

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 400

July 2016

REMINDER OF ORDER OF BUSINESS

July

- 4 Legal Holiday - Independence Day [IC 1-1-9-1]
 - 11 Distribute congressional interest to school corporations - second Monday. [IC 20-42-2-7]
 - 20 Last day to report and make payment of balance of State and County Income Tax withheld in the month of June to Indiana Department of Revenue.
 - 31 Last day to file quarterly unemployment compensation reports with Indiana Employment Security Division.
- Last day for county treasurer to mail demand notices to delinquent personal property taxpayers. [IC 6-1.1-23-1]

August

- 3-5 County Treasurer's Annual Conference – Clarksville
- 20 Last day to report and make payment of State and County Income Tax withheld in the month of July to Indiana Department of Revenue.

September

- 5 Legal Holiday - Labor Day. [IC 1-1-9-1]
- 20 Last day to report and make payment of State and County Income Tax withheld in the month of August to Indiana Department of Revenue.

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LOCAL INCOME TAX

There are numerous changes that take effect this year regarding Local Option Income Tax (LOIT). One of those changes is a name change and the tax is now referred to as Local Income Tax (LIT). Several memorandums have been sent out by the Department of Local Government Finance as well as presentations made by the department on the new statutes for local income tax. You can find the information on the DLGF website www.in.gov/dlgf.

One of the changes we would like to reiterate is the change in the accounting for the new local income tax revenues. In 2012, a memorandum had been issued requiring counties to account for CAGIT Certified Shares and COIT Distributive Shares in a separate fund and not comingle the revenue with property tax revenues. That requirement has changed as of 2017, Local Income Tax certified shares will be receipted into the General fund as Local Income Tax revenue. Some counties may have a balance in their CAGIT Certified Shares or COIT Distributive Shares funds. We will not take audit exception if the county decides to budget and disburse the remaining balance from the existing fund in 2017 or transfer the remaining balance to the General fund. Please note that for economic development and public safety the Local Income Tax revenue will continue to be accounted for in separate funds that were established under LOIT. Special Purpose Local Income tax revenue will also continue to be accounted for in a separate fund. The new Local Income Tax for property tax relief will continue to be accounted for in the settlement funds.

The joint memo from the State Board of Accounts and Department of Local Government Finance regarding the accounting for the new local income tax revenue is attached at the end of bulletin for further reference.

COURT COSTS - GOVERNMENTAL UNITS

IC 33-37-3-1 provides "(a) The fees prescribed in civil actions or paternity actions may not be collected from the state or a political subdivision in an action brought by or on behalf of the state or the political subdivision. (b) This section does not prevent the collection of fees from a defendant when the state or political subdivision is successful in its action."

The State Board of Accounts is of the audit position that the state and any of its political subdivisions (including school corporations) are not liable for costs as provided in IC 33-37-3-1 as stated above. Furthermore, Rule 54 of Trial Procedure provides in part (d) "Except when express provision therefore is made either in a statute or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs in accordance with any provision of law; but costs against any governmental organization, its officers, and agencies shall be imposed only to the extent permitted by law..."

We are not aware of any specific statutes imposing costs against any governmental organization. Finally, we believe the aforementioned audit position pertains to all actions filed in Circuit, Superior and County Court.

INSPECTION OF MOTOR VEHICLES PRIOR TO REGISTRATION

The following is the State Board of Accounts audit position in this matter. IC 9-17-2-12 concerns certificates of registration of any motor vehicle or recreational vehicle. This statute states in part:

(a) This section does not apply to the following:

- (1) A trailer or semitrailer.
- (2) A new motor vehicle or recreational vehicle sold by a dealer licensed under IC 9-32.
- (3) A vehicle transferred or assigned on a certificate of title issued by the bureau.
- (4) A vehicle that is registered under the International Registration Plan.

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INSPECTION OF MOTOR VEHICLES PRIOR TO REGISTRATION (Continued)

- (5) A vehicle that is titled in the name of a financial institution, lending institution, or insurance company in Canada and imported by a registered importer, if the registered importer provides:
- (A) a copy of the registered importer's validation agreement issued by the United State customs and border protection;
 - (B) a copy of the entry summary issued by the United States customs and border protection (CBP form 7501); and
 - (C) a vehicle history report issued by an independent provider of vehicle history information that includes the vehicle's title information, odometer readings, and number of owners.
- (6) A vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, an insurance company, a vehicle rental company, a vehicle leasing company, or a lessee of a vehicle leasing company if the financial institution, lending institution, insurance company, vehicle rental company, vehicle leasing company, or lessee of a vehicle leasing company:
- (A) provides a vehicle history report issued by an independent provider of vehicle history information that includes the vehicle's:
 - (i) title information;
 - (ii) odometer readings; and
 - (iii) number of owners; and
 - (B) maintains a copy of all documentation required under this subsection for at least ten (10) years.
- (7) A vehicle that is purchased in another state and titled in Indiana by a vehicle rental company or a vehicle leasing company if the vehicle rental company or vehicle leasing company:
- (A) provides a vehicle history report issued by an independent provider of vehicle history information that includes the vehicle's:
 - (i) title information;
 - (ii) odometer readings; and
 - (iii) number of owners; and
 - (B) maintains a copy of all documentation required under this subsection for at least ten (10) years.
- (b) Subject to subsection (d), an application for a certificate of title for a vehicle may not be accepted by the bureau unless the vehicle has been inspected by one (1) of the following:
- (1) An employee of a dealer licensed under IC 9-32.
 - (2) A military police officer assigned to a military post in Indiana.
 - (3) A police officer.
 - (4) A designated employee of the bureau.
 - (5) An employee of a qualified person operating under a contract with the commission.
- (c) A person described in subsection (b) inspecting a vehicle shall do the following:
- (1) Make a record of inspection upon the application form prepared by the bureau.
 - (2) Verify the facts set out in the application.

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INSPECTION OF MOTOR VEHICLES PRIOR TO REGISTRATION (Continued)

(d) The bureau may accept an inspection performed by a police officer from a jurisdiction outside Indiana if the bureau determines that an inspection performed by an individual described in subsection (b) is unavailable or otherwise insufficient to complete an application for a certificate of title.

(e) A police officer who makes an inspection under this section may charge a fee, subject to the following:

- (1) The fee must be established by ordinance adopted by the unit (as defined in IC 36-1-2-23) that employs the police officer.
- (2) The fee may not exceed five dollars (\$5).
- (3) The revenue from the fee shall be deposited in the following manner:
 - (A) A special vehicle inspection fund if the police officer making the inspection is a member of the county sheriff's department. The fiscal body of the unit must appropriate the money from the inspection fund only for law enforcement purposes.
 - (B) A local law enforcement continuing education fund established by IC 5-2-8-2 if the police officer making the inspection is a member of a city or town police department, a town marshal, or a town marshal deputy.

In the enabling ordinance, it is further suggested a procedure for handling the fees be established similar to those prescribed by the State Board of Accounts for accident report copy fees and handgun license applications and/or transfers, as follows:

- (1) Issue a receipt, Sheriff's Receipt No. 133, for each fee collected.
- (2) Remit receipts to the county auditor once each month, on the Monthly Report of Collections (County Form No. 362).
- (3) The county auditor shall receipt the collections into the Vehicle Inspection Fund (Fund 1208).

COUNTY ECONOMIC DEVELOPMENT INCOME TAX (CEDIT) – CAPITAL IMPROVEMENT PLAN

A county may use revenue allocated for economic development purposes under IC 6-3.6-6-9 for any combination of the following purposes: (IC 6-3.6-10-2)

- (1) To pay all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project.
- (2) For the retirement of bonds for economic development projects.
- (3) For leases or for leases or bonds entered into or issued before the date the county economic development income tax (IC 6-3.5-7 repealed) was imposed if the purpose of the lease or bonds would have qualified as a purpose under this article at the time the lease was entered into or the bonds were issued.
- (4) The construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8.
- (5) The retirement of bonds issued under any provision of Indiana law for a capital project.
- (6) The payment of lease rentals under any statute for a capital project.
- (7) Contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects.
- (8) Operating expenses of a governmental entity that plans or implements economic development projects.
- (9) Funding of a revolving fund established under IC 5-1-14-14.

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COUNTY ECONOMIC DEVELOPMENT INCOME TAX (CEDIT) – CAPITAL IMPROVEMENT PLAN (Continued)

- (10) For a regional venture capital fund or a local venture capital fund.
- (11) By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.

