

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 406

October 2017

REMINDER OF ORDER OF BUSINESS

October

- 9 Columbus Day - Legal Holiday (IC 1-1-9-1)
- 18, 19, 20 County Auditor's Fall Conference – Indianapolis, Indiana
- 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))
- 7 General Election Day (IC 1-1-9-1)
- 11 Veterans' Day - Legal Holiday. (IC 1-1-9-1)
- 13 Last day for paying second installment of taxes without penalty. Start preparing for settlement of second installment tax collections. (IC 6-1.1-22-9)
- 23 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)

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))
- 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.

APPROPRIATIONS - WHEN NOT REQUIRED

In some instances statutory authority is given the county auditor to make disbursements without an appropriation having been previously made for the specific purpose. Examples are as follows:

1. Premiums on official bonds. (IC 5-4-5-3)
2. Tax refunds. (IC 36-2-9-14)
3. Any money belonging to the state, school fund, or any fund of any township, town or city and commanded by law to be paid to such municipality. (IC 36-2-9-14)
4. Any money collected from a taxpayer from an assessment and is being paid on a public improvement such as ditches and drains. (IC 36-2-9-14)
5. Redemption of property sold at tax sale. (IC 36-2-9-14)
6. Per diem, lodging, and mileage for conferences called by State Board of Accounts. (IC 5-11-14-1)
7. Examination of records. (IC 5-11-4-4)
8. Line fence assessments. (IC 32-26-9-4)
9. Federal grants, if advanced and not received as a reimbursement of expenditures.
10. Advances to conservancy districts on order of court. (IC 14-33-7-15)
11. Surplus tax refunds. (IC 6-1.1-26-5)
12. Refund of money erroneously received. (IC 6-1.1-18-9)
13. Correction of errors in posting. (IC 6-1.1-18-9)
14. Jail commissary fund. (IC 36-8-10-21)
15. Investment of funds.
16. Title IV-D incentive fund (clerk and prosecuting attorney portions). (IC 31-25-4-23)
17. Repayment of temporary loans.
18. Recorder's records perpetuation fund. (IC 36-2-7-10)
19. Firearms Training Fund. (REFUNDS ONLY) (IC 35-47-2-3).
20. Accident Report Fund. (IC 9-29-11-1)
21. County Law Enforcement Continuing Education Fund. (IC 5-2-8-1)
22. Special Death Benefit Fee Fund. (IC 5-10-10; IC 35-33-8-3.2)
23. Military Fines. (IC 10-16-9-3)
24. Payment of accrued interest on cemetery trust funds paid on the last Monday in January (IC 23-14-70-2).

There may be other laws under which funds may be disbursed without appropriation; however, appropriations are required before disbursements may be made from any fund subject to the Budget Laws unless specific authority to disburse without appropriation is provided by law.

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APPROPRIATIONS - REQUIRED BY COUNTY COUNCIL ONLY

The following is a list of funds which require county council approval of an appropriation. Due to the nature of the funds, the Department of Local Government Finance does not require submission of an additional appropriation request before the local appropriation can be approved.

1. County Supplemental Adult Probation Services Fund. (IC 35-38-2-1)
2. County Supplemental Juvenile Probation Services Fund. (IC 31-40-2-2)
3. County User Fee Fund. (IC 33-37-8-6)
4. Plat Book Fund. (IC 36-2-9-18)
5. Local Emergency Right to Know Fund. (IC 13-25-2-10.6)
6. Pretrial Diversion Fund (Excess). (IC 33-37-8-7)
7. Community Corrections Home Detention Fund. (IC 11-12-7-3; IC 35-38-2.5-8)
8. County Extradition Fund. (IC 35-33-14)
9. County Misdemeanant Fund (IC 11-12-2-11)
10. Supplemental Public Defender Services Fund. (IC 33-40-3-2)
11. Emergency Telephone System Fund. (IC 36-8-16.7-38)
12. Cumulative Bridge Fund. (IC 8-16-3-3)
13. Local Health Maintenance Fund. (IC 16-46-10)
14. Vehicle Inspection Fund. (IC 9-17-2-12)
15. Community Corrections Grant and Project Income Fund (IC11-12-2-2)
16. Payments from State or Federal Grant as reimbursement of expenses (IC 6-1.1-18-7.5)
17. Firearms Training Fund. (IC 35-47-2-3).

