****TAXATION**

The treasurer is the financial officer of the county and, as such, is vested with the authority and is charged with the duty of collecting all taxes and assessments which are payable to the county, pursuant to statute.

Before March 15 of each year, the county auditor shall prepare a roll of property taxes payable in that year for the county and shall deliver an abstract containing the property, assessments, taxes, deductions, and exemptions. The roll of property taxes, or "tax duplicates," shall conform to the instructions that the state board of accounts issues regarding the preparation, preservation, alteration, and maintenance. [IC 6-1.1-22-3], [IC 6-1.1-22-5(a)]

After receipt of the tax duplicates, the county treasurer shall mail a statement containing the information provided in IC 6-1.1-22-8.1(b). However, the Department of Local Government Finance (DLGF) may prescribe a form requiring more information than what IC 6-1.1-22-8.1(b) requires. The treasurer shall mail the form to the last known address of each person liable for any property taxes or special assessments, or the last known address of the most recent owner that the transfer book shows. Also, the treasurer shall transmit a written, electronic, or other record to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments. [IC 6-1.1-22-8.1(a), (b)]

General property taxes are payable at any time after the first day of January of each year, and are payable in two equal installments. The first installment becomes delinquent after the tenth day of May and the second installment becomes delinquent after the tenth day of November. [IC 6-1.1-22-9(a)]

There is no provision, pursuant to IC 6-1.1-22-9, for the extension of time in the payment of taxes, except pursuant to IC 6-1.1-37-10. Penalties may only be waived, negotiated, or settlement in accordance with IC 6-1.1-37-15.

Tax collections are entered in the tax duplicate to the credit of the taxpayer. At the close of the taxpaying period ending May 10, the treasurer certifies to the county auditor the amount of collections. From this certificate the county auditor makes distribution to the various taxing districts.

Penalties accruing on delinquent first installment tax are added by the county auditor as well as penalties on former years' delinquent taxes remaining unpaid.

At the close of the taxpaying period ending November 10, the treasurer certifies to the county auditor all taxes collected during the year, proper credit being given for the amount certified for the May installment.

The tax settlement is the process by which money collected through taxation is distributed to the various funds for which the taxes were levied. The tax settlement is a transfer of money from the various taxing district accounts to funds. Necessary adjustments of the amounts to be distributed to the various funds are made by the county auditor to reimburse the county general fund for advancements previously made on account of "erroneous taxes refunded" and "examinations of records."

Too much emphasis cannot be placed on the necessity for the treasurer to determine that the amount for which the settlement quietus is written is the same as the total amount of tax collections (including financial institution and license excise), as shown on the records. Any difference here will mean that the treasurer is either long or short. Every effort should be made to identify and resolve variances in settlement in a timely manner.

The various statutes governing the operations and procedures required to be performed by the treasurer in the collection of taxes and settlement are listed under "Chapter 4" in the "Taxation" section of the Appendix to Indiana Codes along with a list of the various taxes.

### Tax Receipt

The county treasurer shall provide a property owner with a receipt on a form that the state board of accounts approves when the owner pays the taxes or special assessments levied against his or her property. The receipt shall contain the following:

1. The name of the person liable for the amount paid;
2. The amount paid;
3. The year for which the payment is made; and
4. A description of the property which corresponds to the description used on the tax duplicate.

However, if the treasurer does not provide a receipt, then the treasurer shall maintain records containing the date and amount paid per parcel or property description as used on the tax duplicate. Notwithstanding, the treasurer must provide a validated receipt if the property owner requests a receipt.

Likewise, the treasurer must provide a receipt, on a form that the state board of accounts approves, when a person other than the property owner pays any property taxes or special assessments levied against the property and makes such a request.

If a receipt for the payment of taxes or special assessments is lost or destroyed, the entry in the register of taxes and special assessments or the entry on the tax duplicate may be presented as evidence of payment in lieu of the receipt. [IC 6-1.1-22-12] [IC 6-1.1-7-8]

#### Extension of the Tax Duplicate

In addition to the preparation of the duplicate and its delivery to the treasurer, the county auditor also enters the penalties and extends all unpaid taxes and penalties to the proper columns of the tax duplicates. Posting collections of taxes and special assessments is the duty of the treasurer.

In the instance of machine posting of duplicates and tax records, a division of authority between the office of county auditor and treasurer should be agreed upon so that the treasurer has adequate supervision over the complete recording of payments, for which the treasurer is responsible.

