

# THE CHARTER SCHOOL ADMINISTRATOR

## and Uniform Compliance Guidelines ISSUED BY STATE BOARD OF ACCOUNTS

Volume 5

December 2013

### ITEMS TO REMEMBER

#### December

- 1 Prove the Fund Ledger and Ledger of Receipts for the month of November to the control of all funds and reconcile the control with the depository statement. Prove all receipt accounts for each fund to total receipts for that fund. Prove the Ledger of Appropriations, Allotments, Encumbrances, Disbursements, and Balances to the total disbursements of the control account of the Fund Ledger. Prove all expenditure accounts within each program to the total disbursements of that program.
- 20 Last day to report and make payment of state and county income tax withheld during November to the Department of Revenue.
- 25 Legal Holiday - Christmas Day (IC 1-1-9-1)
- 31 Audits performed by private examiners are to be completed and all required reports issued must be submitted to State Board of Accounts at [charterschools@sboa.in.gov](mailto:charterschools@sboa.in.gov).

#### January

- 1 Legal Holiday – New Year’s Day (IC 1-1-9-1)  
  
Open a Ledger of Appropriations, Allotments, Encumbrances, Disbursements, and Balances by recording the appropriations by programs approved by the board of school trustees in the Resolution of Appropriations for the 2014 calendar year unless such appropriations must be reduced pursuant to action taken by the County Board of Tax Adjustment (if applicable) or by the Department of Local Government Finance. Record in the expenditure accounts of each program the allotments made by the board of school trustees. Also add to the 2014 year's appropriations by programs and to the expenditure accounts by allotments, any encumbered appropriations and allotments of the 2013 calendar year to be carried forward.
- 20 Last day to report and make payment of state and county income tax withheld during December to the Department of Revenue.  
  
Legal Holiday – Martin Luther King, Jr.’s Birthday (IC 1-1-9-1)
- 31 Last day to provide each employee with a W-2.  
  
Last day to file Employer’s Quarterly Federal Tax Return, Form 941, with the Internal Revenue Service for payment of federal and social security taxes for the fourth quarter.  
  
Last day to file quarterly reports with the Indiana Department of Workforce Development for the quarter ending December 31.

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**ITEMS TO REMEMBER**

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**January**

- 31 Last day to prepare, make, and sign a certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents in the school corporation, and the respective duties and compensation of each, and file in the office of the state examiner of the state board of accounts. The report must also indicate whether the school corporation offers a health plan, a pension, and other benefits to full-time and part-time employees. The certification must be filed electronically in the manner prescribed under IC 5-14-3.8-7. (IC 5-11-13-1(a))

**February**

- 1 Prove all ledgers for the month ending January 31 as outlined for the month of December.
- 12 Legal Holiday – Abraham Lincoln’s Birthday (IC 1-1-9-1)
- 17 Legal Holiday – George Washington’s Birthday (IC 1-1-9-1)
- 20 Last day to report and make payment of state and county income tax withheld during January to the Department of Revenue.

**BAD CHECKS**

***Liability***

IC 26-2-7-4 states: "Subject to section 8 of this chapter, a person found liable under other applicable law is liable under this chapter to the holder of a check if the person executed and delivered the check to another person drawn on or payable at a financial institution and the person does either of the following:

- (1) Without valid legal cause stops payment on the check.
- (2) Allows the check to be dishonored by a financial institution because of any of the following:
  - (A) Lack of funds.
  - (B) Failure to have an account.
  - (C) Lack of an authorized signature of the drawer or a necessary endorser."

***Cost and Fees***

IC 26-2-7-5 states: "A person liable under section 4 of this chapter is also liable for all of the following:

- (1) Interest at the rate of eighteen percent (18%) per annum on the face amount of the check from the date of the check’s execution until payment is made in full.
- (2) Court costs incurred in prosecuting an action that may be brought by the holder to collect on the check.
- (3) Reasonable attorney’s fees incurred by the holder if the responsibility for collection is referred to an attorney who is not a salaried employee of the holder. If legal action is filed to effect collection and the collection on the check is referred to an attorney who is not a salaried employee of the holder, the holder of the check is entitled to minimum attorney’s fees of not less than one hundred dollars (\$100).

