

# THE COUNTY BULLETIN

## And Uniform Compliance Guidelines

### ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 401

October 2016

#### **REMINDER OF ORDER OF BUSINESS**

#### **October**

- 5, 6, 7 County Auditor's Fall Conference – Indianapolis, Indiana
- 10 Columbus Day - Legal Holiday (IC 1-1-9-1)
- 31 Last day to file quarterly unemployment compensation report with the Indiana Department of Workforce Development.

#### **November**

- 1 Last day for county auditor to certify to the division of state court administration the amount, if any, the county will be providing to the judges salary during the ensuing calendar year. (IC 33-38-5-6(b))
- 2 Last date for County Board of Tax Adjustment [except Marion County and in a county containing a second class city (December 1)] to complete its duties. (IC 6-1.1-17-9(a))
- 8 General Election Day (IC 1-1-9-1)
- 10 Last day for paying second installment of taxes without penalty. Start preparing for settlement of second installment tax collections. (IC 6-1.1-37-10)
- 11 Veterans' Day - Legal Holiday. (IC 1-1-9-1)
- 24 Thanksgiving Day - Legal Holiday. (IC 1-1-9-1)

#### **December**

- 1 On or before this date, certify names and addresses of persons who have money due to them for salaries, wages or other reasons to County Treasurer, for determining if such persons owe delinquent taxes. (IC 6-1.1-22-14)
- 2 Last date for County Board of Tax Adjustment in Marion County and in a county containing a second class city to complete its duties. (IC 6-1.1-17-9(a))
- 14, 15, 16 Newly Elected Officials Training – Indianapolis, Indiana
- 25 MERRY CHRISTMAS!! - Legal Holiday (IC 1-1-9-1)

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**REMINDER OF ORDER OF BUSINESS**  
*(Continued)*

**December**

31      Review year-end duties.

Post and close all records completely and promptly.

The Auditor should balance with the Treasurer and verify the amount of cash in the Treasurer's office.

Cash Change Funds issued to any county officer whose term expires must be returned to the County General Fund.

**NEWLY ELECTED OFFICERS TRAINING**

The State Board of Accounts will provide training to the newly elected officials for the offices of the Auditor, Treasurer, Recorder, and Clerk of Courts on the following dates:

December 14   - County Auditors and County Treasurers  
December 15   - General Session  
December 16   - Clerks of Circuit Court and Recorders

The training will be at the Sheraton Hotel in Indianapolis at Keystone Crossing. Newly elected officials that come to the training are to be reimbursed for their expenses from the county general fund without appropriation. Further information on the conference will be forthcoming.

**FEDERAL EXCISE TAXES**

As a general rule, governmental units are exempt from and should not pay any federal excise tax. To obtain the exemption, a properly executed exemption certificate must be filed with the vendor from whom the purchase is made. This exemption certificate may be prepared at the time the order is placed or at the time the payment is made. The exemption certificate may be a printed or mimeographed form and should be substantially in the form currently used. For information concerning the form of the exemption certificate, contact the Internal Revenue Service.

Claims and invoices should be carefully audited to see that no federal excise taxes are included and paid. Disbursing officers should require that invoices show separately the gross price, the amount of the excise tax, and the final price to the governmental unit.

In some instances, a county may have erroneously paid the excise taxes from which they are exempt. In such instances, the county has three years from the date the tax was paid to the Federal Government in which to file for a refund.

To obtain a refund, the county should submit to the seller an exemption certificate for each item on which excise tax was paid accompanied with documentary evidence that the exemption had not been claimed or received. Such evidence may be copies of invoices, affidavits, records, etc.

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**FEDERAL EXCISE TAXES** *(Continued)*

The Internal Revenue Service will provide forms on which the original taxpayer may claim reimbursement for excise tax erroneously paid by a county.

Any questions concerning federal excise tax should be directed to the Internal Revenue Service.

**STATE SALES TAXES**

Governmental units are eligible for an exemption from the state sales tax on purchases. To obtain the exemption a Sales Tax Exemption Certificate must be obtained from the Indiana Department of Revenue (IDOR). Application should be made to the Sales Tax Division of IDOR. This certificate must be presented at the time a purchase is made to avoid paying sales tax. If sales tax is paid erroneously, a refund application may be obtained from the Sales Tax Division.

Lodging for individuals in hotels and motels is not exempt from state sales tax. Therefore, reimbursements for lodging in approved travel status may include state sales tax. However, it should be kept in mind that claims for all such reimbursements must be supported by a fully itemized receipt showing date(s) of lodging, the name(s) of the person(s) occupying the room and the amount paid.

**HOW TO AVOID RANSOMWARE**

A local governmental entity recently became a victim to ransomware. Ransomware is a type of malicious software designed to block access to a computer system until a sum of money is paid. The principle of ransomware is that the malware encrypts files on a system's hard drive using an unbreakable key, and this is decrypted by the attacker once a ransom is paid. Beware of unexpected or suspicious emails, especially those containing a link or requesting a reply. Most ransomware is delivered via email and the typical overall themes are shipping notices from delivery companies. Also, many attacks are delivered by mass random emails because the intention is to infect as many as possible to maximize the chances of getting a result.