#### Settlement with State

Each treasurer shall, on or before June 30 and December 31 of each year, pay to the Treasurer of State, all money due for state purposes, as shown on the certificate of settlement. [IC 6-1.1-27-3]

#### Reporting Tax Collections

The treasurer is required to make a monthly report to the county auditor of the amount of taxes collected for the preceding month and that portion which is county funds is then available for the county's use and may be used to pay any item of appropriation for that year. [IC 36-2-6-14]

#### Advancement Of Taxes - 95% Of Collection

The treasurer shall, upon written request for funds filed by the Auditor of State or any proper local officer of any municipal corporation within the county, make advancement of taxes collected in an amount

not to exceed the lesser of ninety-five percent (95%) of the total amount collected at the time of the advancement or ninety-five percent (95%) of the amount to be distributed at the following semiannual distribution. The request for property tax advances under this section must be filed at least thirty (30) days before the treasurer is required to make the advance. [IC 5-13-6-3(b)]

Upon receipt of a written request for an advance draw the following procedure should be followed:

1. The collections for each taxing district within the municipal corporation, as shown by the records of the county treasurer, should be multiplied by 95%.
2. Divide the answer under (1) by the total tax rate for the taxing district to obtain the factor to be used in appropriating the tax.
3. Multiply the factor by the tax rate for the fund for which the advance draw is requested, to arrive at the maximum amount which can be advanced.

The practical application of the foregoing provision requires that such advancement shall not exceed ninety-five percent (95%) of the tax collected for the particular fund for which such application for advancement has been made.

In making such advancements, a quietus and warrant are both necessary. The quietus is the posting media to transfer from the taxing district account to the tax fund for which such request has been made. A warrant is then issued by the county auditor, drawn on the tax fund.

#### Motor Vehicle Excise Tax

The provisions of IC 6-6-5 impose an annual license excise tax upon any vehicle subject to annual registration as a condition of its operation on the public highways pursuant to the motor vehicle registration laws of the State of Indiana, except as otherwise allowed by statute. The tax is collected by the Bureau of Motor Vehicles (BMV) and distributed to the counties.

Upon receipt of the report and copies of the registration certificates from the BMV, the county auditor shall determine the total amount of excise taxes collected for each taxing district in the county. [IC 6-6-5-10.4]

The county treasurer shall issue an Excise Tax Receipt, County Form No. 18E and furnish a copy of the receipt to the county auditor. The amount so collected shall be apportioned and distributed among the respective funds of each taxing district in the manner and at the same time as property taxes are apportioned and distributed. [IC 6-6-5-10(b)]

At the time of each semiannual tax settlement the treasurer shall report such tax collections, together with the aircraft license excise tax and auto rental excise tax collections discussed in this section, on County Form 49TC, County Treasurer's Certificate of Tax Collections, and the total shown by the county auditor's records shall be verified with the treasurer's certificate before distribution is made.

#### Aircraft License Excise Tax

All taxable aircraft, except aircraft that is exempt pursuant to IC 6-6-6.5-9(a)(1)-(8), shall be registered by the owner with the Aeronautics Commission and an annual excise tax shall be paid in lieu of the ad valorem property tax. [IC 6-6-6.5-3(a), -12(a)]

The aircraft license excise tax will be collected by the Indiana Department of Revenue and remitted to the counties quarterly. The distribution shall be made on or before the fifteenth of the month following each quarter and the first distribution each year shall be made in April. When remitting the tax, the Department of Revenue will submit an "Aircraft Excise Tax Report" to each treasurer and county auditor. The state warrant remitting the tax will be mailed to the treasurer along with the report. The report will show the taxing district in which the aircraft is usually located.

Upon receipt of the warrant from the Auditor of State, the treasurer shall issue an Excise Tax Receipt, County Form 18E, and shall post the receipt to the treasurer's daily balance of cash and depositories, in the section "other sources" to an account titled "aircraft excise tax fund," to comply with the provisions of IC 6-6-6.5-21(c). The treasurer shall also furnish a copy of the receipt to the county auditor.