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**BAD CHECKS**

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- (4) Actual travel expenses not otherwise reimbursed under subdivisions (1) through (3) and incurred by the holder to do either of the following:
  - (A) Have the holder or an employee or agent of the holder file papers and attend court proceedings related to the recovery of a judgment under this chapter.
  - (B) Provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter.
- (5) A reasonable amount to compensate the holder for time used to do either of the following:
  - (A) File papers and attend court proceedings related to the recovery of a judgment under this chapter.
  - (B) Travel to and from activities described in clause (A).
- (6) Actual direct and indirect expenses incurred by the holder to compensate employees and agents for time used to do either of the following:
  - (A) File papers and attend court proceedings related to the recovery of a judgment under this section.
  - (B) Travel to and from activities described in clause (A).
- (7) All other reasonable costs of collection."

***Liability for Continued Nonpayment***

IC 26-2-7-6 states:

"(a) This section does not apply to a person who has allowed a check to be dishonored because of lack of funds if both of the following apply:

- (1) The person reasonably believed that there were sufficient funds in the account to cover the check.
- (2) The insufficiency of funds is caused by the dishonoring of a third party check that had been deposited into the person's account.

(b) If a person liable under this chapter does not pay to the holder the full amount of the check not more than thirty (30) days after the certified mailing of written notice that the check has not been paid, the person is liable for, and the court shall award judgment for, the following, whichever applies:

- (1) If the face amount of the check is not greater than two hundred fifty dollars (\$250), three (3) times the face amount of the check.
- (2) If the face amount of the check is greater than two hundred fifty dollars (\$250), the face amount of the check plus five hundred dollars (\$500)."

***Remedies***

IC 26-2-7-7 states: "A person must elect whether to pursue a claim either under this chapter or under IC 34-24-3-1 (or IC 34-4-30-1 before its repeal)."

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**BAD CHECKS**  
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***Exemption***

IC 26-2-7-8 states:

"(a) A person who has allowed a check to be dishonored is not liable under this chapter if, not more than ten (10) days after the holder has given notice that the check has not been paid by the financial institution, the person pays to the holder the full amount of the check.

(b) A payment made under subsection (a) is effective for all purposes as of the date the payment is made."

Also, please be aware of IC 35-43-5-5 concerning check deception.

**CONFLICT OF INTEREST**

The State Board of Accounts hopes all public officials will avoid any situations whereby conflict of interest becomes a question. Due to their position of public trust, public servants should be extremely sensitive to any transactions that may cause concern of the taxpayers that either elected them or caused them to be appointed to or employed in a public office.

Please seek the written advice of your school corporation attorney if you have any questions relating to IC 35-44.1-1-4. The Uniform Conflict of Interest Disclosure Statement can be found on our website at <http://www.in.gov/sboa/2416.htm>.

**STATE BOARD OF ACCOUNTS YEAR END REPORTING**

***Report of Names, Addresses, Duties and Compensation of Public Employees (Annual Personnel Report - Form 100R) (IC 5-11-13)***

Every school corporation shall during the month of January of each year prepare, make, and sign a certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents in their respective offices, and the respective duties and compensation of each with the state board of accounts.

The report must indicate whether the school corporation offers a health plan, a pension, and other benefits to full-time and part-time employees. The report must be filed electronically through the State Gateway.

This report is a public record which shall be open to public inspection and examination. A school official who fails to file this report commits a Class C infraction and is subject to removal for neglect of duty.

The total compensation paid to all employees of the school corporation for the previous year should be reported. This includes part time, temporary, and seasonal employees. If a W2 was required to be issued, that person should be listed on the report. IRS Publication 15 has guidelines for determining if someone is an employee or a contractor. Elected officials, including board members, should be included.