PROPER RECEIPTING

It has come to our attention that the County Auditor at some counties may be collecting receipts from other county departments and possibly other fees that are not related to the auditor's office. The County Auditor should only be collecting money for fees their office is authorized to collect. The laws provide for fees to be charged by the auditor for the following services:

1. The fiscal body shall establish a fee schedule for the certification or copying of documents. The fee for certification of documents may not exceed five dollars (\$5) per document. The fee for copying documents may not exceed the greater of: (1) ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or (2) the actual cost to the agency of copying the document. The fee established must be uniform throughout the public agency and uniform to all purchasers. (IC 5-14-3-8(d))
2. If authorized by an ordinance enacted by the Board of County Commissioners, not to exceed \$5.00 for each endorsement made on a deed to be recorded to be receipted to the Plat Book Fund. (IC 36-2-11-14 and IC 36-2-9-18).
3. A county auditor who executes a tax deed under this chapter shall provide a copy of the tax deed to the grantee. The county auditor shall collect from the grantee the appropriate recording fee set forth in IC 36-2-7-10 on behalf of the county recorder and submit the tax deed directly to the county recorder for recording. (IC 6-1.1-25-20)

This segregation of duties was established by statute and included in the Accounting and Uniform Compliance Guidelines as indicated below.

The Accounting and Uniform Compliance Guidelines Manual for County Treasurers of Indiana (available on our website) includes the following:

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PROPER RECEIPTING (Continued)

The treasurer is the custodian of all money belonging to the county. The treasurer shall receive all money coming to the county, and disburse the same on the proper orders issued and attested by the county auditor. (IC 36-2-10-9)

The treasurer shall give to any person paying money to him/her as treasurer a receipt therefore, which receipt, except for taxes (or special collections), shall be deposited by such person with the county auditor, who shall give such person a quietus for the same. (IC 36-2-9-12 and 36-2-10-10)

The Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana (available on our website) includes the following:

All money payable to the county treasury must be received and deposited by the county treasurer. The only money the auditor is authorized to accept is fees for services, discussed in this section under "Auditor's Fees," which are deposited monthly with the treasurer. *(Please note, the "Auditor's Fees" section of the manual currently available online is outdated. We are currently working on updating the manuals. Please refer to the fees noted above for the current fees auditors are authorized to collect.)*

All money, except for taxes and special assessments paid direct to the treasurer, shall be receipted into the records by the use of the four-part Form 20-21, "Combination Quietus, Application to Pay, Treasurer's Receipt and Auditor's Copy." This form, which serves as the media for posting to the fund ledger accounts, is sometimes referred to in this manual as an "application to pay and quietus," as a "quietus" and as a "receipt."

The form is designed to meet the requirements of IC 36-2-9-12 and IC 36-2-10-10 and to insure proper accountability for all such receipts. The following steps should be followed:

1. The county auditor prepares the four-part form, to show the date, fund or funds to be credited, amount, the person applying to pay the money into the county treasury, and in the space "on account of" shall show the source of the payment and the specific account number or numbers to be credited.
2. The auditor hands to such person the "Application to Pay" and "Receipt" copies and the person makes payment direct to the treasurer, receiving from the treasurer the signed receipt copy. The treasurer retains the application to pay for the records of that office.
3. The person returns the receipt copy to the auditor who thereupon issues the "Quietus" to such person to complete the transaction. The receipt copy is retained for the auditor's records.