Consider your unit's policies related to the protection of computer information. The most common advice to recover from an attack by ransomware relies largely on whether a good backup policy is employed. Backup expectations are discussed Chapter 2 of the Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana which is available on our website ([www.in.gov/sboa](http://www.in.gov/sboa)). Governmental entities also should keep their anti-virus software up-to-date and apply security patches in a timely manner. If you become a victim of ransomware, inform the local authorities and State Board of Accounts.

**COURT REPORTERS – TRANSCRIPT PREPARATION**

For the purposes of determining overtime of court reporters performing transcript work, Title 29 of the United States Code (29 USC 207(o)(6)), states:

“(6) The hours an employee of a public agency performs court reporting transcript preparation duties shall not be considered as hours worked for the purposes of subsection (a) of this section if:

(A) such employee is paid at a per-page rate which is not less than—

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**COURT REPORTERS – TRANSCRIPT PREPARATION** *(Continued)*

- (i) the maximum rate established by State law or local ordinance for the jurisdiction of such public agency,
- (ii) the maximum rate otherwise established by a judicial or administrative officer and in effect on July 1, 1995, or
- (iii) the rate freely negotiated between the employee and the party requesting the transcript, other than the judge who presided over the proceedings being transcribed, and

(B) the hours spent performing such duties are outside of the hours such employee performs other work (including hours for which the agency requires the employee's attendance) pursuant to the employment relationship with such public agency.

For purposes of this section, the amount paid such employee in accordance with subparagraph (A) for the performance of court reporting transcript preparation duties, shall not be considered in the calculation of the regular rate at which such employee is employed."

**NEW UNIFORM GUIDANCE (Federal Audits)**

The Office of Management and Budget's (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (commonly called "Uniform Guidance") was officially implemented in December 2014 by the Council on Financial Assistance Reform (COFAR). The Uniform Guidance – a "government-wide framework for grants management" – synthesizes and supersedes guidance from earlier OMB circulars and is effective for the first funding increment issued after December 26, 2014.

For audit years beginning after December 26, 2014, states, local governments, and non-profit organizations expending Federal awards of \$750,000 or more in a year are required to have a federal audit conducted for that year in accordance with the new federal provisions.

Additional information about the new guidelines were discussed at the Auditor's 2016 Fall conference. The training material, including a copy of the new Uniform Guidance (2 CFR 200), can be found on our website at [www.in.gov/sboa](http://www.in.gov/sboa) under Political Subdivisions>Counties>County Auditor>Meeting Materials. Additional information about the new guidelines can be found on the Code of Federal Regulations website at [www.ecfr.gov](http://www.ecfr.gov).

In order to make the audit process as effective and least cumbersome as possible, recipients of Federal awards should be aware of the new requirements placed upon them by OMB.

**PLATS**

Except as provided in section 9 of this chapter, the auditor, or, if authorized by county ordinance, the surveyor of each county shall maintain a plat of each civil township of the county the auditor or surveyor serves. The plats shall be divided in such a manner that they clearly exhibit the ownership and assessed value of each parcel of real property. The plats must be in the form and contain the information prescribed by the Department of Local Government Finance. The plats shall be kept current. (IC 6-1.1-5-1)

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**PLATS** *(Continued)*

Indiana Code Section 6-1.1-35-13 authorizes the department of local government finance to prepare a plat if an official fails to deliver a plat to the appropriate officer or board. They may appoint a special representative to prepare the plat. The board shall certify the expenses incurred to the township or county which is served by the official who failed to perform his duty. The township or county shall pay the amount of the expenses to the treasurer of state within thirty (30) days after the department's certification and the township or county may collect amounts which it pays under the section from the official who failed to perform his duty.

**DRAINAGE CONSTRUCTION AND MAINTENANCE - USE OF OWN WORK FORCE**

IC 36-9-27-77(e) allows the Drainage Board to perform maintenance, construction, or reconstruction by its own work force without awarding a contract. However, this would be subject to IC 36-1-12-5 which states the public work project must be less than \$50,000. IC 36-1-12-5(e) states that the Board may purchase or lease supplies in the manner provided in IC 5-22 and perform the public work by means of its own work force without awarding a public contract.

In summary, the Drainage Board could perform its own maintenance project with the use of its own work force without awarding a contract if the total project costs are less than \$50,000 (IC 36-1-12-5).

**COUNTY MISDEMEANANT FUND**

IC 11-12-6 was repealed in 2015 however, the state still had appropriations to disburse in 2015 so some counties may have received distributions to this fund in 2015 and possibly 2016.

In 2016, IC 11-12-11 was established that re-established the County Misdemeanant Fund. So counties will continue to receive distributions to the County Misdemeanant Fund. The uses for this fund have not changed from the uses in the previously repealed code.

A County Misdemeanant Fund must 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 Misdemeanant Fund at the end of the year does not revert to any other fund, but remains in the county misdemeanor fund. (IC 11-12-11-5)

**FIREARM DEALER'S LICENSE - ISSUANCE - FEE - DISPOSITION OF FEE**

IC 35-47-2-15 provides for the issuance of Firearm Dealer's License by the Superintendent of the Indiana State Police upon application of a person, desiring a retailing handgun dealer's license, to the sheriff of the county in which he resides. The fee for the license shall be sixty dollars (\$60) which shall be deposited with the officer to whom the application is made, who shall in turn forward to the superintendent. If the applicant is approved by the superintendent, the officer to whom the application was made shall forward the fee for the license to the superintendent for deposit with the treasurer of state. In the event that the application is disapproved, the fee shall be returned to the applicant along with the complete reasons, in writing.