An economic development project is any project that the county, city, or town determines will promote significant opportunities for the gainful employment of its citizens, attract a major new business enterprise to the unit, or retain or expand a significant business enterprise within the unit and involves an expenditure for the acquisition of land, interests in land, site improvements, infrastructure improvements, buildings, structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, facilities, administrative expenses associated with such a project, operating expenses of a governmental entity that plans or implements economic development projects, and substance removal or remedial action, or any combination of these. (IC 6-3.6-2-8)

The executive of a county, city, or town may adopt a capital improvement plan specifying the uses of the additional revenue to be allocated for economic development purposes.

If designation is made, the county treasurer shall transfer the share or part of the share to the designated unit unless the unit does not have a capital improvement plan. A county, city, or town that fails to adopt a capital improvement plan may not receive its fractional amount of the additional revenue or any amount designated for the year or years in which the unit does not have a plan. The county treasurer shall retain the amounts not distributed for such a unit in a separate account until the unit adopts a plan. Interest on the separate account becomes a part of the account. If a unit fails to adopt a plan for a period of three (3) years, then the balance in the separate account shall be distributed to the other units in the county in the same manner that other additional revenue allocated for economic development purposes is distributed.

A capital improvement plan must include the following components:

- (1) Identification and general description of each project that would be funded by other additional revenue allocated for economic development purposes.
- (2) The estimated total cost of the project.
- (3) Identification of all sources of funds expected to be used for each project.
- (4) The planning, development, and construction schedule of each project.

A capital improvement plan must encompass a period of no less than two (2) years and must incorporate projects the cost of which is at least seventy-five percent (75%) of the fractional amount of additional revenue allocated for economic development purposes that is expected to be received by the county, city, or town in that period of time.

In making a designation, the executive must specify the purpose and duration of the designation. If the designation is made to provide for the payment of lease rentals or bond payments, the executive may specify that the designation and its duration are irrevocable. (IC 6-3.6-6-9.5)

CEDIT funds must be appropriated by the county council prior to expenditure, and may only be used for those items included in the capital improvement plan.

CLERK - RECORDING BAIL BONDS

The State Board of Accounts has always advised clerks of the circuit court to be cognizant of the Indiana Bail Law which may be found in IC 27-10. Accordingly, IC 27-10-2-10(a) provides in part, "Recognizances for the appearance of prisoners shall in all cases and in all courts be in writing, be taken with at least one (1) resident freehold surety or be secured by a surety company, and be substantially in the following form: . . ." A recognizance form is then illustrated.

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CLERK - RECORDING BAIL BONDS (Continued)

Also, please be advised, IC 27-10-2-11 provides in part "Such recognizance, together with a transcript of the proceedings and all papers in the case, shall be filed forthwith with the clerk of the proper court, who shall docket the cause and record such recognizance forthwith and enter it on the judgment docket . ."

RECORDER – REDACTING OF SOCIAL SECURITY NUMBERS

IC 36-2-11-15((c-d) requires a preparer's statement and affirmation statement in the following form be included on the instrument:

"This instrument was prepared by (name)."

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (name)"

The law does not stipulate where the affirmation statement is to be located, however, we have recommended that the affirmation statement be located near (either before or after) the preparer's statement. We would not take exception if the preparer included the statement on a separate page and paid the recording fees for the additional page or combined the affirmation with the preparer's statement.

IC 36-2-11-15(a) states that the affirmation statement is applicable to any instrument **except**:

- (1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;
- (2) a judgment, order or writ of a court;
- (3) a will or death certificate;
- (4) an instrument executed or acknowledge outside Indiana; or
- (5) a federal lien on real property or a federal tax lien on personal property, as described in IC 36-2-11-25

Please note that instruments executed or acknowledged (notarized) outside of Indiana are not required to contain the affirmation statement.

Maps, plats, and surveys would typically be required to contain the affirmation statement. We have determined that UCC filings would not need to contain the statement because it is not possible to determine whether the document was executed or acknowledged in Indiana. We have also been asked whether the affirmation statement would be applicable to military discharged paperwork (DD214). The DD214 is required to contain the person's social security number, therefore, would not be required to be redacted. The Recorder may receive for record or filing an instrument only if all social security numbers in the document are redacted, **unless the social security number is required by law** (IC 36-2-11-15(b)). Again, all documents unless specifically exempted (above) are required to contain the affirmation statement.

QUESTIONS AND ANSWERS FROM RECENT CONFERENCES

COUNTY RECORDERS ANNUAL CONFERENCE:

Question #1: What is the IC code for public official being a Notary Public?

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Answer # 1: IC 33-42-2-7 states: (a) For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, notary public is not a lucrative office. (b) A person who is a public official, or a deputy or appointee acting for or serving under a public official, may not make any charge for services as a notary public in connection with any official business of that office, or of any other office in the governmental unit in which the person serves unless the charges are specifically Indiana Code 2015 authorized by a statute other than the statute that establishes generally the fees and charges of notaries public. As added by P.L.98-2004, SEC.21. Amended by P.L.135-2012, SEC.5

Question #2: When should a business file an Assumed Business Name in our office and when should the business file with the State? In short, what is the difference of the two?

Answer #2: *The code site is IC 23-5-15-1 and it states:*
Except as otherwise provided in IC 23-15-1-2, **a person or general partnership** conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person or general partnership conducting or transaction such business **shall file for record, in the office of the recorder of each county** in which the place of business or an office of the person or general partnership is situated, a certificate stating the assumed name or names which they intend to use in carrying on their businesses as shown by the certificates.

Except as provided in IC 23-15-1-2: (1) **a corporation** conducting business in Indiana under a name, designation, or title other than the name of the corporation as shown by its articles of incorporation; (2) **a foreign corporation** conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for certificate of authority to transact business in Indiana; (3) **a limited partnership** conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its certificate of limited partnership; (4) **a foreign limited partnership** conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration; (5) **a limited liability company** conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization; (6) **a foreign limited liability company** conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration; (7) **a limited liability partnership** conducting business in Indiana under a name designation, or title other than the name of the limited liability partnership as shown by its application for registration; and (8) **a foreign limited liability partnership** conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration; **shall file with the secretary of state**, a certificate stating the assumed name or names to be used, and, the full name and the address of the corporation's, limited partnership's, limited liability company's or limited liability partnership's foreign or domestic principal office in Indiana.

Question #3: Can the county take money out of the perpetuation fund without permission?

Answer #3: IC 36-2-7-10 on the Recorder's fees directs the fees that are to be placed into the record perpetuation fund and the statute also states that money from the fund may not be deposited or transferred into the county general fund and does not revert to the general fund. Money may not be transferred from one fund to another unless there is statutory authority to do so. Our audit position is that no funds should be transferred out of the record perpetuation fund for any reason. The Recorder would initiate the claims to be paid out of the record perpetuation fund based on the statutory purpose of the fund-preservation of records and maintenance of the record keeping system and equipment. The Recorder does not need an appropriation from the Council to use the Record Perpetuation fund per statute.

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Question #4: I believe we are not charging the correct amount for UCC filings. There appears to be differences between the Recorder's statutory fee schedule and what is reflected in the UCC code. What fees should we be charging?

Answer #4: UCC filings are financing statements and the fee for filing those statements is found in IC 26-1-9.1-525. The Recorder's statutory fee schedule does not include UCC filing fees and the fees established by IC 36-2-7-10 do not apply to UCC filings.

IC 36-2-7-10 documents the county recorder's fees as follows: "(a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder. (b) The county recorder shall charge the following: (1) Six dollars (\$6) for the first page and two dollars (\$2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches. (2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches. (3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar (\$1) for marginal mortgage assignments or marginal mortgage releases. (4) One dollar (\$1) for each cross-reference of a recorded document. (5) One dollar (\$1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records and two dollars (\$2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches. Indiana Code 2015 (6) Five dollars (\$5) for acknowledging or certifying to a document. (7) Five dollars (\$5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 21-47-3-3 or IC 36-2-12-11(e). (8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine. (9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine. (10) A supplemental fee of three dollars (\$3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document. (11) Three dollars (\$3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows: (A) Fifty cents (\$0.50) is to be deposited in the recorder's record perpetuation fund. (B) Two dollars and fifty cents (\$2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3. (12) This subdivision applies in a county only if at least one (1) unit in the county has established an affordable housing fund under IC 5-20-5-15.5 and the county fiscal body adopts an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of: (A) two dollars and fifty cents (\$2.50) for the first page; and (B) one dollar (\$1) for each additional page; of each document the recorder records. (13) This subdivision applies in a county containing a consolidated city that has established a housing trust fund under IC 36-7-15.1-35.5(e). The county fiscal body may adopt an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of: (A) two dollars and fifty cents (\$2.50) for the first page; and (B) one dollar (\$1) for each additional page; of each document the recorder records. (c) The county recorder shall charge a two dollar (\$2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6. (d) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under section 10.1 of this chapter, subsection (b)(5), (b)(8), (b)(9), and (b)(10), and IC 36-2-7.5-6(b)(1), and fifty