There will be instances, such as state distributions and payments received by mail, where the auditor will have to deliver the payment to the treasurer. However, this procedure should be avoided where possible to not only comply with the law but to effect proper internal control over all such receipts.

The form of Quietus, Application to Pay, Treasurer's Receipt and Auditor's Copy is required to be prenumbered by the printer. Under no circumstances shall unnumbered receipts be purchased or used, nor shall any other form of receipt be used by the auditor.

LOCAL INCOME TAX

In 2017, the transition from Local Option Income Tax (LOIT) to Local Income Tax (LIT) continued. Under LIT legislation, there are three possible rates for local income tax. The expenditure rate, the property tax relief rate and the special purpose rate.

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LOCAL INCOME TAX (Continued)

Expenditure Rate

Within the expenditure rate, the adopting body will determine the allocation of the expenditure rate to public safety, economic development and certified shares. We had provided instructions in 2016 to counties that for certified shares, the revenues should be deposited to the General fund starting in 2017. The funds that had been established for CAGIT County Certified Shares and COIT County Distributive Shares should be closed. Any balance remaining in these funds should be transferred to the county's General fund by the end of the year. The funds used for CAGIT and COIT (1110 and 1121) should no longer be used after 2017. The Economic Development fund remained the same fund number (1112) and was renamed LIT Economic Development. The Public Safety fund also remained the same fund number (1170) and was renamed LIT Public Safety. There would be no need to transfer money for either the Economic Development (CEDIT) or Public Safety funds.

Special Purpose Rate

The special purpose rate is established under IC 6-3.6-7-1 and must be used in compliance with the statute. Under LOIT, a special purpose rate was allowed under CAGIT, COIT and CEDIT legislation. This rate is now one rate under LIT. We established a new fund on the chart of accounts for LIT-Special Purpose (fund 1114). If a county had a fund under CAGIT, COIT or CEDIT (funds 1109, 1113, or 1120), the balance of the fund at the end of 2016 should have been moved to the new fund (1114). The appropriations from the 2017 budget for the Special Purpose fund should have been recorded to the new fund. The purpose of the fund remained the same as under the LOIT legislation.

Property Tax Rates

There were several funds established within the settlement funds to account for LOIT Property tax relief. The counties were instructed to deposit all the 2017 LIT Property Tax Relief revenues into a new fund for Local Income Tax – Property Tax Relief (fund 6203). The existing funds were not to be used in 2017 and the Auditor of State would provide instructions for including the balances from the previous property tax relief funds into settlement and distribution in 2018. The counties need to review any LOIT Property Tax Relief funds to determine that the balances in the fund, do represent only undistributed amounts of property tax relief. If the counties have any other funds in these accounts, please contact us for assistance in clearing out any funds that are not property tax relief funds. If the county has placed property tax relief funds in any fund other than the 6000 series, please make sure that the Auditor of State's office has that information as well. If you have any questions on the information provided, please don't hesitate to contact our office.

EMPLOYEE (FORM W-2) VS. INDEPENDENT CONTRACTOR (FORM 1099) - COURT REPORTERS

We have received quite a few questions on paying wages to an employee versus payments to an independent contractor. This classification is ultimately determined by the Internal Revenue Service. We can't provide an audit position on this question and would have to refer any questions that a county may have on making this determination to the IRS. However, there appears to be a common question on whether a person can be both an employee and an independent contractor for the county. The following is copied from the IRS website www.irs.gov

“A worker's role determines which information return an entity would provide. Entities provide a Form 1099-Misc to independent contractors and Form W-2 to employees. ... However, there may be instances where a worker may be serving as an independent contractor and an employee for the same entity.”

Court Reporters is one example of where an employee of the county may also be an independent contractor for the county. The Indiana Supreme Court adopted Ind. Administrative Rule 15 on Court Reporters to address the provision of the preparation of transcripts. You can find this rule on the Court's website www.courts.in.gov .