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**PAYMENT FOR PUBLICATION OF PUBLIC NOTICES - PENALTY FOR VIOLATION**

Whenever publication of notice, report, or statement of any kind is required and a county is liable for the cost of that publication, the executive may not make or pay for publication in more than one newspaper, unless publication in two newspapers is required. A person who violates this section commits a Class C infraction. (IC 36-2-2-25)

**TAX SALE SURPLUS**

IC 6-1.1-24-7 states in part:

“(c) The:

(1) owner of record of the real property at the time the real property was certified for sale under this chapter and before the issuance of a tax deed; or

(2) tax sale purchaser or purchaser's assignee, upon redemption of the tract or item of real property; may file a verified claim for money which is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the claimant for the amount due.

(d) If the person who claims money deposited in the tax sale surplus fund under subsection (c) is:(1) a person who has a contract or agreement described under section 7.5 of this chapter with a person described in subsection(c)(1); or(2) a person who acts as an executor, attorney-in-fact, or legal guardian of a person described in subsection (c)(1);the county auditor may issue a warrant to the person only as directed by the court having jurisdiction over the tax sale of the parcel for which the surplus claim is made.

(e) A court may direct the issuance of a warrant only:

(1) on petition by the claimant;

(2) within three (3) years after the date of sale of the parcel in the tax sale; and

(3) in the case of a petitioner to whom subsection (d)(1) applies, if the petitioner has satisfied the requirements of section 7.5 of this chapter

(f) Unless the redemption period specified under IC 6-1.1-25 has been extended under federal bankruptcy law, an amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection(c) if it is not claimed within the three (3) year period after the date of its receipt.

(g) If an amount applied to taxes under this section is later paid out of the county general fund to the purchaser or the purchaser's successor due to the invalidity of the sale, all the taxes shall be reinstated and recharged to the tax duplicate and collected in the same manner as if the property had not been offered for sale.

(h) When a refund is made to any purchaser or purchaser's successor by reason of the invalidity of a sale, the county auditor shall, at the December settlement immediately following the refund, deduct the amount of the refund from the gross collections in the taxing district in which the land lies and shall pay that amount into the county general fund.”

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**TRANSIENT MERCHANTS LICENSE**

All qualifying transient merchants shall file an application for a license for that purpose with the county auditor and shall pay to the county treasurer a license fee of one hundred dollars (\$100) for each six (6) month period in which the applicant proposes to transact business, unless a lesser fee was established or waived by the county legislative body in accordance with IC 25-37-1-6.5. The applicant shall thereupon file the county treasurer's receipt for such payment with the county auditor of the county with whom the application is filed. (IC 25-37-1-4 and IC 25-37-1-6)

We recommend the Combination Quietus, Application to Pay, Treasurer's Receipt and Auditor's Copy (Form 20-21 Rev. 1987) or an alternate form that provides the same information be used in processing this type of transaction. We also recommend that the licenses issued to transient merchants be prenumbered by your printing supplier or generated by your software system in chronological order for accountability. If manual forms are used, they should be stored in a safe place to prevent unauthorized use of such licenses. All license fees collected shall be quietused to the County General Fund. (IC 25-37-1-12)

At the time of filing the application with the County Auditor, the applicant shall also file and deposit a bond with sureties to be approved by the County Auditor for the penal sum of seven hundred fifty dollars (\$750) or three (3) times the value of the goods, wares, and merchandise to be offered for sale or sold as shown by the inventory filed, whichever sum is greater, running to the State.

The bond shall be forfeited and used for the benefit of:

- (1) any purchaser of goods, wares, or merchandise sold by the applicant, if the purchaser is awarded a judgment as a result of a cause of action against the applicant that was commenced within one (1) year of and that arose out of the sale;
- (2) the operating budget of the county's prosecuting attorney, if the applicant is found by a court to have violated IC 25-37-1-9, although the amount forfeited under this subdivision may not exceed one-third (1/3) of the bond;
- (3) the state, any of its departments or subdivisions, or any unit of local government, if the applicant fails to pay all taxes due from the applicant to that governmental entity; or
- (4) a court in payment of partial payment of any fines that may be assessed by the court against the applicant, its agents, or employees for violation of this chapter.

However, the aggregate liability of the surety for all taxes, fines, disbursements, and causes of action may not exceed the amount of such bond. There shall be no limitation of liability against the transient merchant or the applicant for the license.

In such bond, the applicant and surety shall appoint the auditor of the county in which the bond is filed, the agent of the applicant, and the surety for the service of process. In the event of such service of process, the agent on whom such service is made shall, within five (5) days after the service, mail by ordinary mail a true copy of the process served upon him to each party for whom he has been served, addressed to the last known address of such party. Failure to mail the copy shall not, however, affect the court's jurisdiction.