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**STATE BOARD OF ACCOUNTS YEAR END REPORTING**

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For 2013, the school official must print and sign an Attestation Statement that certifies that the data is accurate to the best of their knowledge and belief. This must be mailed to our office within five days of submitting your report via Gateway. If you resubmit your report, you must print, sign and mail a new attestation form.

Correspondence regarding the report will be sent to the email address on file in the State Gateway. If there has been a change in school official or email address please send an email to [annualreport@sboa.in.gov](mailto:annualreport@sboa.in.gov) requesting an update of the school corporation's contact information.

**SOCIAL SECURITY TAX BASE CHANGES JANUARY 1**

Unless there is a change made by Congress, the 2014 contribution rate will not change. The current rate is at a total of 15.3 percent. (6.2% employer, 6.2% employee, 1.45% for the employer's share of Medicare and 1.45% for the employees share of Medicare.)

We further understand that the maximum amount of earnings that will be subject to Social Security contributions will increase from \$113,700 to \$117,000 effective January 1, 2014.

Please contact the Internal Revenue Service at 1-800-829-1040 if you should have questions on this matter.

**ATHLETIC OFFICIALS - INDEPENDENT CONTRACTOR OR EMPLOYEE**

We often receive inquiries regarding whether an athletic official is an employee of the school corporation or an independent contractor.

The determination whether athletic officials are employees or independent contractors can have important tax, liability, and labor ramifications. Generally, an employer must withhold income taxes, withhold and pay Social Security and Medicare taxes, and pay unemployment tax on wages paid to an employee. An employer does not generally have to withhold or pay any taxes on payments to independent contractors.

IHSAA considers athletic officials to be independent contractors. The IHSAA Officials Handbook states:

"Independent Contractor Status: IHSAA licensed officials are considered independent contractors and not employees of the IHSAA or member schools. As independent contractors, the official is entitled to remunerations for services rendered, but has no entitlements which may be available to an employee of the IHSAA or member schools."

The IRS has not made an official determination of whether athletic officials are employees or independent contractors. However, the IRS has ruled on this issue twice in Revenue Rulings.

In Revenue Ruling 57-119, the IRS held that college sports officials were employees of an athletic association composed of colleges and universities for federal employment tax purposes. The association selected, trained and assigned the officials and also required extensive reporting by the officials.

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**ATHLETIC OFFICIALS - INDEPENDENT CONTRACTOR OR EMPLOYEE**

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In Revenue Ruling 67-119, the IRS ruled that a group of high school officials were independent contractors and not employees of their own associations. The association provided training and assigned the officials games, but found that these acts were not enough to make the officials employees of their own association.

The IRS has provided the following guidance for determining if an individual is an independent contractor or employee on their website (<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Independent-Contractor-Self-Employed-or-Employee>):

***Common Law Rules***

Facts that provide evidence of the degree of control and independence fall into three categories:

1. **Behavioral**: Does the company control or have the right to control what the worker does and how the worker does his or her job?
2. **Financial**: Are the business aspects of the worker's job controlled by the payer? (these include things like how worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)
3. **Type of Relationship**: Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?

Businesses must weigh all these factors when determining whether a worker is an employee or independent contractor. Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. There is no "magic" or set number of factors that "makes" the worker an employee or an independent contractor, and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another.

The keys are to look at the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination.

***Form SS-8***

If, after reviewing the three categories of evidence, it is still unclear whether a worker is an employee or an independent contractor, [Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding](#) (PDF) can be filed with the IRS. The form may be filed by either the business or the worker. The IRS will review the facts and circumstances and officially determine the worker's status.

Be aware that it can take at least six months to get a determination, but a business that continually hires the same types of workers to perform particular services may want to consider filing the [Form SS-8](#).

If you classify an employee as an independent contractor and you have no reasonable basis for doing so, you may be held liable for employment taxes for that worker.