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EMPLOYEE VS. INDEPENDENT CONTRACTOR (Continued)

A court reporter is responsible for preparing a transcript when an appeal is made. The courts of the county must adopt a Court Reporter Model in compliance with Rule 15 that includes a uniform method by which a court reporter charges for transcription preparation. The court's local rule and any changes to the local rule must be approved by the Supreme Court. Depending on the model chosen by the court, an employee of the court may also be an independent contractor. The preparation of transcripts could be a fee for service that is paid by private parties to obtain the transcript. If the person has been determined to be indigent by the court, the county pays the fee for the transcription service on behalf of the indigent person. You would have to look at the model adopted by the court and the local rule for transcription services, but it is possible for the court reporter to receive a 1099 from the county for the provision of transcription services for indigent appellants as well as a W-2 for the court reporter's annual salary.

QUESTIONS AND ANSWERS FROM CLERK OF CIRCUIT COURT'S CONFERENCE – JUNE 2017:

Question 1: Should original wills, once scanned be held by Clerks? Going paperless and all in our future.

Answer 1: Per Indiana Office of Judicial Administration, original wills should be kept on file at the Clerk's office.

Question 2: What or how to handle tickets, orders, minutes, etc once scanned into the system for records management or record retention/destruction?

Answer 2: Trial Rule 7 for Court documents. Court records do not have to be retained after scanned unless specifically noted in Trial Rule 7. If it is not a court document, then follow IARA retention schedules. Election records would fall under IARA.

Question 3: On Incite what is to be done with the petition and order for marriages performed to 16 years olds? Is it public record through Incite or should it be locked?

Answer 3: Per Indiana Office of Judicial Administration, it is not a confidential record.

Question 4: Forms online for small estates, banks tell people to go to Clerk's office.

Answer 4: Per Indiana Office of Judicial Administration, they will have the forms online soon, but it is not the responsibility of the Clerk to provide the forms.

Question 5: Are we allowed to charge someone the stop payment fee charged by our bank for a check they have lost after receiving it? And if so, what fund/category is it paid?

Answer 5: The governing body should pass an ordinance establishing the fee to be charged. The fee would go back into the General Fund.

Question 6: How or who is responsible for getting these to defendants on e-filed mortgage foreclosure cases. Use to be they were sent by the clerk with the service. (the paper is a registration for a foreclosure prevention settlement conference)

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Answer 6: It's not a State requirement so there is no way to e-file it. If it is a County requirement, it would need to be mailed.

Question 7: A money order for a traffic ticket was sent in but it was \$6 short of the amount due. The amount of the money order was placed in a trust. The ticket is still unpaid and the driver's license has been suspended. What should be done with the money in trust?

Answer 7: Apply it to the ticket if your system has the ability to accept partial payments, refund the money to the person, or hold it in trust for the specified time period and then remit to State as unclaimed property under IC 32-34-1-20 and IC 32-34-1-26.

Question 8: If filer pays Sheriff fee to Clerk in error, is the Clerk allowed to keep \$3 before issuing the refund?

Answer 8: IC 33-37-12-2 states: "If the amount collected by the clerk of the circuit court is more than the amount required, the clerk shall: (1) retain the administrative fee described in section 3 of this chapter; and (2) refund the excess amount."

IC 33-37-12-3 states: "(a) The clerk of a circuit court may retain as an administrative fee an amount of up to three dollars (\$3) from the excess amount collected by the clerk under section 2 of this chapter.(b) The clerk shall deposit the amount retained as an administrative fee under subsection (a) in the clerk's record perpetuation fund..."

Question 9: If a case is filed in one County, but the defendant lives in another county, and service is by Sheriff, does the county that filed the case keep the Sheriff fee or send it to the county Clerk of the Sheriff serving the paperwork?

Answer 9: The State statute isn't clear on this. You will have to work it out locally right now. We are working with the Indiana Office of Judicial Administration and the Sheriff's Association to come up with better guidance.

Question 10: If the fee goes to the Clerk of the county serving the paperwork, how does the Clerk receipt the money?