The state or any department or subdivision, municipal or otherwise, thereof or any person having a cause of action arising from or out of any sale or sales of goods, wares, or merchandise or against the applicant may join the applicant and the surety on such bond in the same action or may sue either such applicant or the surety alone. (IC 25-37-1-5)

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**TRANSIENT MERCHANTS LICENSE** *(Continued)*

The following persons, organizations or corporations are not required to obtain a transient merchants license:

- (1) any person, individual, copartner, limited liability company, or corporation which grows the goods, wares, or merchandise that is sold or is offered for sale;
- (2) a person who makes crafts or items by hand and sells them or offers them for sale;
- (3) an auctioneer who is licensed under IC 25-6.1;
- (4) a resident of the county in which the sale takes place who conducts a sale of tangible personal property for no more than four (4) days per calendar year;
- (5) an organization that is exempt from the Indiana gross retail tax under IC 6-2.5-5-26;
- (6) a person who:
  - (A) sells merchandise;
  - (B) offers to sell merchandise; and
  - (C) provides proof that the sale is being conducted as part of an activity sponsored by an organization described in subdivision (5);
- (7) a person who:
  - (A) organizes;
  - (B) sells merchandise at;
  - (C) offers to sell merchandise at; or
  - (D) exhibits at;

a trade show or convention;

- (8) except as provided in section 15 of this chapter, a person who holds a registered retail merchant's certificate under IC 6-2.5-8. (IC 25-37-1-2)

A transient merchant who:

- (1) transacts business without having first obtained license under this chapter; or
- (2) knowingly advertises, offers for sale, or sells any goods, wares, or merchandise contrary to this chapter;

commits a Class B infraction for each day a violation occurs. (IC 25-37-1-9)

Notwithstanding IC 25-37-1-5 (requirement to file bond), a county legislative body (as defined in IC 36-1-2-9) may annually:

- (1) set the amount of the bond required under section 5 of this chapter in any amount that is not greater than the amount required in section 5 of this chapter; or
- (2) waive the bond required under section 5 of this chapter.



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**TRANSIENT MERCHANTS LICENSE** *(Continued)*

A county legislative body that reduces or waives the bond must inform the auditor of the county of the following:

- (1) Whether a bond is required to be filed with an application with the auditor for a transient merchant license.
- (2) The amount of the bond if a bond is required.

If filing for a transient merchant license with a county auditor who has been informed of a reduced bond, an applicant filing for a transient merchant license must do the following:

The applicant must file:

- (A) an application; and
- (B) the bond; with the county auditor.

If filing for a transient merchant license with a county auditor who has been informed that a bond has been waived, the applicant must file only an application.

A bond required, although not in the amount required under IC 25-37-1-5, will for all other purposes be treated like a bond issued under IC 25-37-1-5. (IC 25-37-1-5.5)

Notwithstanding IC 25-37-1-6 (requirement to pay license fee), a county legislative body (as defined in IC 36-1-2-9) may annually:

- (1) set the county license fee required under section 6 of this chapter in any amount that is not greater than the amount required in section 6 of this chapter; or
- (2) waive the county license fee required under section 6 of this chapter.

A county legislative body that reduces or waives the county license fee must inform:

- (1) the treasurer of the county; and
- (2) the auditor of the county;

whether a license fee is required to be filed with an application with the auditor for a transient merchant license and the amount of the license fee if a license fee is required.

A treasurer who is informed of a fee changed under subsection (b) shall:

- (1) require each applicant to submit the lesser fee set by the county legislative body; and
- (2) issue a receipt to the applicant.

An applicant filing for a transient merchant license must do the following:

- (1) If filing for a transient merchant license with the county auditor who has been informed of a reduced license fee, the applicant must file:

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**TRANSIENT MERCHANTS LICENSE** *(Continued)*

(A) an application; and

(B) a receipt from the county treasurer.

(2) If filing for a transient merchant license with a county auditor who has been informed that a license fee has been waived under subsection (b), the applicant must file only an application. (IC 25-37-1-6.5)

**LEASE-PURCHASE AGREEMENTS**

In purchasing a truck, accounting machine or any other equipment from budgeted funds, the County Commissioners have the right to enter into a rental with option to purchase agreement if the rental charge is fair and reasonable.

Before such an agreement can be legally entered into, there must be a sufficient appropriation balance available for payment of the current year's rental charge. The agreement should not obligate the county for payment of rental beyond the current year's appropriation. Provision may be made in the agreement for renewal for succeeding years by rental payments subject to appropriations being available therefore.

If the total annual rental payments of the equipment (without consideration of any trade-in) exceeds the county's threshold the purchasing authority must comply with the "Public Purchases Law," IC 5-22, by advertising for bids and by awarding a contract to the most responsible and responsive bidder. Only by awarding a contract pursuant to IC 5-22 would the county have authority to purchase the equipment at a later date. A lease-purchase agreement will generally contain an option to purchase at the end of the lease term for nominal consideration or no additional consideration.

The specifications for the equipment must be recognized standard specification to allow competitive bidding and should provide for the bidder to quote the total purchase cost, the rental charge to be made, and the percentage of the rental charge that will be credited toward the purchase cost should the county exercise the option to purchase. Any interest or carrying charges must be made a part of the original bid price without specific reference made thereto.

If the above requirements are complied with, the purchasing authority can exercise its option to purchase at any time a sufficient appropriation for equipment is available.