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Answer #4 (Continued):

cents (\$0.50) from revenue received under subsection (b)(11), shall be deposited in this fund. Except as provided in section 10.2 of this chapter, the county recorder may use any money in this fund without appropriation for: (1) the preservation of records; and (2) the improvement of record keeping systems and equipment; within the control of the county recorder. Money from the fund may not be deposited or transferred into the county general fund and does not revert to the county general fund at the end of a fiscal year. (e) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

IC 26-1-9.1-525 documents the UCC fees as follows: "(a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under IC 26-1-9.1-501 through IC 26-1-9.1-527, other than an initial financing statement of the kind described in IC 26-1-9.1-502(c), is: (1) four dollars (\$4) if the record is communicated in writing, including by facsimile, and consists of one (1) or two (2) pages; (2) eight dollars (\$8) if the record is communicated in writing, including by facsimile, and consists of more than two (2) pages; and (3) no fee if the record is communicated by electronic filing. (b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in IC 26-1-9.1-502(c) is: (1) eight dollars (\$8) if the financing statement indicates that it is filed in connection with a public-finance transaction; and (2) eight dollars (\$8) if the financing statement indicates that it is filed in connection with a manufactured-home transaction. (c) The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is: (1) five dollars (\$5) if the request is communicated in writing, including by facsimile; and (2) no fee if the request is communicated electronically. (d) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a Indiana Code 2015 fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under IC 26-1-9.1-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply."

You may also refer to the Secretary of State or their publications on UCCs.

Question #5: When was the County Surveyor's Corner Perpetuation Fund created?

Answer #5: IC 36-2-12-11 states that the county surveyor shall keep and maintain a corner record book. The statute continues to prescribe what the corner record book must contain. (Interesting note is that the corner record book used to be kept in the Recorder's office until statute changed to allow the surveyor to keep it in his/her office) IC 36-2-12-11 also states that any money in the county surveyor's corner perpetuation fund collected under IC 36-2-7-10 or IC 36-2-19 may be appropriated in the manner provided by law for the purposes of this section. This section was added in 1980. Our resource staff found an article on Methods of Perpetuation of Indiana's Section Corners and it references the Perpetual Corner Records Act of 1965, however it doesn't state if there was a Corner Perpetuation Fund created at that time.

Question #6: Do we still have to fill out the CAR report? I've found other Recorders that do not fill out this anymore.

Answer #6: The CAR is now called the Annual Financial Report (or AFR). Supplemental reports are still required from any office or department with trust funds or separate funds (such as the Sheriff's Commissary) that are not part of the County's fund ledger. Those supplemental reports are needed to ensure that the Annual Financial Report is accurate. Originally we had directed the Recorder's office complete a supplemental report but we later determined that the report is not needed as all of the collections of the Recorder flow into the County's Fund

ledger and reporting it as a separate fund reports those collections twice. So the answer is

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Answer #6: (Continued)

no the Recorder does not need to complete a supplement financial report each year. . This was also discussed in January 2014 Bulletin.

Question #7: What amount does the statue allow for Non-Sufficient Funds?

Answer #7: IC 35-43-5-5 on check deception does state that service fee or charge may not exceed the greater of \$27.50 or 5% of the amount due not more than \$250. Also, IC 26-2-7-5 explains the recourse for collecting the amount of the check and any addition collection costs. You should have an ordinance establishing your county policy and fee for processing returned checks.

If the county chooses to purse collection by the procedures listed in IC 26-2-7, any amounts collected over the face amount of the check would be receipted to the General Fund. Bank service charged may be paid to the treasurer along with the bad check at the time or reimbursement by the general fund or since money is already out of the bank account, the county auditor may post a disbursement in the general fund for the service fee. No check is written.

Question #8: Is there a requirement for each county to have a materiality policy in place?

Answer #8: Yes, State Examiner Directive 2015-6 (amended April 7, 2016) outlines the materiality threshold requirements for reporting irregular variances, losses, and thefts. The directive may be found on the SBOA website at <http://www.in.gov/sboa/4488.htm>.

Question #9: I have reconciled to the same cash long every month for the last several months, what should I do with the extra funds?

Answer #9: This should be discussed with the SBOA field staff when they perform your next audit. The field examiners can review you records and determine what steps should be taken to resolve this situation.

Question #10: Who should be bonded in the recorder's office? Who is responsible?

Answer #10: Indiana Code 5-4-1-18(a)(7) states that bonds are required for individuals "(A) who are employees or contractors of a city, town, county, or township; and (B) whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, the state, a political subdivision, or another governmental entity."

The political subdivision must determine who must be bonded under the statute. The term "official duties" is not defined. It is our position that "official duties" may include duties set forth in a job description, duties that are customary or routinely performed, or duties that are assigned but not frequently performed. For example, if an office has eight employees who routinely accept payments at the clerk's counter, then all eight employees must be bonded. If an employee is assigned to accept certain registration fees but only receives funds once every other year, then that employee must be bonded.

There is no dollar threshold or *de minimis* exception in the statute. Thus, it is our position that all employees and contractors whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to public funds—regardless of the dollar amount—are required to be bonded. For example, if an office employee who, as part of her official duties, receives \$5.00 per year for microfilm copies, then she is required to be bonded. [The County

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Question #11: Are there rules for reimbursements for mileage or personal funds used to pay for office supplies?

Answer #11: The county should have a travel reimbursement policy that addresses what constitutes business related travel and the process for claiming reimbursement. The County Bulletin, Vol. No. 393, Page 10, sets out the SBOA audit position regarding reimbursements made by local units to their officers and employees.

Question #12: Is there restrictions on either the Assessor's or Recorder's office making changes to a Sales Disclosure upon permission from the company or person submitting the Sales Disclosure?

Answer #12: For questions related to Gateway Sales Disclosure Form (SDF) please contact the Department of Local Government and Finance GatewaySDF@dlgf.in.gov. You can also visit www.dlgf.in.gov

Question #13: Why is the E-Recording fee required to go into the Enhanced access fund and not the perpetuation fund?

Answer #13: **IC 5-14-3-8.3 Enhanced access fund; establishment by ordinance; purpose**

(a) The fiscal body of a political subdivision having a public agency that charges a fee ...shall adopt an ordinance establishing an enhanced access fund. The fund shall be administered by the public agency or officer designated in the ordinance or resolution. Money in the fund must be appropriated and expended in the manner authorized in the ordinance. (b) The fund is a dedicated fund with the following purposes: (1) The replacement, improvement, and expansion of capital expenditures. (2) The reimbursement of operating expenses incurred in providing enhanced access to public information.

The county treasurer shall establish a recorder's records perpetuation fund. All revenue received ... shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of recordkeeping systems and equipment. Money from the fund may not be deposited or transferred into the county general fund.

As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

Question #14: Can copy fees be collected from the county museum?

Answer #14: The county recorder may not tax or collect any fee for:
(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or
(2) performing any service under any of the following:
(a) IC 6-1.1-22-2(c). County surveyor
(b) IC 8-23-7. Real Property Transactions
(c) IC 8-23-23. Real Property Transactions
(d) IC 10-17-2-3. County Recording of Military Discharge
(e) IC 10-17-3-2. Copies necessary to secure benefits to military personnel
(f) IC 12-14-13. Supplemental Assistance to the Aged
(g) IC 12-14-16. Supplemental Assistance to the Aged

The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes. [IC 36-2-7-10]

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Answer #14: (Continued)

IC 32-28-3-3 provides a charge of two dollars (\$2.00) for mailing, first class, a Mechanics Lien Notice for each notice that is mailed.

COUNTY AUDITORS ANNUAL CONFERENCE:

Question #1: How long do W-4's need to be retained for employees who no longer work for the County?

Answer #1: IRS publication 583 states, "*Employment taxes. If you have employees, you must keep all employment tax records for at least 4 years after the date the tax becomes due or is paid, whichever is later. For more information about recordkeeping for employment taxes, see Publication 15.*"

Question #2: Is there a preference or requirement on using blue ink vs black ink?

Answer #2: According to IC 36-2-17-2, black ink shall be used.