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**ATHLETIC OFFICIALS - INDEPENDENT CONTRACTOR OR EMPLOYEE**

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When the athletic official is also employed by the school corporation as a teacher or other employee of the school corporation, this should be disclosed on Form SS-8 and may result in a different determination by the IRS. In instances where an individual provides services in two separate roles to the same business, the IRS examines separately the relationship between the worker and the business for each performance of services. Just as with any examination of worker status, the IRS examines each relationship based on facts that fall into the three categories of evidence explained above—behavioral controls, financial controls, and relationship of the parties. If an employer-employee relationship is found with regard to performance of services for only one role of the worker, remuneration with regard to only those specific services is subject to all FICA and income tax withholding requirements under the Code. If an employer-employee relationship is found for both roles, then remuneration for all services performed by the worker for the business are subject to withholding requirements under the Code.

In conclusion, the determination can be complex and depends on the facts and circumstances of each case. If the IRS rules that a worker was wrongly classified as an independent contractor, there could be significant tax penalties imposed on both the employer and employee. We recommend that either the employer or employee file Form SS-8 in advance with the IRS, which will result in the IRS officially determining the proper worker classification for each circumstance.

**UNIFIED ACCOUNTING SYSTEM (IC 20-39-1-4)**

Indiana Code 20-39-1-4 requires the State Board of Accounts to prescribe a unified accounting system for charter school organizers. It further requires the accounting system to include a chart of accounts that will allow charter school organizers to adopt the accrual basis method of accounting. We have created the new accrual chart of accounts and made the appropriate updates to the "Accounting and Uniform Compliance Guidelines Manual for Indiana Charter Schools". The updated manual will be available in January on the SBOA website at <http://www.in.gov/sboa/3872.htm>.

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**PAYMENT OF ATHLETIC OFFICIALS**

The State Board of Accounts will not take exception to the payment of athletic officials using an online payment system with the following conditions:

1. The School Board must authorize the use of the online payment system through a resolution, which has been approved in the minutes.
2. The School Board must implement and insure that proper internal controls are in place.
3. The athletic director shall provide the ECA treasurer with a detailed list of athletic officials that have been scheduled to officiate each contest. A Purchase Order/Accounts Payable Voucher (SA-1) must be completed with a copy of the detailed list attached.
4. The ECA treasurer shall transfer the appropriate rate of payment for each official on the detailed list and the estimated transaction fees for the corresponding payments to the trust account.
5. After the officials have officiated a contest, the athletic director must validate that the contest was held and services were provided through the online payment system.
6. Once the contest has been validated by the athletic director, payments to the officials are initiated by the ECA treasurer through the online payment system.
7. The ECA treasurer shall print and retain a report of all payments and transaction fees paid from the trust account. This listing should be attached to the SA-1, supporting the disbursements from the trust account. Any payment without proper documentation may be the responsibility of that officer or employee.
8. The trust account must be reconciled by the ECA treasurer on a monthly basis.
9. The ECA treasurer is responsible for compliance with all rules, regulations, guidelines, and directives of the Internal Revenue Service and the Indiana Department of Revenue.
10. At the end of the school year, all funds remaining in the trust account must be receipted back into the extra-curricular Athletic Fund and deposited into the ECA bank account.

**AUDIT COORDINATION AND ADMINISTRATION  
OF AUDITS PERFORMED BY PRIVATE EXAMINERS**

The audits of charter schools may be initiated and administered by the State Board of Accounts; by state or local government funding agencies; or by the entities themselves. Audits may be performed by the State Board of Accounts or private examiners approved by the State Board of Accounts and hired by the charter school.

When the audits are performed by private examiners, coordination of these audits with the State Board of Accounts is required. Per IC 5-11-1-7, private examiners allowed engagements by the State Examiner are subject to the direction of the State Examiner. The following process is required for all audits performed by private examiners.