The county auditor, upon receipt of the report, shall allocate the tax collected in the same manner as used to allocate motor vehicle excise tax. The amount received shall be posted to the County Auditor's Record of Annual License Excise Tax, County Form 24F, and allocated on County Form 24ET, in the same manner as vehicle license excise tax. In entering the collections on County Form 24ET, one of the columns in that record should be headed "aircraft license excise tax" to record separately the amount received from that source. The vehicle license excise tax, the auto rental excise tax, and the aircraft license excise tax shall be combined into one total and apportioned and distributed as "license excise tax" in making settlement, and should be so reported by the treasurer on the County Treasurer's Certificate of Tax Collections, County Form 49TC.

### County Motor Vehicle Excise Surtax and County Wheel Tax

In accordance with the provisions of IC 6-3.5-4-2(a) and IC 6-3.5-5-2(a), the county council of each county may, by ordinance, impose a County Motor Vehicle Excise Surtax and a County Wheel Tax.

#### Collection of Tax

On or before the tenth day of the month following the month in which wheel tax is collected at a branch office of the Bureau of Motor Vehicles (BMV), the branch office shall remit the wheel tax to the county treasurer of the county that imposed the wheel tax. Concurrently with the remittance, the branch office shall file a wheel tax collections report, on forms prescribed or approved by the State Board of Accounts, with the county treasurer and county auditor. [IC 6-3.5-5-11] [IC 6-3.5-4-9] However, see IC 6-3.5-5-13 if the BMV or Indiana Department of Revenue (DOR) collects the tax.

Upon receipt of the tax report from the BMV the county auditor shall issue a quietus to transfer the net amount of surtax and wheel tax from the county treasurer's collections of license excise tax to the "\_\_\_\_\_ County Surtax Fund" and to the "\_\_\_\_\_ County Wheel Tax Fund."

#### Allocation and Distribution of the Tax

Before the twentieth day of each month, the county auditor shall allocate the money deposited in both the County Surtax Fund and the County Wheel Tax Fund among the counties, the cities, and the towns in the county. Before the twenty-fifth day of each month, the county treasurer shall distribute to the county and the cities and the towns in the county the money deposited in the county wheel tax fund during that month. [IC 6-3.5-5-15(b)-(c)] [IC 6-3.5-4-13(b)-(c)]

#### Miscellaneous Provisions

The distributions of surtax and wheel tax to the county should be receipted to the County Highway Fund and cities and towns should receipt the distributions to the Motor Vehicle Highway Fund (Street Fund), because a county, city or town may only use the surtax and wheel tax revenues it receives to construct, reconstruct, repair or maintain streets and roads under their jurisdiction. [IC 6-3.5-5-15(d)]

#### Refunds

Refunds of overpaid or erroneously paid county motor vehicles excise surtax and county wheel tax should be paid from the County General Fund. Such refunds can be made without an appropriation having been made for that specific purpose. However, great care should be taken to ensure that the amounts

refunded are recorded in the non-budgeted expenditures and are easily distinguishable so that they can be properly deducted from the surtax and wheel tax and returned to the County General Fund.

### Auto Rental Excise Tax

An excise tax, known as the auto rental excise tax, is imposed upon the rental of passenger motor vehicles and trucks in Indiana for periods of less than thirty (30) days. The tax is four percent (4%) of the gross retail income received by retail merchants for the rentals. [IC 6-6-9-7]

The auto rental excise tax will be collected by the Department of Revenue in the same manner that gross retail tax is collected. On or before May 20 and November 20 of each year, all amounts held by the state in the auto rental excise tax account shall be distributed to the county treasurers of Indiana. [IC 6-6-9-11(a)-(b)]

The amount to be distributed to a county treasurer equals that part of the total auto rental excise taxes being distributed that were initially imposed and collected from within that treasurer's county. The Department of Revenue shall notify each county auditor of the amount of taxes to be distributed to the county treasurer. At the same time each distribution is made to a county treasurer, the Department of Revenue shall certify to the county auditor each taxing district within the county where auto rental excise taxes were collected and the amount of the county distribution that was collected with respect to each taxing district. [IC 6-6-9-11(c)]

Upon receipt of the warrant from the Auditor of State, the county treasurer shall issue an Excise Tax Receipt, County Form No. 18E. The county treasurer shall deposit auto rental excise tax collections into a separate account under "Other Sources" of the Treasurer's Daily Balance of Cash and Depositories for settlement at the same time as property taxes are accounted for and settled in June and December of each year. [IC 6-6-9-11(d)]

The county treasurer in reporting such collections on the County Treasurer's Certificate of Collections, County Form No. 49TC, at each semiannual settlement, will combine such taxes with the vehicle and aircraft license excise tax collected and the total reported as one amount on the line designated "License Excise Tax Collected." [IC 6-6-9-1]