Question #3: We are re-evaluating positions within the County for a variety of reasons, and believe the Sheriff's bookkeepers have been treated a Class II when perhaps they should not have been. Are all Sheriff's department employees considered class II regardless of their title? Is this guided by the County or by state statute? If the bookkeepers have been treated as Class II as far as sick days, vacation days, etc does that mean their classification should not be changed?

Answer #3: Classifications of Sheriff's dept employees are addressed in IC 36-8-10-10 which states:

Police officers; classification of ranks, grades, and positions; appointments

(a) Except for the position of chief deputy, the position of prison matron, and in a county with a population of more than fifty thousand (50,000), temporary administrative ranks or positions established and appointed by the sheriff, the sheriff, with the approval of the board, shall establish a classification of ranks, grades, and positions for county police officers in the department. For each rank, grade, and position established, the sheriff, with the approval of the board, shall:

(1) set reasonable standards of qualifications; and

(2) fix the prerequisites of:

(A) training;

(B) education; and

(C) experience.

Question #4: If a salaried county employee is also on a Committee/Board (outside normal business hours) that meets regular say 4 times a year with pay of \$ 20.00 per meeting totaling \$80.00 per year. (Currently paying through AP Fund/Non-Budgeted Expenditures). Do these employees need to fill out a W-9 for taxing with 1099, go through payroll, or something different?

Answer #4: *Compensation paid to a county employee for serving on a committee or board should be paid through the payroll system and included on a W-2. If you have any additional questions please contact the IRS.*

Question #5: Does every person need to submit a timesheet? For example: Elected officials, Sheriff's first deputy, Jail matron, Deputy Prosecutor, Deputy Public Defenders, and departments exempt from overtime. If a timesheet is not required, what is the rule of thumb for requiring them?

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- Answer #5:** The Board of Accounts position related to time records is documented in Indiana Code 5-11-9-4 which states:
- (a) *The state board of accounts is hereby authorized to prescribe the forms of accounts and vouchers provided for by sections 1 and 2 of this chapter.*
 - (b) *The state board of accounts shall require that records be maintained showing which hours were worked each day by officers and employees:*
 - (1) *covered by section 1 or 2 of this chapter; and*
 - (2) *employed by more than one (1) public agency or in more than one (1) position by the same public agency described in section 1 or 2 of this chapter.*

- Question #6:** If a county employee works the polls for election (2 days per year) can they still be paid through A/P or do they have to be paid through payroll?

- Answer #6:** It will depend on a few things. If the election worker is also a county employee, then the wages should be paid through payroll. If not, then it will depend on the total amount the election worker will be paid for the calendar year. According to IRS guidelines, if the election worker will be paid \$600 or more during the calendar year the county is required to issue the worker a W-2 for those wages. Therefore, the wages would need to run through the county's payroll system to ensure the correct reporting on a W-2. If the wages are less than \$600 for the calendar year, the county would not be required to issue the worker a W-2 and the wages would not have to run through the payroll system. Please keep in mind that election wages are still considered income to the worker and the worker is required to report those wages on their income tax return. So even though a W-2 is not required, the county could still pay the worker through the payroll system and issue a W-2. Amounts paid to individuals who provide election worker services and non-election worker services can be reported on separate W-2 forms. The IRS rules over the treatment of pay to poll workers are discussed in detail in an IRS publication that can be viewed at <https://www.irs.gov/government-entities/federal-state-local-governments/election-workers-reporting-and-withholding>.

An excerpt of this publication states, "Election workers are individuals hired by government entities to perform services at polling places in connection with national, state and local elections. An election worker may be referred to by other terms and titles, for example, poll worker, moderator, machine tender, checker, ballot clerk, voting official, polling place manager, absentee ballot counter or deputy head moderator. These workers may be employed by the government entity exclusively for election work, or may work in other capacities as well. Compensation paid to election workers is includible as wage income for income tax purposes, and may be treated as wages for Social Security and Medicare (FICA) tax purposes."

- Question #7:** Should claims and payroll voucher be signed by the Auditor prior to going to the Commissioner's meeting or is it appropriate to just file stamp?

- Answer #7:** We believe the board approval should occur after the claim has been audited by the Auditor's office. The claims and payroll voucher should be signed by the Auditor prior to going to the Commissioners
- IC 5-11-10-2 states in part:
- (a) Claims against a political subdivision of the state must be approved by the officer or person receiving the goods or services, be audited for correctness and approved by the disbursing officer of the political subdivision, and, where applicable, be allowed by the governing body having jurisdiction over allowance of such claims before they are paid. If the claim is against a governmental entity as defined in section 1.6 [IC 5-11-10-1.6] of this chapter, the claim must be certified by the fiscal officer.

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Question #8: If the highway department scans in and saves their stone tickets, do they still have to bring them to the Auditor's office? Can they then discard the original stone tickets?

Question #9: We scan in all of our claims after they have been processed. Do we have to keep the hard copies or is the scanned in copy sufficient enough?

Question #10: We scan and save a copy of each quietus, along with keeping a copy of the quietus drawer and copy in a binder. Do we have to keep the hard copy if it has been saved in our computer? We also save the end of day report for quietus in the computer. Do we have to maintain a hard copy of the eod report?

Answer #8-10: The maintenance of records via electronic media is addressed in the April 2014 County Auditors Bulletin which states:

"All transactions that occur in the accounting system must be recorded and accessible upon proper request. Transactions can be maintained electronically, with proper backups, microfilmed, or printed on hardcopy. These transactions include, but are not limited to, all input transactions, transactions that generate receipts, transactions that generate checks, master file updates, and all transactions that affect the ledgers in any way. The system must be designed so that changes to a transaction file cannot occur without being processed through an application. The ability must not exist to change data after it is posted. If an error is discovered after the entry has been posted, then a separate correcting entry must be made. Both the correcting entry and the original entry must be maintained."

However, you will want to contact the Indiana Archives and Records Administration (IARA) for appropriate guidance on sufficient preservation of records.

Question #11: How do the new Department of Labor Overtime laws in effect Dec 1 affect Auditor's chief deputies making less than the \$ 47,000 threshold? They now get overtime pay.

Answer #11: Fair Labor Standards issues are very complex and should be referred to your County Attorney for guidance. For more information, contact the U.S. Department of Labor at **1-866-487-2365** or visit their website at www.dol.gov.

Question #12: Can DLGF please work with SBOA or state legislature so we don't have to send Form 22's similar to NAV's now since all will be in Gateway and that is official method for DLGF?

Answer #12: The Board of Accounts works with the DLGF regularly to attempt to coordinate the reporting requirements of our two agencies. The information provided on Form 22's need to be communicated to the local units along with the amount paid. Form 22's can be send electronically. (I believe Fred was asked this question yesterday and his response was that the County still needs to provide Form 22 to the local units at this time.)

Question #13: Can you itemize the SBOA invoices submitted to the Auditor's Office for payment of audits for the individual government entities, rate of pay and hours worked on audits?

Answer #13: We are working on providing more details in our billing. In the meantime if there are concerns about billing please contact our office at 317-232-2513.

Question #14: The manual states that an inventory should be performed every 2 years. What dollar amount do you recommend for the threshold on this? I am not referring to the fixed asset threshold, but inventory.

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Answer #14: Inventory thresholds should be addressed in a policy that should be determined by the commissioners and either passed as a policy or at a minimum entered into the board minutes. Thresholds are different for each unit and depend on qualitative and quantitative factors. Each entity has to determine what is material to their entity.

Question #15: Our County Council & Commissioner meetings are videotaped and available online. Will this video tape suffice as a meeting minutes? The video is all inclusive and some meeting minutes are very poor. This would save much time that could be used for other tasks.

Answer #15: IC 36-2-2-11 states, "(a) The county auditor shall attend all meetings of, and record in writing the official proceedings of, the executive."

Question #16: What type of information can we require of vendors? i.e. TID, Fed ID, Bank info for ACH payment, Registered w/ Secretary of State, State ID, Copy of Bond?

Answer #16: A vendor doing business with the County should be requested to complete a federal form W-9 to provide the information necessary to prepare a form W-9. This information would include

1. Business name
2. Business Organizational Structure
3. Address
4. Taxpayer Identification or Employer Identification number

Additionally, if the vendor has agreed to ACH payment you would be able to request the necessary bank information to process the payment. Beyond this we know of no need for further information. The biennial business filing with the Secretary of State can be confirmed at their website for any business organized in Indiana.

Question #17: Should HR duties be separated from the Auditors' office payroll duties? Should it be it's own department?

Answer #17: The establishment of a Human Resource department is a county decision that should be based on the needs of the county.