**FORESTRY RESERVE DISTRIBUTIONS**

The law governing distribution of state forestry earnings can be found in IC 14-23-4-5. This law specifically provides that 15% of such earnings be deposited in the County General Fund of the county in which the state forest is located.

In addition, counties in which national forests are located receive a distribution from the Treasurer of the United States through the State of Indiana. There are only a few counties receiving earnings from the national forest reserves and it has been the policy to receipt all of such funds to the County Highway Fund.

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**CLERK'S RECORD PERPETUATION FUND**

IC 33-37-5-2 governs this fund and says the clerk may use any money in the fund for the following purposes:

- (1) The preservation of records.
- (2) The improvement of record keeping systems and equipment.
- (3) Case management system.

The code does not specifically define what would be considered the preservation of records and improvement of the record keeping systems that the fund can be used for. To determine whether an intended purchase complies with the statute, the County should get the opinion of their legal counsel and provide that opinion as part of the supporting documentation for the purchase.

**PER DIEM PAYMENTS TO MEMBERS OF AREA PLAN COMMISSION AND BOARDS OF ZONING APPEALS**

Notwithstanding IC 36-2-7-2, a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor who is also a member of a plan commission is entitled to receive the following:

- (1) A sum for mileage for each mile necessarily traveled while performing the duties of a plan commission member in an amount that is equal to the amount paid to state employees for mileage.
- (2) A sum for compensation for services as a member of the plan commission in an amount that the county fiscal body may determine for attendance at meetings of the plan commission.

Since the laws governing Boards of Zoning Appeals fails to address the subject of compensation of board members, we would not be opposed to a county adopting a Home Rule ordinance in accordance with IC 36-1-3 to allow such compensation. As long as those members who are elected officials are excluded, we would not take exception to paying per diem to other members of this board.

**COUNTY LAW ENFORCEMENT CONTINUING EDUCATION FUND**

In each action in which a defendant is found to have:

- (1) committed a crime;
- (2) violated a statute defining an infraction; or
- (3) violated an ordinance of a municipal corporation;

the clerk shall collect a law enforcement continuing education program fee of four dollars (\$4). (IC 33-37-5-8)

A county user fee fund is established in each county to financing various program services. The county fund shall be administered by the county auditor.

The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under IC 31-37-9-9:

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**COUNTY LAW ENFORCEMENT CONTINUING EDUCATION FUND** *(Continued)*

- (1) The pretrial diversion program fee.
- (2) The informal adjustment program fee.
- (3) The marijuana eradication program fee.
- (4) The alcohol and drug services program fee.
- (5) The law enforcement continuing education program fee.
- (6) The deferral program fee.
- (7) The jury fee.
- (8) The problem solving court fee.

All of the jury fee and two dollars (\$2) of a deferral program fee collected under IC 33-37-4-2(e) shall be deposited by the county auditor in the jury pay fund established under IC 33-37-11. (IC 33-37-8-5)

Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed above, the county fiscal body shall appropriate from the county fund to that program or fund the amount collected for the program under IC 33-37-5. (IC 33-37-8-6)

There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-6.

The county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the county law enforcement continuing education fund.

Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

Money in excess of one hundred dollars (\$100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

To make a claim under IC 33-37-8-6 a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

A law enforcement agency shall submit a claim for fees in the same county fiscal year in which the fees are collected under IC 33-37-4.

A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:
  - (A) minimize the likelihood of injury to the law enforcement officer; and
  - (B) promote the safety of a victim.

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**COUNTY LAW ENFORCEMENT CONTINUING EDUCATION FUND** *(Continued)*

- (4) Information about the nature and extent of abuse.
- (5) Information about the legal rights of and remedies available to victims of abuse.
- (6) How to document and collect evidence in an abuse case.
- (7) The legal consequences of abuse.
- (8) The impact on children of law enforcement intervention in abuse cases.
- (9) Services and facilities available to victims of abuse and abusers.
- (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
- (11) Policies concerning arrest or release of suspects in abuse cases.
- (12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
- (13) Landlord-tenant concerns in abuse cases.
- (14) The taking of an abused child into protective custody.
- (15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
- (16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
- (17) Response to a sudden, unexpected infant death.
- (18) Performing cardiopulmonary resuscitation and the Heimlich maneuver.
- (19) Cultural diversity awareness that includes an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities.

A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required. (IC 5-2-8-1)

**COMMUNITY CORRECTIONS PROGRAMS**

Indiana Department of Corrections (IDOC) provides grant funding to the counties. Historically that has been for one project, the county's Community Corrections program. The grant was deposited to a grant fund and the Program Income was deposited to a separate fund. With recent legislation, the grant funding has been expanded to include other programs and this has further complicated the accounting for these grants.

The Auditor is the fiscal officer for the grant. The Auditor must have sufficient information on the grant and the grant budget to be able to audit the claims and post receipts to the correct funds. Starting with the 2016-2017 grants, the grant agreement and attachments that contain the approved budgets for the grants are sent to the County Auditors for signature. A copy of these grant documents should be made by the auditor's office to keep in the grant file. There are two main sources of funding for the Community Corrections which comprise the grant distributions sent from the state each month and project income. The county may also appropriate money from the General Fund to support the Community Corrections programs.