Answer 10: Per Indiana Office of Judicial Administration, it would be entered as miscellaneous if case is not at that court.

Question 11: E-filing Class-Best I've heard in many years. Can you send notes out to everyone? Recorded maybe? Do we need to tell Odyssey that yes, we want to accept electronic payments so we can get our filing fees? Currently we accept only cash and money orders.

Answer 11: Per Trial Court Technology: "As we deploy, we work with the county on creating a bank account with Chase for the e-filing fees. We work with the counties who use Odyssey, CSI will work with their counties and QUEST will work with those that use their system. There are a few forms that have to be completed to create the account and each of us will work to ensure that the paperwork is completed and the account ready to go before e-filing is implemented."

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Question 12: Is the affidavit for transfer of property without an estate, a State form or a required form? The Clerk's office has the person fill it out and return it to the Assessor and the Assessor is questioning the form.

Answer 12: This is not a state form. Whether the form is legal or not is something to ask an attorney. The only statute we found referring to affidavit was IC 29-1-8-1 for small estates with administration.

Question 13: If a person fails to comply with the summons for jury duty and is ordered to appear in court, can they be fined not more than \$100 or imprisoned in the county jail for not more than three days or both?

Answer 13: IC 33-28-5-17(a) states that if a prospective juror fails to appear under the supervising judge's order or fails to show good cause for the failure to appear as directed by the jury administrator, the prospective juror is subject to criminal contempt.

QUESTIONS AND ANSWERS FROM TREASURER'S CONFERENCE – AUGUST 2017:

Question 1: When is the due date for local units to submit a list of employees to the county treasurer to check for delinquent taxes?

Answer 1: Per IC 6-1.1-22-14(b), the lists must be provided by June 1 and December 1 each year.

Question 2: A mobile home is moved illegally and there are back taxes owed on it. The State Statute states that it is a Class C infraction for any mobile home to be moved or sold without a proper title transfer or moving permit. How do we enforce the Class C infraction? What steps do we the Treasurer's office need to take?

Answer 2: Infractions are enforced by a law enforcement agency. You could contact the Sheriff or the Prosecuting Attorney regarding enforcement.

Question 3: Can I use LOIT Public Safety Funds to update the security system in the Treasurer's office?

Answer 3: A security system for the Treasurer's office appears to be outside the scope of "public safety" as defined in IC 6-3.6-2-14

IC 6-3.6-2-14 "Public safety"

"Public safety" refers to the following:

- (1) A police and law enforcement system to preserve public peace and order.*
- (2) A firefighting and fire prevention system.*
- (3) Emergency ambulance services (as defined in IC 16-18-2-107).*
- (4) Emergency medical services (as defined in IC 16-18-2-110).*

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Answer 3: *(Continued)*

(5) Emergency action (as defined in IC 13-11-2-65).

(6) A probation department of a court.

(7) Confinement, supervision, services under a community corrections program (as defined in IC 35-38-2.6-2), or other correctional services for a person who has been:

(A) diverted before a final hearing or trial under an agreement that is between the county prosecuting attorney and the person or the person's custodian, guardian, or parent and that provides for confinement, supervision, community corrections services, or other correctional services instead of a final action described in clause (B) or (C);

(B) convicted of a crime; or

(C) adjudicated as a delinquent child or a child in need of services.

(8) A juvenile detention facility under IC 31-31-8.

(9) A juvenile detention center under IC 31-31-9.

(10) A county jail.

(11) A communications system (as defined in IC 36-8-15-3), an enhanced emergency telephone system (as defined in IC 36-8-16-2, before its repeal on July 1, 2012), a PSAP (as defined in IC 36-8-16.7-20) that is part of the statewide 911 system (as defined in IC 36-8-16.7-22) and located within the county, or the statewide 911 system (as defined in IC 36-8-16.7-22).

(12) Medical and health expenses for jailed inmates and other confined persons.