Question #18: Our County applies for many grants thru EMA, Probation, Health, etc. Is it allowable to require that they request administration fees for the Auditors office? We manage and maintain the funds we should be able to receive reimbursement. If this is allowable is there a specific fund that the administrative fee would have to be put in?

Answer #18: It is allowable to request administration fees as long as it is an allowable cost from that particular grant. However it must be approved in the grant budget by the Grantor agency prior to the actual request.
A claim should be submitted against the grant funds for the administration expenses and then receipted into the fund where back into the fund the original administration expenses were paid from.

Question #19: Can court employees salaries be mandated by the judges? Or are they to be included in the salary ordinance adopted by the council?

Answer #19: Court employees salaries could be mandated by the judge through a court order. Of course, it would still be preferable that the wages are included in the salary ordinance. However, in the absence of a court order, the salaries should be included the salary ordinance.

Question #20: This question is related to the LOIT Special Distribution....Does the County's 25% have to stay in the Rainy Day or can it be transferred to another fund through the claims process? (Example – Council wants to pay for a narcotics officer with some of this money. Do I transfer or pay directly from Rainy Day?)

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Answer #20: If the County's Rainy Day Fund ordinance allows for this type of expenditure (pay for a narcotics officer), the payroll could be made directly from the Rainy Day Fund. If the Rainy Day Ordinance does not allow for this type of expenditure, the Commissioners can amend the Rainy Day Ordinance to allow this expense. As an added note, the 25% of the Special Distribution that is not restricted, may be placed in the general fund or a home rule fund.

Question #21: We have had a few taxpayers tell us the IRS is recharging them for State Income Taxes and that we need to recharge them for ineligible homestead. Should we go ahead and charge them? We usually let them prove their principle place of residence before we recharge them.

Answer #21: The situation appears to be that the taxpayer has a homestead deduction showing residence in a county in Indiana, but did not file an Indiana State tax return. They want to correct the county records and have the homestead deduction removed. So how do you determine if they were entitled to the homestead deduction during the years in question?
Per DLGF, the deduction is optional so the taxpayer can ask that it be removed or waived for one or more years. However, the ineligible homestead deduction assumes that the auditor has determined that a property is ineligible, so the auditor would still need to make a determination as to the property's ineligibility for a homestead deduction. So, the auditor may require the taxpayer to prove their principle place of residence before recharging them for the ineligible homestead deduction.

Per the Department of Revenue, if claiming the homestead deduction is one of the only substantive connections a taxpayer has to Indiana, the Department of Revenue often agrees to sustain their protest of the imposition of State income tax if the taxpayer does remove the homestead deduction and pays the additional tax and penalty for an ineligible homestead deduction. They may not claim a homestead deduction and also report to DOR that they do not live in Indiana and therefor are not required to pay state income taxes.

Question #22: Are typed signatures sufficient for claim vouchers? How about stamped signatures?

Answer #22: The State Board of Accounts is often asked to approve the use of rubber stamps or other devices for affixing facsimile signatures of public officials on claims, warrants, and other official documents. The decision as to whether or not the number of documents to be signed justifies the use of a rubber stamp or other device for affixing his/her signature must be made by each official. Since each official is responsible for his/her signature, a rubber stamp or other signing device should be used only under the closest personal direction of the official and must be properly safeguarded when not in use.

Question #23: We have a property that split into two new owners. For pay 2017, when the property is being billed under the parent parcel, both new owners are eligible to receive the mortgage deduction for their portions of the parent parcel. Our software company allows only one mortgage deduction per parcel. How do we decide which purchaser is allowed the deduction?

Answer #23: Each new owner would qualify for a mortgage deduction. Your software company should be able to establish a new parcel for each new owner. For additional information on deductions, you should check with DLGF.

Question #24: Does a court order serve as (adequate documentation) for a claim?

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Answer #24: While a court order may serve as the legal authority to pay a claim Indiana code 36-2-6-2 states, "A person who has a claim against a county shall file an invoice or a bill with the county auditor. We would be of the opinion that the court order would still need to include the appropriate invoices supporting the claim. In another words the court should follow the same process as any other dept. However, if the court refuses we will not tell you to ignore a court order. If this is the case, document that you have tried to have the court follow the appropriate process and that they refused...any exception would then be placed on the court.

Question #25: Are there any plans in the works to reallocate the work load of the BMV to an agency better qualified and equipped to get reports on the FTP site in a timelier manner? If not, are there any plans to completely revamp the existing BMV? At the very least, is there anyone over the BMV that has the authority to direct them to respond to emails and telephone calls?

Question #26: Why is it taking so long to get the boat excise files? We received the money for March but still have no files. We need this to do June Settlement. It's like this each Month.

Question #27: Can the BMV please issue the watercraft, aircraft excise timelier? I was ready to do settlement May 16, but am still waiting for the March excise.

Answer #25-27: In the Auditor of State presentation, it was discussed that AOS was working with BMV to get the excise tax distributions and reports issued timely. They had not been aware of the significant time delays.

Question #28: Do we have to keep copies of voided checks if we scan them in and save them on our computers?

Answer #28: The maintenance of records via electronic media is addressed in the April 2014 County Auditors Bulletin which states,

"All transactions that occur in the accounting system must be recorded and accessible upon proper request. Transactions can be maintained electronically, with proper backups, microfilmed, or printed on hardcopy. These transactions include, but are not limited to, all input transactions, transactions that generate receipts, transactions that generate checks, master file updates, and all transactions that affect the ledgers in any way. The system must be designed so that changes to a transaction file cannot occur without being processed through an application. The ability must not exist to change data after it is posted. If an error is discovered after the entry has been posted, then a separate correcting entry must be made. Both the correcting entry and the original entry must be maintained.

We have been working with the Treasurer of State and the Indiana Archives and Record Administration (IARA) on this issue and we will be providing additional information on voided checks in the future.

The check is an accountable item and if a check is voided, you need the voided check to document that the check was not issued by the county and remains in the county possession.

From an audit perspective if the scanned image or other documentation exists to support that the check has been made unusable and destroyed, we would not take exception. The risk is that a check is voided in the accounting system but actually issued or misappropriated and used, so internal controls on voided checks need to be established to prevent that.

Question #29: Our library is leasing a copier through Perry Pro Tech and owned by US Bank Corp & just received a monthly bill that had a property tax line item on it. US bank is requesting a personal property tax exempt form. What does the library do?

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Answer #29: The copier would not be subject to personal property tax per IC 36-1-10-18 which states, *“Structures, transportation projects, and systems leased by a lessor contracting with the political subdivision are exempt from all state, county, and other taxes. However, the rental paid to a lessor under the terms of a lease is subject to taxation.”* [IC 36-1-10-18] We, however, are not aware of a personal property tax exemption form. We have forwarded this question to the DLGF for further guidance.

Question #30: HB 1001 deletes current law that allows funds allocated from MVH to be used for sprinkling, weed and tree cutting, cleaning of highway, painting, operation & maint of traffic signs and signals traffic signs and signals, safety zones & devices and law enforcement purpose. (11) provides Co Motor vehicle license excise surtax, wheel tax, municipal motor vehicle excise surtax and the municipal wheel tax may be used for these purposes. If MVH cannot be used for these items Counties will be forced to adopt a Wheel tax. County General cannot sustain these costs. Can we use Co General fund for these expenses? Can we use CEDIT funds for these expenses? We have been told conflicting answers, are these expenses allowed to be paid from MVH monies or not?

Answer #31: We could not find this language in the final draft of HB 1001.

Statute allows MVH funding to be spent on the construction, reconstruction and maintenance of roads.

If the activities listed in the questions are considered maintenance of roads, IC 8-15-8-5 lists the order that road funding should be used for maintenance of highways. Expenses for the maintenance of county highways should first be paid out of funds from gasoline tax, special fuel tax, and motor vehicle registration fees. Then from funds in the following order: county motor vehicle excise surtax, county wheel tax, CAGIT, COIT Riverboat admissions tax and Riverboat wagering tax. Then the county may use the general fund.

If the activities are no longer considered maintenance of the highways then, the general fund can be used for these expenses as long as they are appropriated and valid expenses of the County. Additionally, Indiana code 6-3.5-7-13.1 provides that CEDIT funds may be used, “By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.” However, the disbursement must be part of the capital improvement plan for CEDIT. Accordingly, these expenses could also be paid from the CEDIT fund as long as sufficient appropriation was available.

Question #31: Please instruct us how to show the Title IV D on the grant schedule. Our examiner told me once that I should never have anything in the expenditures. So I did it that way the following year, and was told it was wrong. Some visual instructions would be beneficial. Are we to include the Sheriff’s Cash Book and the Recorder’s cash book in the annual report?