Originally, the Community Corrections was one grant and the collection of user fees related to the Community Corrections program was posted to a separate project income fund (Fund 1122 in the Uniform Chart of Accounts). With the expansion of the grant funding in recent legislation and starting with the 2016-2017 fiscal year, the Community Corrections grant can be awarded to Probation Departments, Prosecutor Diversion Programs and Court Recidivism Programs. In addition, the Community Corrections program for juveniles is now tracked separately from the Community Corrections program for adults. In theory, a county could be awarded as many as five projects from the Community Corrections grant funding. Each project needs to have its own separate grant fund within the fund numbers assigned to State and Local Grants (9000 series in the Uniform Chart of Accounts). At the end of the grant year, the IDOC will evaluate and audit the ending fund balance in the grant funds and determine if the balance is to be returned to the state or may be carried over to a new grant year.

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**COMMUNITY CORRECTIONS PROGRAMS** *(Continued)*

IDOC will send out 25% of the total award in the first month of the fiscal year (July). The remaining 75% of the grant is divided over 12 months and 1/12<sup>th</sup> is sent out each month, also starting with July. The grant agreement will specify how the total grant is to be divided among the approved projects. The payments will be made by EFT and there will be one payment amount each month. Using the grant agreement information, the auditor will have to determine what percentage of the total payment to allocate to each project. The July payment will include the 25% advance and the 1/12<sup>th</sup> payment for July. Starting with the August payment, the payment amounts should remain consistent and the allocation should remain the same each month. The grant agreement will have attachments that contain the approved budgets for each project. By statute, the council must also approve the appropriations.

For the Community Corrections projects, the Community Corrections Advisory Board will set user fees for participation in the program. Community Corrections personnel collect these fees and the fees would be posted to a project income fund. (Fund 1122). Prior to the 2016-2017 year, both adult and juvenile community corrections were placed in the Community Corrections fund. Now, however IDOC is tracking juvenile programs separately from adult programs and there would need to be a separate project income fund for juvenile program fees if your county has a juvenile community corrections program. The program may also collect user fees that offset the cost of certain services provided to participants, such as educational classes, treatment or drug testing. These fees would also be deposited into the project income fund.

For Probation and Pretrial Diversion programs, user fees for participation in the programs are established by statute. For Court Recidivism (Problem Solving Courts) the court establishes the user fees for participation. In each of these three programs, statute directs these user fees to be deposited into specific funds, such as adult and juvenile supplemental probation funds and appropriate user fee funds for the court. The auditor will continue to post those fees as they have always been posted, and that will not change due to a grant from Community Corrections awarded to those offices. However, if the community correction grant received by one of these offices pays for an educational class, drug testing or treatment and a fee is charged the participants are to reimburse the costs of these programs, those user fees would have to be deposited into a separate project income fund for that offices. If the grant does not pay any of these costs, the user fees collected would be posted to the appropriate user fee fund. It becomes extremely important that the project leaders for each office provide sufficient information to allow the receipts to be posted to the correct fund. The only way for the auditor's office to know how to deposit these collections is for the project directors to provide a report of collections that details how this money is to be posted.

Any balance in a Project Income Fund would remain at the county at the end of each fiscal year. In order to disburse Community Corrections project income funds, the disbursement must be in compliance with the approved budget for the project income. These budgets would be included in the attachments with the grant budgets. Any changes to the approved budgets would need to be approved by IDOC and the project leader should be able to provide documentation of that approval.

**EXAMINATION OF RECORDS**

IC 5-11-4-3 provides for the manner in which the examination of records bill from the State Board of Accounts is calculated and paid. It states:

“(a) The expense of examination and investigation of accounts shall be paid by each municipality or entity as provided in this chapter.

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**EXAMINATION OF RECORDS** *(Continued)*

(b) The state examiner shall not certify more often than monthly to the auditor of each county the amount chargeable to each taxing unit within the county for the expense of its examinations as provided in this chapter. Immediately upon receipt of the certified statement, the county auditor shall issue a warrant on the county treasurer payable to the treasurer of state out of the general fund of the county for the amount stated in the certificate. The county auditor shall reimburse the county general fund, except for the expense of examination and investigation of county offices, out of the money due the taxing units at the next semiannual settlement of the collection of taxes.

(c) If the county to which a claim is made is not in possession or has not collected the funds due or to be due to any examined municipality, then the certificate must be filed with and the warrant shall be drawn by the officer of the municipality having authority to draw warrants upon its funds. The municipality shall pay the warrant immediately to the treasurer of state. The money, when received by the treasurer of state, shall be deposited in the trust and agency fund created by subsection (g).

(d) Except as otherwise provided in this chapter, each:

- (1) taxing unit; and
- (2) soil and water conservation district; shall be charged at the rate of one hundred seventy-five dollars(\$175) per day for each field examiner, private examiner, expert, or employee of the state board of accounts who is engaged in making examinations or investigations. Except as provided in subsection (h), all other entities shall be charged the actual direct and indirect cost of performing the examination or investigation.

(e) The state examiner shall certify, not more often than monthly, to the proper disbursing officer the total amount of expense incurred for the examination of:

- (1) any unit of state government or entity that is required by law to bear the costs of its own examination and operating expense; or
- (2) any utility owned or operated by any municipality or any department of the municipality, if the utility is operated from revenues or receipts other than taxation.