### Boat Excise Tax

The provisions of IC 6-6-11-8 impose an annual excise tax on boats. Boats are defined to include any device in which a person may be transported upon water. This includes every motorboat, sailboat, pontoon boat, rowboat, skiff, dinghy, or canoe, regardless of size. [IC 6-6-11-1]

On or before the tenth (10<sup>th</sup>) day of the month following the month in which the collections are made, the Auditor of State shall report the excise taxes collected to the county treasurer. Also, the state auditor shall forward a copy of the excise tax report to the county auditor. [IC 6-6-11-29]

Upon receipt of the report and copies of the registration certificates, the county auditor shall determine the total amount of boat excise taxes collected for each taxing district in the county. The amount so collected shall be apportioned and distributed among the respective funds of each taxing district in the manner and at the same time as property taxes are apportioned and distributed. Such determination shall be made from copies of boat registration forms furnished by the Bureau of Motor Vehicles.

Collections received should be recorded in a separate section of County Form Nos. 24F, County Auditors Record of Annual License Excise Tax, and 24-ET, County Auditor's Allocation of License Excise Tax, in the same manner as Vehicle License Excise Tax is recorded.

At the time of each semiannual tax settlement the county treasurer shall report such tax collections on County Form No. 49BC, Report of Excise Tax Received, and the total shown by the auditor's records shall be verified with the treasurer's certificate before the distribution is made. [IC 6-6-11-33]

## **TAX SALE & REDEMPTION**

There are a few different types of property sales and depending on the type of sale are governed by different statutes and require different procedures to be followed.

### Real Estate Tax Sale

The sale of real estate for delinquent taxes is governed by IC 6-1.1-24 and IC 6-1.1-25. The process and procedures are strictly governing by Indiana Code and should be followed as stated in the code. The State Board of Accounts prescribes and approves forms and funds for use in this process. All transactions related to a tax sale and redemption shall be entered in the Tax Sale Record (County Form 137) and Register of Tax sales to the County (County Form 9S). The prescribed forms are designed to keep a complete record of all the proceedings on property on which liens are acquired by the county from the date the lien was acquired to the date of redemption or sale of the real estate. Alternate forms may be



used, but should provide the same information available on the prescribed form and should be approved by the State Board of Accounts. The following funds should be used to account for the financial transactions: Tax Sale Fees (Fund 1203), Tax Sale Surplus (Fund 1205), and Tax Sale Redemption (Fund 1204). Additional information regarding these funds is available in the Chart of Accounts on the County Auditor's webpage on the State Board of Accounts website.

#### Tax Sale Collections

When real property is sold, the purchaser at the tax sale shall immediately pay the amount of the bid to the county treasurer. The treasurer shall apply the payment in the following manner: first, to the taxes, special assessments, penalties, and sale cost described in IC 6-1.1-24-5(e); second, to other delinquent property taxes; and third, to a separate "tax sale surplus fund." [IC 6-1.1-24-7]

A quietus shall be issued by the county auditor for any collections that should be deposited into the tax sale surplus fund.

#### Redemption of Property

When real property is redeemed, a quietus shall be issued by the county auditor in favor of the person paying the money to the treasurer and the amount receipted into the "tax sale redemption" fund shall be held in trust for the purchaser. The county auditor shall issue a warrant to the purchaser or purchaser's assignee upon the surrendering of the certificate of sale, in an amount equal to the amount received by the treasurer for redemption. The county auditor shall endorse the certificate and preserve it as a public record. If a certificate of sale is lost and the county auditor is satisfied the certificate did exist, the county auditor may make payment to the purchaser or purchaser's assignee in the manner provided in IC 6-1.1-25-3. The name of the person who redeems the property, the date of redemption and the amount for which the property is redeemed shall also be entered in the Tax Sale Record (Form 137).

When the county acquires a lien and a tax sale certificate is issued to the county, pursuant to IC 6-1.1-24-6, the redemption should be handled in the same manner as property sold to other purchasers, by issuing a quietus for the amount required for redemption and by crediting the amount to the tax sale redemption fund. A warrant from that fund should then be issued to the "Treasurer of \_\_\_\_\_ County" for payment of the taxes, penalties, interest and costs for which a lien was acquired by the county, together with the statutory redemption penalty, depending upon the date of redemption. The amount of the penalty added on redemption should then be entered in the "additional assessments" section of the duplicate in the column provided for "delinquent tax" and payment thereof entered by the treasurer when the warrant is processed and a receipt (or receipts) issued for the taxes, penalties, interest and costs.