Answer #31: When reporting through gateway you should put both the receipts and expenditures. The important item is to check the appropriate classification of the grant money as an advance or a reimbursement. This will then appropriately provide the expenditure information on the grant schedule when it is compiled. PCA is the only child support funding that is not included on the grant schedule as it is considered income and per the SEFA rules not reported on the schedule

Title IV-D should be reported using the following rules:

- Reimbursement: Direct Costs Title IV-D for the SEFA should show the amount of the reimbursements (receipts) as Federal Expenditures. This should only be the federal amount of the reimbursement, which is indicated on the remittance advices received with the reimbursement.

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Answer #31: (Continued)

- Reimbursement: Indirect Costs Title IV-D for the SEFA should show the amount of the reimbursements (receipts) as Federal Expenditures. This should only be the federal amount of the reimbursement, which is indicated on the remittance advices received with the reimbursement.
- Advance: The Clerk, Prosecutor, and County Incentive Funds for the SEFA should show the actual disbursements for those funds as Federal Expenditures
- Reimbursement: The ARRA Clerk, ARRA Prosecutor, and ARRA County Incentive funds should not be included on the SEFA at all because those were reported on the SEFA in the years the money was actually received.
- PCA is not included as it is considered income.

You do not need to include the Sheriff's Cash Book or the Recorder's Cash Book on the Annual Financial Report.

Question #32: SEA 67 indicates that at least 75% of funds must be used for a designated purpose. Additionally, up to 25% may be deposited into the Rainy Day fund. One Explanation is that the 25% must be used for the designated purpose. The other opinion is that any and or all of the 25% can be used for other purposes. Which way is correct? Who decides if the 25% will be transferred to the Rainy Day fund?

Answer #32: Only 75% of the special distribution received by the county is restricted to road, street and bridge projects as outlined in SEA 67. The remaining 25% has no restrictions applied to it by SEA 67. The 25% that is unrestricted may be used on the road and street projects or it may be used for any other county purposes. The 25% that is unrestricted may be deposited to the rainy day fund or it may be deposited to the general fund or to a properly established home rule fund. The county makes the determination as to the use of the 25%. The commissioners would need to establish any home rule fund or amend the rainy day fund ordinance if necessary. The council must approve appropriation of the special distribution so it would take a collaboration of both governing bodies to decide how to use the 25%.

Question #33: Will new debt reporting replace current debt reporting in Gateway?

Answer #33: We have not changed our requirement for our debt schedules for the annual report. We have forwarded your question about any changes for reporting requirements on debt that DLGF requires to DLGF.

Question #34: Other than being eliminated from the levy, what are the advantages and disadvantages of eliminating a solid waste district?

Answer #34: The advantages and disadvantages related to eliminating a solid waste district will vary from County to County and are impossible to address in a general statement. Your commissioners will need to take a close look at this issue and how it relates to your county. Until the legislative change, the county was required to establish a solid waste district or join a multi county district. The new legislation allows the county to make the decision on whether to have a solid waste district or not.

Question #35: How many counties have a council Administrator? *This position is basically the secretary to the council.*

Answer #35: We are not familiar with a council Administrator position and are not sure under what authority this position is established. We don't know how many Counties have this position.

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Question #36: The Auditors office and the Council Administrator duties are overlapping. How do we determine what duties the administrator is able to do?

Answer #36: The duties of the County Auditor are addressed in a number of Indiana Codes and those responsibilities should not be delegated. If there is a question as to which position has the responsibility to perform certain duties, you should consult with your county attorney.

Question #37: Is it ok if the Clerk's office does their own 1099's instead of us doing theirs? We don't pay their attorneys so they are not in our AP system?

Answer #37: Since they are not paid through the Auditor's office, we are assuming that the question refers to 1099's issued to attorneys for legal service paid by the Clerk's office through their trust account where the court orders attorney fees to be paid and the clerk then collects those fees from the individuals that are court ordered to pay the fees and remits the fees collected to the attorney entitled to receive the fees. If the clerk has the information we would not take audit exception to the Clerk's office issuing the 1099's. Any additional questions on 1099's should be addressed to the IRS.

Question #38: We have many departments that their budgets are set up in the CAGIT fund – which we will now have to budget into county general for 2017. Will these departments be allowed to obligate funds from 2016 CAGIT to 2017 County General?

Answer #38: The 2017 County General Budget will include all 2017 local income tax certified shares revenues. (Again this is only the certified shares revenue and not Economic Development, Public Safety or Special Legislation income taxes). The departments that have budgets in CAGIT (or COIT) certified shares will have their budgets in the general fund for 2017. If you have a balance in your CAGIT or COIT funds at the end of the year, you may budget it for 2017 or you may transfer the balance to the General fund and include it in the General fund budget.

COUNTY CLERKS ANNUAL CONFERENCE:

Question #1: I have been bonded on the same surety bond as the assessor, is this allowable?

Answer #1: Without seeing the actual document, we cannot determine the adequacy of the bond coverage. However, as long as the requirements identified in the Indiana Code are satisfied, the bond would be acceptable. [IC 5-4-1-18]

Question #2: Our auditor is not paying bills on time and late fees are being assessed in some cases. Also, the workers from the May election have not been paid yet and it has been two claim cycles. What can be done?

Answer #2: All claims should be paid within the established payment schedule for the county. The payments for the election workers should run through the normal county procedures. If there is an issue getting claims paid in a timely manner, this should be brought to the attention of the commissioners.
As noted in the Accounting and Uniform Guidelines Manual for County Auditors, Page 14-3, "Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit. Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee."

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Question #3: The former clerk paid herself a per diem for administering the November election, but resigned before the election was held. How should this be handled?

Answer #3: Per the Accounting and Uniform Guidelines Manual for County Auditors, Page 14-3, "Compensation and any other payments for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee."
If compensation was paid for services not rendered, then the County has the obligation to recover those funds.

Question #4: Normally, we send the attorneys a 1099 when we pay them money. When we pay money to a plaintiff or defendant, should we send them a 1099?

Answer #4: Generally, if the payments are for services rendered, then there would be a Form 1099 issued. If the payments are not for services, then generally you would not issue a Form 1099. For any reporting questions, you should contact the IRS for further information.

Question #5: How long does the estate money that has been placed in trust stay with the clerk's office and then once it has been escheated to the state does the state hold it? What happens with it after the state expiration date?

Answer #5: Per the presentation from the Unclaimed Property Division, IC 32-34-3-2 states "Except for money related to child support, the attorney general may collect all money that remains in the office of a clerk for five (5) years after being distributable without being unclaimed by the person entitled to the money. The State holds it for 5 years. After that, It is receipted into the state's General Fund. For additional information contact the Unclaimed Property Division (317) 883-4542.

Question #6: Do other clerks allow outside agencies to use their own scanners/phones to make copies of your court records? Lake Co is having a problem with an attorney who states he doesn't have to pay for copies if he uses his own scanner.

Answer #6: Yes, IC 5-14-3-3 allows any person to scan records. IC 33-37-5-1 does not allow copy fees to include IC 5-14-3-3 items.
IC 5-14-3-3 states, "Right to inspect and copy public agency records; electronic data storage; use of information for commercial purposes; contracts Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must: (1) identify with reasonable particularity the record being requested; and (2) be, at the discretion of the agency, in writing on or in a form provided by the agency.
No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute. (b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). Within a reasonable time after the request is received by the agency, the public agency shall either: (1) provide the requested copies to the person making the request; or (2) allow the person to make copies: (A) on the agency's equipment; or (B) on the person's own equipment."

Question #7: The conflict of interest forms need filed annually. Should this be on a calendar year basis?

THE COUNTY BULLETIN
and Uniform Compliance Guidelines

Volume 400, Page 22

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Answer #7: IC 35-44.1-1-4 states in part: “(d) A disclosure must: (1) be in writing; (2) describe the contract or purchase to be made by the governmental entity; (3) describe the pecuniary interest that the public servant has in the contract or purchase; (4) be affirmed under penalty of perjury; (5) be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity before final action on the contract or purchase; (6) be filed within fifteen (15) days after final action on the contract or purchase with: (A) the state board of accounts; and (B) if the governmental entity is a governmental entity other than the state or a state supported college or university, the Indiana Code 2015 clerk of the circuit court in the county where the governmental entity takes final action on the contract or purchase; . . . “. The statute does not appear to address continuing disclosure. If it is an annual disclosure, then the unit would determine the timing for the disclosure for each subsequent year.

Question #8: Do we need to continue to print an office copy of the receipt form?