Upon receipt of the state examiner's certificate the unit of state government, entity, or utility shall immediately pay to the treasurer of state the amount charged. The money, when received by the treasurer of state, shall be deposited in the trust and agency fund created by subsection (g).

(f) In addition to other charges provided in this chapter, the state examiner may charge a reasonable fee for typing and processing reports of examination in the same manner as other charges are made under this chapter."

If the county reasonably believes or knows that it does not have on hand or will not have collected enough taxes by the next distribution date for a taxing unit included on the examination of records billing, then the county should contact the State Board of Accounts.

**FINANCIAL ASSISTANCE TO NON-GOVERNMENTAL ENTITIES**

Counties providing financial assistance to non-governmental entities are required to notify those entities annually in writing the following information:

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**FINANCIAL ASSISTANCE TO NON-GOVERNMENTAL ENTITIES (continued)**

- 1) The Entity Annual Report (E-1) filing requirement established by IC 5-11-1-4 and the audit requirement established by IC 5-11-1-9;
- 2) The source(s) of the funding provided;
  - a) Local and/or state funds (in the case of subsidies, contributions, or general aid),
  - b) Federal grants passed through including the formal name of the program and CFDA number, or
  - c) Fee for service arrangements,
- 3) The State Board of Accounts may request documentation to support the categorization of the financial assistance,
- 4) The E-1 is not to be confused with the Secretary of State's Business Entity report, and
- 5) The entity may obtain additional information from the State Board of Accounts at [notforprofit@sboa.in.gov](mailto:notforprofit@sboa.in.gov).

Furthermore, this financial assistance provided is to be reported by the county on the Annual Financial Report via Gateway.

'Entity' is defined in IC 5-11-1-16 as "any provider of goods, services, or other benefits that is: (1) maintained in whole or in part at public expense; or (2) supported in whole or in part by appropriations or public funds or by taxation." This includes for-profit and not-for-profit corporations, unincorporated associations, organizations, individuals, etc. Examples of non-governmental entities are volunteer fire departments, a local YMCA, youth leagues, senior citizen centers, 4-H clubs, daycare centers, health service organizations, emergency medical service organizations, community centers, historical societies, etc.

Financial assistance to non-governmental entities is defined as payments received in the form of grants (whether from local, state, or federal sources), subsidies, contributions as permitted by statute, aid, or other agreements. For more information on what constitutes financial assistance, please refer to the State Board of Accounts' *Uniform Compliance Guidelines for Examinations of Entities Receiving Financial Assistance from Governmental Sources* found on the State Board of Accounts' website at [www.in.gov/sboa](http://www.in.gov/sboa) under Private Examiner Audits/Non-Governmental Entities Receiving Governmental Assistance/Uniform Compliance Guidelines.

Each non-governmental entity receiving financial assistance from governmental units is required to submit a Gateway financial report, the E-1, in accordance with IC 5-11-1-4(a). Information requested includes the source and use of financial assistance provided by governmental units. The entity is subject to a State Board of Accounts audit in accordance with IC 5-11-1-9 if certain funding thresholds are met.



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**QUESTIONS AND ANSWERS FROM TREASURER'S ANNUAL CONFERENCE**

**QUESTION #1:** Is it lawful to combine parcels together that have been separated in the past that are now side by side and owned by the same person? Our assessor's office tells us they can't.

**ANSWER #1:** Yes. *(This was answered in the October 2010 County Bulletin on page 10.)*  
IC 6-1.1-5-16 states: "(a) An action under this section is subject to section 5.5 of this chapter.(b) If an owner of existing contiguous parcels makes a written request that includes a legal description of the existing contiguous parcels sufficient for the assessing official to identify each parcel and the area of all contiguous parcels, the assessing official shall consolidate more than one (1) existing contiguous parcel into a single parcel to the extent that the existing contiguous parcels are in a single taxing district and the same section. For existing contiguous parcels in more than one (1) taxing district or one (1) section, the assessing official shall, upon written request by the owner, consolidate the existing contiguous parcels in each taxing district and each section into a single parcel. An assessing official shall consolidate more than one (1) existing contiguous parcel into a single parcel if the assessing official has knowledge that an improvement to the real property is located on or otherwise significantly affects the parcels."

According to IC 6-1.1-5-5.5, the owner(s) of the multiple properties would need to submit a new deed for the combined parcel to the Auditor for transfer.