(13) Pension payments for any of the following:

(A) A member of a fire department (as defined in IC 36-8-1-8) or any other employee of the fire department.

(B) A member of a police department (as defined in IC 36-8-1-9), a police chief hired under a waiver under IC 36-8-4-6.5, or any other employee hired by the police department.

(C) A county sheriff or any other member of the office of the county sheriff.

(D) Other personnel employed to provide a service described in this section.

(14) Law enforcement training.

Question 4: Can a treasurer have a nonreverting fund?

Answer 4: There is no statutory authority for the Treasurer to have a nonreverting fund. We are not aware of any revenues that would be collected by the Treasurer that are not already directed to a specific fund by statute. An ordinance may not be used in an attempt to circumvent statutory provisions.

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Question 5: What do I do if my excise does not balance with the auditor? What tools/action is needed?

Answer 5: Working together with the auditor's office, you need to determine the last time that you did balance. From that point forward, compare your daily cash book with the auditor's record. Potential errors that may create differences include:

- 1) Combining wheel tax with excise tax
- 2) Failure to post daily by one of the offices, creating a timing difference
- 3) The amount on the FTP does not match the deposit

Question 6: Is there an electronic form 18E?

Answer 6: Form 18E is the Treasurer's Receipt of Excise Tax.

From the County Treasurer's Manual and Uniform Compliance Guidelines, Chapter 1:

A prescribed form is one which is put into general use for all offices of the same class, whereas an approved form is a computerized form for special use in a particular office.

Although the SBOA prescribes forms, copies of forms must be purchased from a public printer or other source. An electronic version of the form may be available from your software vendor.

Many computer software programs can create exact replicas of prescribed forms. Exact replica may be used as a prescribed form. If it is desirable to use a form other than a prescribed form that is not an exact replica, the new form must be approved.

Question 7: Should any of the County Highway Salary budget come out of the County General Fund budget? If not, could you provide the related IC code?

Answer 7: The statute does allow highway expenses to be paid from the General fund, however the statute states that highway expenses should be paid first from the gasoline tax, special fuel tax and motor vehicle registration fees that are deposited into the MVH and LRS funds. County Council is the appropriating body.

IC 8-18-8-5 "Maintenance of county highways; payment of expenses" states:

All expenses incurred in the maintenance of county highways shall first be paid out of funds from the gasoline tax, special fuel tax, and the motor vehicle registration fees that are paid to the counties by the state. In addition, a county may use funds derived from the:

- (1) county vehicle excise tax;
- (2) county wheel tax;
- (3) local income tax (IC 6-3.6);
- (4) riverboat admission tax (IC 4-33-12);
- (5) riverboat wagering tax (IC 4-33-13); or
- (6) property taxes and miscellaneous revenue deposited in the county general fund.

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Question 8: What can be done to designate what department should figure split amounts for property taxes that have a split? It might be beneficial to the new treasurer's to give an explanation of "splits." Thank you.

Answer 8: A county is only required to obtain one mailing address and prepare one bill for each parcel. For a parcel with multiple owners, it is the owners' responsibility to determine how they will split their bill and ensure that the bill is paid.

If you are talking about the taxes that are due before the date of the transfer, those taxes have to be paid before the transfer is entered onto the records. The parties involved in the conveyance would have to work out the taxes between them or as negotiated in the sale documents. After the transfer is entered, the assessor would have to supply the assessed values for each new parcel created by the partition.

IC 6-1.1-5-5.5 addresses the split of a large parcel into smaller parcels that are individually billed and taxed.

Question 9: Who signs and approves an investment policy established under IC 5-13-9-5.7.

Answer 9: An investment policy adopted under the authority of IC 5-13-9-5.7 should be approved by the County Fiscal Body. Based on the statutes cited below this would be the County Council.