Answer #8: A register of receipts is acceptable in lieu of an office copy of the receipt form. As stated in THE COUNTY BULLETIN And Uniform Compliance Guidelines, Volume 392 (April 2014), Page 11, “All receipts must be either in duplicate or recorded in a prescribed or approved register of receipts.”

Question #9: Do the clerks get any of the money from the Misdemeanant Fund set up under IC 11-12-6-11.1?

Answer #9: IC 11-12-6-11.1 replaced IC 11-12-6-7 which was repealed in 2015. IC 11-12-6-11.1 has the same language as the prior statute and states “A county misdemeanor fund shall be used only for funding the operation of the county's jail, jail programs, or other local correctional facilities or community based programs. Any money remaining in a county misdemeanor fund at the end of the year does not revert to any other fund, but remains in the county misdemeanor fund.”

Question #10: On SEA 371 – Probate. What does this mean to us? Are we still doing the same – taking the returns – sending them to Auditor – holding until we get report, then sending order to Court?

Answer #10: You no longer accept the returns. The taxpayer needs to send their returns to the Indiana Department of Revenue, P.O. Box 71, Indianapolis, IN 46206-0071.



STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2765

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

MEMORANDUM

TO: County Auditors, City Controllers, and Clerk-Treasurers

FROM: Paul D Joyce, CPA
State Examiner

RE: One-time Special Distribution per SEA 67

DATE: April 22, 2016

In conjunction with the Memorandum issued by the Indiana State Budget Agency, State Board of Accounts is providing the following guidance in regard to accounting for the one-time distribution required under SEA 67 from a county's trust account maintained by the State. This refers to a county's trust account maintained under the former local income tax laws. Per the new section, IC 6-3.6-9-17, the State Budget Agency will make a one-time special distribution to each county having a positive balance in the county's trust account as of December 31, 2014. Before June 1, 2016, the county auditor shall distribute to each taxing unit an amount equal to the taxing unit's allocation amount.

The county will need to create fund 7315, titled LOIT 2016 Special Distribution, to receipt and hold the monies received until distribution.

Distributions to taxing units that are not a county, city, or town are to be deposited into the taxing unit's rainy day fund.

Counties, cities, and towns have restrictions on the use of at least 75% of the special distribution received for infrastructure as found under IC 6-3.6-9-17(h)(1)(A). The remaining part of the distribution may be used for any of the purposes of the county, city, or town.

While the statute allows for the restricted distribution amount to be deposited into the rainy day fund of the county, city, or town; a subsidiary ledger would be required to account for the restricted portion's activity. This creates difficulty in maintaining accountability. Additionally, transparency is lost as the activity and balance for the restricted portion would not be discernable when reviewing the rainy day fund either through Gateway or financial statements.

For these reasons, State Board of Accounts has designated **county fund 1229**, titled LOIT Special Distribution to receipt and account for the restricted portion of the distribution. The unrestricted portion may be deposited into the county general fund, into a properly created home rule fund, or into the rainy day fund if properly designated as a source.

For cities and towns, State Board of Accounts has designated **fund 257**, titled LOIT Special Distribution to receipt and account for the restricted portion of the distribution. The unrestricted portion may be deposited into the general fund, into a properly created home rule fund, or into the rainy day fund if properly designated as a source.

If you have any questions specific to counties please contact Lori Rogers or Shannon Lopez at 317-232-2512. If you have any questions specific to cities and towns please contact Susan Gordon or Todd Caldwell at 317-232-2513.



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MEMORANDUM

To: County Auditors

From: Paul Joyce, State Examiner of the State Board of Accounts
Courtney Schaafsma, Commissioner of the Department of Local Government Finance

Date: June 23, 2016

Re: Income Tax Distributions for Certified Shares

On July 24, 2012 a memorandum was issued by State Board of Accounts and Department of Local Government Finance, directing counties to use separate funds for CAGIT County Certified Shares and COIT County Distributive Shares and to no longer receipt these funds into the general fund beginning January 2013.

This allowed accountability for each separate revenue stream but created difficulties for budgeting and expenditure. It was determined that allowing for these funds to be receipted, budgeted and expended through the general fund would not be contrary to statutory duty or compromise fund accounting principles.

HEA 1081 repealed CAGIT county certified shares and COIT county distributive shares while creating local income tax certified shares. We are rescinding the 2012 Memorandum for calendar year 2017. If you have a balance in the 1110 (CAGIT county certified shares) or 1121 (COIT county distributive shares) funds as of December 31, 2016, you may budget the remaining balance in the fund for 2017 or transfer the balance in the fund to the general fund. The new local income tax certified shares will not be accounted for in a separate fund, but will be receipted into the general fund. These revenues will be included in the 2017 budget for the general fund.

No changes are required for local income tax for property tax relief, economic development, public safety, and special legislation as these revenues will continue to be accounted for in separate funds.

Questions regarding the fund changes should be directed to Lori Rogers or Shannon Lopez of the State Board of Accounts at lrogers@sboa.in.gov or slopez@sboa.in.gov and questions regarding how to budget the local income tax distributions for certified shares to your Department of Local Government Finance budget field representative (http://www.in.gov/dlqf/files/Field_Rep_Map_-_Budget.pdf) or Courtney Schaafsma at cschaafsma@dlqf.in.gov.

LR/db



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STATE EXAMINER DIRECTIVE 2016-1

Date: May 27, 2016

Subject: GAAP Annual Financial Reports Required for Issuance of Bonds

Authority: Ind. Code § 5-3-1-3; Ind. Code § 5-11-1-4; Ind. Code § 5-11-1-10; Ind. Code § 5-11-1-21

Application: This Directive applies to all counties, municipalities, and schools who issue bonds

From: Paul D. Joyce, CPA, State Examiner

I. Counties and Municipalities

House Enrolled Act 1264, enacted in 2015, amended Ind. Code § 5-11-1-4 to require certain counties and municipalities to file annual financial reports in accordance with generally accepted accounting principles (GAAP) in order to issue bonds. The relevant code section states the following:

(c) As used in this subsection, "bonds" means any bonds, notes, or other evidences of indebtedness, whether payable from property taxes, other taxes, revenues, fees, or any other source. However, the term does not include notes, warrants, or other evidences of indebtedness that have a maturity of not more than five (5) years and that are made in anticipation of and to be paid from revenues of the political subdivision. Notwithstanding any other law, a county or municipality as provided in subsection (d) may not issue any bonds unless:

- (1) the county or municipality has filed an annual financial report with the state examiner for the preceding fiscal year; and
- (2) the annual financial report filed with the state examiner for the preceding fiscal year was prepared in accordance with all generally accepted accounting principles for financial accounting and reporting as established by the Governmental Accounting Standards Board. However, upon request of the county or municipality, the state examiner may waive the requirement under this subdivision.

The requirements under this subsection for the issuance of bonds by a county or municipality are in addition to any other requirements imposed under any other law. This subsection applies to the issuance of bonds authorized under any statute, regardless of whether that statute specifically references this subsection or the requirements under this subsection.

- (d) The requirements under subsection (c) apply only to the following:
- (1) After June 30, 2017, and before July 1, 2019, the requirements under subsection (c) apply to:
 - (A) a county with a population greater than two hundred fifty thousand (250,000); and
 - (B) a municipality with a population greater than two hundred fifty thousand (250,000).
 - (2) After June 30, 2019, and before July 1, 2020, the requirements under subsection (c) apply to:
 - (A) a county with a population greater than one hundred seventy-five thousand (175,000); and
 - (B) a municipality with a population greater than one hundred thousand (100,000).
 - (3) After June 30, 2020, the requirements under subsection (c) apply to:
 - (A) a county with a population greater than one hundred thousand (100,000); and
 - (B) a municipality with a population greater than seventy-five thousand (75,000).

Ind. Code §§ 5-11-1-4 (c), (d) (2015).

Counties and municipalities report on a calendar year. Thus, subsection (d) first applies to the period January 1, 2018 to December 31, 2018. In other words, counties and municipalities with a population greater than two hundred fifty thousand (250,000) may not issue bonds during the 2019 calendar year unless they file with the State Examiner on or before March 1, 2019,¹ an annual financial report prepared in accordance with GAAP for the period January 1, 2018 to December 31, 2018; or, the county or municipality requested and obtained a waiver of the requirements of Ind. Code § 5-11-1-4(c) from the State Examiner before January 1, 2018. The implementation period for counties and municipalities with a population greater than two hundred fifty thousand (250,000) is two (2) years, so the same requirements apply to the period January 1, 2019 to December 31, 2019. That is, counties and municipalities with a population greater than two hundred fifty thousand (250,000) may not issue bonds during the 2020 calendar year unless they file with the State Examiner on or before February 29, 2020, an annual financial report prepared in accordance with GAAP for the period January 1, 2019 to December 31, 2019; or, the county or municipality requested and obtained a waiver of the requirements of Ind. Code § 5-11-1-4(c) from the State Examiner before January 1, 2019. The same requirements hold true for the following calendar years.