**QUESTION #2:** The policy on removing penalties for reason of death of deeded owner. Is it at our discretion to remove penalties? (Example: Sick & in hospital for a month dying near due date) (Real Estate or Personal Property)

**ANSWER #2:** The statute provides a waiver specifically for death, but does not provide a waiver for any other circumstances. IC 6-1.1-37-10.7 states "(b) The county treasurer shall do the following: (1) Waive the penalty imposed under section 10(a) of this chapter if the taxpayer or the taxpayer's representative: (A) petitions the county treasurer to waive the penalty not later than thirty (30) days after the due date of the installment subject to the penalty; and (B) files with the petition **written proof that during the seven (7) day period ending on the installment due date the taxpayer or an immediate family member of the taxpayer died.**"

*(To reflect this for a property that is subject to sale under this chapter after June 30, 2012 and before July 1, 2013 the notice required under IC 6-1.1-24-2 **was amended to require that a statement declaring whether an ordinance adopted under IC 6-1.1-37-10.1 is in effect in the county and, if applicable, an explanation of the circumstances in which penalties on the delinquent taxes and special assessments will be waived?** (REPEALED))*

**QUESTION #3:** Who is in charge of keeping the duplicate tax files? Treasurer or Auditor?

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**QUESTIONS AND ANSWERS FROM TREASURER'S ANNUAL CONFERENCE** *(Continued)*

**ANSWER #3:** According to IC 6-1.1-22-3 "(d) The county auditor shall comply with the instructions issued by the state board of accounts for the preparation, preservation, alteration, and maintenance of the tax duplicate. The county auditor shall deliver a copy of the tax duplicate prepared under subsection (a) to the county treasurer when preparation of the tax duplicate is completed." So both offices should have a copy of the tax duplicate in electronic or hard copy format. It is listed on the retention scheduled provide by IARA for the Auditor and the Treasurer.

**QUESTION #4:** Does the Auditor need to keep a "Drain" book? If not, does the spreadsheet they have created need to be approved by SBOA?

**ANSWER #4:** Yes a drain book still needs to be kept. An alternate form can be used if it contains the same information. It would need to be audited before it is considered approved. We do not approve electronic spreadsheet software in general, however an alternative software could be used that is designed for maintaining the drain information and contains the necessary audit trail and adequate controls.

**QUESTION #5:** Under the assumption that delinquent taxes stay with the owner and not the personal property. Judgements have not been required to be paid to issue title transfer. Just the current year's taxes. How do you then implement that judgements are now required to be paid before obtaining permit without any push back from taxpayers?

**ANSWER #5:** The judgement is assigned to the person. If a permit was already issued to transfer the title because current taxes were paid and later discover there was a judgement against the prior owner, you cannot enforce that judgement against the current owner. Whether the County can require a judgement to be paid before the title is transferred if the current taxes are paid would be a question for the County's legal counsel.

**QUESTION #6:** Who do the county office policies and procedures for Internal Control System need to be sent to?

**ANSWER #6:** The County Commissioners are required to approve a policy adopting internal control standards. Standards recommend that internal control procedures be developed and documented. Internal control procedures should be developed uniquely for each county and each office and department. The policy and any procedures should be retained at the local level and be available for audit if requested.

**QUESTION #7:** What is the process for a situation in which the County Treasurer's Monthly Report (County form 47TR) needs to be corrected?

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**QUESTIONS AND ANSWERS FROM TREASURER'S ANNUAL CONFERENCE** *(Continued)*

**ANSWER #7:** The corrected report should be resubmitted to the SBOA and the County Auditor indicating that the report has been corrected. The new report could include a note that is was "amended", "corrected", or "revised".

**QUESTION #8:** There was a situation in which a property owner paid their tax bill and then a Bank in error sent a payment in for the same parcel of land. What would the process be for the Bank to get a refund?

**ANSWER #8:** IC 6-1.1-26-6(a) states in part: "...The taxpayer may then file a verified claim for money remaining in the surplus tax fund. The county treasurer or county auditor shall require reasonable proof of payment by the person making the claim. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the taxpayer for the amount due the taxpayer."  
This could be done at any time and would not have to wait until settlement.

**QUESTION #9:** Please advise what we need to do in order to charge for mobile home permits? We know some counties charge for these; our attorney does not want us to charge unless the law spells it out. Do we have to adopt an ordinance under Home Rule?

Can you Home Rule the fund you put the mobile home fee in? Our County put the fee into a separate fund to be used for the Treasurer's office for training.

**ANSWER #9:** According to the Treasurer's Manual Ch.6 in the Mobile Home Permit for Moving or Transferring Title section, "A county may establish a fee for issuing such permits if it adopts a Home Rule Ordinance establishing the fee in accordance with IC 36-1-3-1 et seq. All fees shall be deposited into the county general fund."

**QUESTION #10:** Is there a statutory limit for filing a lien on a property? (Ex. Clean-up lien by a town 20yrs later)

**ANSWER #10:** Lien should be filed on property when the event happened (ex. Clean-up). Liens cannot be filed after ownership has changed. Need to get a legal opinion.

**QUESTION #11:** How can I get Bankruptcy notices emailed to me? Is there a website to sign up or a phone number I can contact to get on the email list for notifications? *(I know they do that because our former Treasurer got them.)*

**ANSWER #11:** emailed Joe Black to see if he has any information

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**QUESTION #12:** How long does the Form 47 Daily Balance of Cash and Depositories (Cashbook) have to be maintained? It isn't listed on the Treasurer's records retention schedule anymore.

**ANSWER #12:** According to Indiana Archives and Records Administration (IARA), that moved off the old Treasurer's schedule and on to the County/Local General schedule and is covered by GEN 10-38, REPORTS (excludes Form 100R-Certified Report of Names, Addresses, Duties and Compensation of Employees which is Permanent) which indicates records can be destroyed after six (6) calendar years and after audit by the State Board of Accounts and satisfaction of any unsettled charges. For additional information about records retention, contact IARA.