#### Sheriff's Sale – Foreclosure

Real property may also be sold through a sheriff's sale in accordance with IC 32-29-7. This process is handled by the sheriff's department and all the transactions related to this type of sale are recorded in

the sheriff's financial records. Any amounts due to the County are reported on the department's Report of Collections and remitted to the Treasurer for receipting into the proper funds.

### Sale of Mobile Homes

Procedures regarding the sale of a mobile home are slightly different than for the sale of real estate. Mobile homes fall under the statutes for personal property taxes in the next section of this chapter. Indiana code references regarding mobile home sales can be found on the Appendix to Indiana Codes.

## **PERSONAL PROPERTY - LEVY AND SALE**

The county treasurer has the duty to enforce the collection of delinquent personal property taxes, including taxes on mobile homes.

Annually, after November 10 but before August 1 of the succeeding year, each treasurer shall serve a written demand (Form 143B) upon each resident of the county who is delinquent in the payment of personal property tax. Annually after May 10 but before October 31 of the same year, each treasurer may serve a written demand upon a county resident who is delinquent in the payment of personal property taxes by the same methods. The methods of delivery and required contents of the written demand can be found in IC 6-1.1-23-1.

If a taxpayer does not pay the total amount due within thirty (30) days after the date a written demand is made, the treasurer shall levy and sell sufficient personal property of the taxpayer to pay such delinquent taxes, penalties and anticipated collection costs.

Such sale shall be at public auction to the highest bidder at the place and time designated in the notice of sale. The treasurer shall keep a record of all sales in such form as may be prescribed or approved by the State Board of Accounts. The proceeds of the sale shall be paid into the county treasury and applied as indicated in IC 6-1.1-23-5.

### Delinquent Tax Record - Filing – Judgment - Interest

In the year following any year in which a delinquency in the payment of any installment of taxes on personal property has occurred, and a demand for payment has been made pursuant to IC 6-1.1-23-1, and any amount for which demand was so made remains unpaid after sixty (60) days from the date of said demand, the treasurer shall prepare a record of all such delinquencies in accordance with IC 6-1.1-23-1. The record shall state the name of the taxpayer who is personally liable for the taxes as shown by the tax duplicate, the last known address of the taxpayer, the date when the last installment of tax included therein became delinquent and the amount of all taxes, penalties and costs for which demand had been made and which remains unpaid. The record provided shall be in form prescribed or approved by the State Board of Accounts.

The treasurer shall swear to the accuracy of the record prepared by him/her before the clerk of the circuit court. The treasurer shall thereupon deposit the record in the office of the clerk of the circuit court. On and after deposit of such record in the office of the clerk of the circuit court, the amounts of delinquent taxes, penalties and costs stated therein shall constitute a debt of the person named, which debt shall in all respects have the same force and effect as judgments.

From the date of deposit of the record in the office of the clerk of the circuit court, the judgments shall bear interest at the same rate as other judgments and such interest shall be in lieu of other penalties which would have otherwise accrued on the taxes. Interest rates for tax judgments can be found in IC 24-4.6-1-101.

On the date the county treasurer files the record in the office of the clerk of the circuit court, the county treasurer shall make an entry on the tax duplicate in a column headed "Certified to Clerk of Circuit Court." The judgments so entered shall be in favor of the county for the benefit of all taxing districts having an interest therein. Payment of delinquent tax judgments shall be made to the treasurer. [IC 6-1.1-23-9]

### Mobile Homes

A county treasurer may collect delinquent property taxes, penalties, and collection expenses that are attributable to a mobile home assessed as personal property by using the procedures in IC 6-1.1-23 or IC 6-1.1-23.5.

However, after a county treasurer has initiated an action to collect under either statute, the county treasurer shall continue to use the procedures of the chapter under which the action was initiated until the delinquent property taxes, penalties, and collection expenses are paid in full or the mobile home is sold or otherwise disposed of. [IC 6-1.1-23-0.1]

The county treasurer shall keep a record of all sales in the form prescribed by the state board of accounts. The proceeds of the sale shall be paid into the county treasury and applied as indicated in IC 6-1.1-23.5-15(a). Any excess should be deposited in the mobile home sale surplus fund.