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**AUDIT COORDINATION AND ADMINISTRATION  
OF AUDITS PERFORMED BY PRIVATE EXAMINERS**

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**Request for Proposal**

The Charter School creates a Request for Proposal (RFP) for the annual financial, compliance and, if applicable, federal OMB Circular A-133 audit. Request for proposals must contain at least the required wording for contracts and shall be submitted for approval to the State Board of Accounts by email to [charterschools@sboa.in.gov](mailto:charterschools@sboa.in.gov) by April 15th.

**Audit Contract**

To obtain approval for a private examiner to audit under IC 5-11, the audit contract must be submitted to the State Board of Accounts, prior to signing. Contracts will not be approved if there is no reference to, or acknowledgement of, the responsibility of the State Board of Accounts in the audit process. For audit periods ending June 30, the audit contract shall be sent to the State Board of Accounts by email to [charterschools@sboa.in.gov](mailto:charterschools@sboa.in.gov) by September 15th.

**Draft Audit Report**

Upon completion of the financial audit report and supplemental report on compliance if applicable, the private examiner shall send the reports to the State Board of Accounts by email to [charterschools@sboa.in.gov](mailto:charterschools@sboa.in.gov) in an unlocked pdf, Microsoft Word, or Microsoft Excel document. A copy of the draft or final Data Collection Form is also required to be sent with the reports when the charter school has contracted for an audit under OMB Circular A-133.

The reports will be reviewed and approval returned to the private examiner via email. The reports shall not be issued until reviewed by the State Board of Accounts and approved by the State Examiner.

**Exit Conference**

When approval is received from the State Board of Accounts, the private examiner shall issue the reports to the charter school. The State Board of Accounts will be notified of the date, time, and place the results of the audit will be discussed with charter school officials (exit conference) at least 2 business days prior to the meeting by email to [charterschools@sboa.in.gov](mailto:charterschools@sboa.in.gov).

**Final Audit Report**

Audits performed by private examiners are to be completed and all required reports issued within 180 days after the close of the audit period.

The private examiner shall send a copy of the financial audit report, the supplemental audit report, as well as any separate communication to the entity's management, such as a management letter, in an unlocked pdf, Microsoft Word, or Microsoft Excel file to the State Board of Accounts through email to [charterschools@sboa.in.gov](mailto:charterschools@sboa.in.gov) within 10 business days of the report being issued by the private examiner.

Additionally, the private examiner is responsible, after State Board of Accounts approval, to file the report with federal awarding agencies and pass-through entities when an audit is performed in accordance with Government Auditing Standards and/or the Single Audit Act.

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**AUDIT COORDINATION AND ADMINISTRATION  
OF AUDITS PERFORMED BY PRIVATE EXAMINERS**

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**Quality Control Review**

Due to our oversight responsibility for audits performed in accordance with IC 5-11-1-9, a quality control review of a private examiner's work for sufficiency in scope and adequacy in quality may be performed at the State Examiner's discretion. In addition to a quality control review of the audit, we will evaluate findings of noncompliance for further action required of this department.

**Extensions**

Any requests for an extension of time must be made by emailing the State Board of Accounts at [charterschools@sboa.in.gov](mailto:charterschools@sboa.in.gov). The request shall include the reason an extension is needed and the amount of extra time being requested. Extensions may be granted by the State Board of Accounts for up to an additional 60 days. Requests for extension must be received no later than 30 days prior to the deadlines indicated above to be considered for approval. Extensions are not automatic; any request for an extension may be rejected by the State Board of Accounts. Any extension approval shall be in the form of a written response.

Failure to follow the process outlined above by the charter school or private examiner may result in a comment in the State Board of Accounts transmittal letter, rejection of future audit contracts with the private examiner, or the audit performed by the State Board of Accounts.

**UPDATE TO STATE BOARD OF ACCOUNTS CONTACT INFORMATION**

Our phone number has changed. When calling our office please use 317-232-2512.

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