Similarly, counties with a population greater than one hundred seventy-five thousand (175,000) and municipalities with a population greater than one hundred thousand (100,000) may not issue bonds during the 2021 calendar year unless they file with the State Examiner on or before March 1, 2021, an annual financial report prepared in accordance with GAAP for the period January 1, 2020 to December 31, 2020; or, the county or municipality requested and obtained a waiver of the requirements of Ind. Code § 5-11-1-4(c) from the State Examiner before January 1, 2020. The same requirements hold true for the following calendar years.

Counties with a population greater than one hundred thousand (100,000) and municipalities with a population greater than seventy-five thousand (75,000) may not issue bonds during the 2022 calendar

¹ Financial reports are required to be “filed with the state examiner not later than sixty (60) days after the close of each fiscal year. . . .” Ind. Code § 5-11-1-4(a).

year unless they file with the State Examiner on or before March 1, 2022, an annual financial report prepared in accordance with GAAP for the period January 1, 2021 to December 31, 2021; or, the county or municipality requested and obtained a waiver of the requirements of Ind. Code § 5-11-1-4(c) from the State Examiner before January 1, 2021. The same requirements hold true for the following calendar years.

II. Schools

House Enrolled Act 1264 (2015) also amended Ind. Code § 5-3-1-3 to require certain school corporations to file annual financial reports in accordance with GAAP in order to issue bonds. The relevant code section states the following:

(h) As used in this subsection, "bonds" means any bonds, notes, or other evidences of indebtedness, whether payable from property taxes, other taxes, revenues, fees, or any other source. However, the term does not include notes, warrants, or other evidences of indebtedness that have a maturity of not more than five (5) years and that are made in anticipation of and to be paid from revenues of the school corporation.

Notwithstanding any other law, a school corporation as provided in subsection (i) may not issue any bonds unless:

(1) the school corporation has filed the annual financial report required under subsection (b) with the department of education; and

(2) in addition to any information required under subsection (c), the annual financial report filed with the department of education was prepared in accordance with all generally accepted accounting principles for financial accounting and reporting as established by the Governmental Accounting Standards Board. However, upon request of the school corporation to the state examiner, the state examiner may waive the requirement under this subdivision.

The requirements under this subsection for the issuance of bonds by a school corporation are in addition to any other requirements imposed under any other law. This subsection applies to the issuance of bonds authorized under any statute, regardless of requirements under this subsection.

(i) The requirements under subsection (h) apply only to the following:

(1) After August 15, 2019, and before August 16, 2020, the requirements under subsection (h) apply to a school corporation that has an ADM (as defined in IC 20-18-2-2) of greater than twenty-five thousand (25,000).

(2) After August 15, 2020, the requirements under subsection (h) apply to a school corporation that has an ADM (as defined in IC 20-18-2-2) of greater than fifteen thousand (15,000).

Ind. Code §§ 5-3-1-3(h), (i) (2015).

School corporations report on a fiscal year. Thus, subsection (h) first applies to the period July 1, 2020 to June 31, 2021. In other words, school corporations with an average daily membership greater than twenty-five thousand (25,000) may not issue bonds unless they file with the department of education an annual financial report prepared in accordance with GAAP for the period July 1, 2020 to June 30, 2021;

or, the school corporation requested and obtained a waiver of the requirements of Ind. Code § 5-3-1-3(h) from the State Examiner before July 1, 2020. The same requirements remain in place for the following fiscal years.

Similarly, school corporations with an average daily membership greater than fifteen thousand (15,000) may not issue bonds unless they file with the department of education an annual financial report prepared in accordance with GAAP for the period July 1, 2021 to June 30, 2022; or, the school corporation requested and obtained a waiver of the requirements of Ind. Code § 5-3-1-3(h) from the State Examiner before July 1, 2021. The same requirements remain in place for the following fiscal years.

III. Waiver Requests


All waiver requests must be in writing and provide a detailed explanation why a waiver is requested, including what steps, if any, have been taken by the county, municipality, or school corporation to comply with generally accepted accounting principles for financial accounting and reporting. The waiver request must be submitted at least sixty (60) days prior to the end of the calendar year, or November 1, for counties and municipalities; or at least sixty (60) days prior to the end of the fiscal year, or May 1, for school corporations. Waiver requests may be sent via e-mail to waiverrequest@sboa.in.gov, or by U.S. Mail to the following address:

State Board of Accounts
Attn: GAAP Waiver Request
302 West Washington Street, Room E418
Indianapolis, IN 46204

All waiver requests will be approved or denied by the State Examiner in writing within thirty (30) days of receipt of the request.

Counties, municipalities, and school corporations that meet the population or average daily membership thresholds set forth in Ind. Code § 5-11-1-4(d) or Ind. Code § 5-3-1-3(i) must attempt to comply with GAAP for financial accounting and reporting as established by the Governmental Accounting Standards Board, and should not assume that a waiver request will be granted. If a waiver request is granted, it will be effective for one (1) year only.

This Directive may be amended from time to time and may be rescinded at any time in writing by the State Examiner or a Deputy State Examiner.


Paul D. Joyce, CPA
State Examiner

JUDICIAL CIRCUIT CLASSES

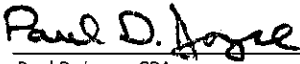
According to Indiana Code 33-39-6-4, the State Board of Accounts is responsible for establishing and certifying to each county the judicial circuit classes. Judicial circuit classes are calculated by using the population and gross assessed values for each county as provided by the Department of Local Government and Finance (DLGF). The classes were established using the gross assessed values certified to the State in March of this year. Judicial classes have been established as noted below.

County			County		
<u>No.</u>	<u>County Name</u>	<u>Judicial Circuit Class</u>	<u>No.</u>	<u>County Name</u>	<u>Judicial Circuit Class</u>
1	Adams	7	47	Lawrence	6
2	Allen	2	48	Madison	3
3	Bartholomew	3	49	Marion	1
4	Benton	9	50	Marshall	5
5	Blackford	9	51	Martin	9
6	Boone	4	52	Miami	8
7	Brown	9	53	Monroe	3
8	Carroll	9	54	Montgomery	6
9	Cass	7	55	Morgan	4
10	Clark	3	56	Newton	9
11	Clay	8	57	Noble	5
12	Clinton	7	58	Ohio - Dearborn*	5
13	Crawford	9	59	Orange	9
14	Daviess	8	60	Owen	9
15	Dearborn - Ohio *	5	61	Parke	9
16	Decatur	8	62	Perry	9
17	DeKalb	6	63	Pike	9
18	Delaware	3	64	Porter	2
19	Dubois	6	65	Posey	8
20	Elkhart	2	66	Pulaski	9
21	Fayette	9	67	Putnam	7
22	Floyd	4	68	Randolph	8
23	Fountain	9	69	Ripley	8
24	Franklin	9	70	Rush	9
25	Fulton	9	71	St. Joseph	2
26	Gibson	6	72	Scott	9
27	Grant	4	73	Shelby	5
28	Greene	8	74	Spencer	8
29	Hamilton	2	75	Starke	9
30	Hancock	4	76	Steuben	6
31	Harrison	7	77	Sullivan	9
32	Hendricks	2	78	Switzerland	9
33	Henry	6	79	Tippecanoe	2
34	Howard	4	80	Tipton	9
35	Huntington	7	81	Union	9
36	Jackson	6	82	Vanderburgh	2
37	Jasper	6	83	Vermillion	9
38	Jay	9	84	Vigo	3
39	Jefferson	8	85	Wabash	8
40	Jennings	8	86	Warren	9
41	Johnson	3	87	Warrick	4
42	Knox	6	88	Washington	8
43	Kosciusko	3	89	Wayne	4
44	Lagrange	6	90	Wells	8
45	Lake	2	91	White	8
46	LaPorte	3	92	Whitley	7

* - Dearborn and Ohio share a judicial circuit, so they were combined for the class determination

I, Paul D. Joyce, CPA, State Examiner of the State Board of Accounts, do hereby certify that the judicial circuit classes set forth above were established by the State Board of Accounts pursuant to Indiana Code 33-39-6-4.

Dates this 20th day of June, 2016


 Paul D. Joyce, CPA
 State Examiner