IC 5-13-9-5.7 (a) The fiscal body of a political subdivision may adopt an investment policy authorizing the investment of public funds of the political subdivision for more than two (2) years and not more than five (5) years. The policy must:

- (1) be in writing;
- (2) be adopted at a public meeting;
- (3) provide for the investment of public funds with the approval of the investing officer;
- (4) provide that the investments must be made in accordance with this article;
- (5) limit the total investments outstanding under this section to not more than twenty-five percent (25%) of the total portfolio of public funds invested by the political subdivision, including balances in transaction accounts; and
- (6) state a date on which the policy expires, which may not be more than four (4) years after the date on which the policy takes effect.

IC 36-2-3-2(a) states, "The seven (7) member county council elected under this chapter is the county fiscal body. The fiscal body shall act in the name of "The _____ County Council."

Guidelines are established by the County Commissioners per IC 5-13-9-1. The Treasurer is the investment officer, but the treasurer would have to follow the guidelines and investment policy, if applicable.

Question 10: What are the parameters for property tax payment plans?

Answer 10: The statute provides partial payment plans for the payment of current taxes and for the payment of delinquent taxes. These are two separate statutes and the statute should be consulted before proceeding with a payment plan.

Partial payment plans for the payment of current taxes are prescribed by and described in IC 6-1.1-22-9.7. Some basic requirements include monthly payments, over a period of time not to exceed 12 months. The period of time cannot begin before Dec 1 of preceding year and

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Answer 10: *(Continued)*

cannot end after Nov 30 of the current year. County Council can adopt an ordinance allowing payment plans, and if not, County Treasurer can implement a policy.

IC 6-1.1-24-1.2 prescribes the procedures for a partial payment of delinquent taxes. The agreement must be in writing, signed by the taxpayer and requires the delinquent taxes to be paid in full before July 1 of the year after the date the agreement is signed.

Question 11: If the innkeeper's tax is not paid on time (within the 20 day limit) who determines the interest?

Answer 11: IC 6-9-18-3 (e) states:

All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

IC 6-9-29-2 Liability; penalty for failure to remit tax states:

An individual who:

(1) is an individual taxpayer or an employee, an officer, or a member of a corporate or partnership taxpayer; and

(2) has a duty to remit innkeeper's taxes to the department of state revenue or a political subdivision; holds those innkeeper's taxes in trust for the state or political subdivision and is personally liable for the payment of the innkeeper's taxes, plus any penalties and interest attributable to the innkeeper's taxes, to the state or political subdivision. An individual who knowingly fails to collect or remit the innkeeper's taxes to the state or political subdivision commits a Level 6 felony.

IC 6-9-29-3 states: "If an ordinance has been adopted requiring the payment of the innkeeper's tax to the county treasurer instead of the department of state revenue, the county treasurer has the same rights and powers with respect to collecting and refunding the county innkeeper's tax as the department of state revenue.."

IC 6-8.1-10 addresses penalty and interest payments assessed by the Department of Revenue.

Question 12: Should treasurer have separate account for EDC money? Or auditor have fund for EDC money? Then they have to pay their bills through the claims process.

Answer 12: Yes, if referring to Redevelopment funds. They should have separate funds on the auditor's ledger. The bank account may be a separate account, but it should also be included in the cashbook.

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Answer 12: *(Continued)*

Redevelopment claims would be approved by the Redevelopment Commission and then processed through the auditor's office like other claims.

IC 36-7-14-8: (b) The fiscal officer of the unit establishing a redevelopment commission is the treasurer of the redevelopment commission. Notwithstanding any other provision of this chapter, but subject to subsection (c), the treasurer has charge over and is responsible for the administration, investment, and disbursement of all funds and accounts of the redevelopment commission in accordance with the requirements of state laws that apply to other funds and accounts administered by the fiscal officer. The treasurer shall report annually to the redevelopment commission before April 1.

Economic Development has a different statute than Redevelopment. The most common source of Economic Development money is from Local Income Tax. The Expenditure Rate may include an allocation for Economic Development (CEDIT) and this tax revenue should be placed in the EDIT fund.