

TOWNSHIP BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS

Volume 291, Page 1

November 2010

ITEMS TO REMEMBER

DECEMBER

- December 1: On or before June 1 and December 1 of each year (or more frequently if the County Legislative Body adopts an ordinance requiring additional certifications) the Township shall certify a list to the County Treasurer of the names and addresses of each person who has money due the person from the Township. [IC 6-1.1-22-14]
- December 25: Legal Holiday - Christmas Day. [IC 1-1-9-1]
- December 31: All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. [IC 5-13-6-1(e)]

JANUARY

- January 1: Legal Holiday - New Year's Day. [IC 1-1-9-1]
- January 1: Set up the Financial and Appropriation Record for the year 2011, by bringing forward the fund (cash) balances at the close of the year 2010 and entering appropriations as finally adopted and approved.
- January 4: Annual meeting of township board to organize by electing one member as chairman and one member as secretary for the year. (First Tuesday after first Monday in January.) [IC 36-6-6-7]
- January 4-31: Members of the township board are to meet to organize as a township board of finance by electing one member as president and one member as secretary, each for a period of one year. During the annual meeting the investment officer shall make a written report to the investing officer's local board of finance summarizing the township's investments during the previous calendar year. The report must contain the name of each financial institution, government agency or instrumentality, or other person with whom the township invested money during the previous calendar year. The local board of finance shall do the following at the meeting:
- (1) Review the report.
 - (2) Review the overall investment policy of the political subdivision. (After the first Monday and on or before the last day of January.) [IC 5-13-7-6, IC 5-13-7-7]
- January 15: Last day to make pension report for fourth calendar quarter by townships participating in PERF.

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ITEMS TO REMEMBER
(Continued)

- | | | |
|---------|-----|--|
| January | 17: | Legal Holiday - Martin Luther King, Jr.'s Birthday. [IC 1-1-9-2] |
| January | 18: | Last day for the annual meeting of the township board for the purpose of receiving, auditing and approving the Annual Report, Township Form 15 for 2010 (On or before the third Tuesday after the first Monday in January.) [IC 36-6-6-9] |
| January | 27: | Last day for trustee to file the copy of the Annual Report, Township Form 15, as approved by the township board, together with the 2010 vouchers, in the office of the county auditor (within ten (10) days after the meeting of the township board on January 18). [IC 36-6-4-12] |
| January | 31: | All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. [IC 5-13-6-1(e)] |
| January | 31: | Last day to provide each employee with a W-2. |
| January | 31: | Last day to file quarterly 941 report for fourth quarter with Internal Revenue Service. |
| January | 31: | Last day to file Form 100R, Certified Report of Names and Compensation of all Officers and Employees, with the State Board of Accounts. Be sure to indicate the name and business address of the township and the name of the county on page one of the form. A supply of forms for the report can be procured from your supplier of township forms. The form should be mailed to the State Board of Accounts, 302 West Washington Street, Room E418, Indianapolis, IN 46204. [IC 5-11-13-1] |

FEBRUARY

- | | | |
|----------|-----|--|
| February | 12: | Legal Holiday – Lincoln’s Birthday. [IC 1-1-9-1] |
| February | 14: | Last day for publication of Annual Report, Township Form 15, for 2010 in summary form. (Within four weeks after the third Tuesday after the first Monday in January.) [IC 36-6-4-13] |
| February | 15: | Legal Holiday – Washington’s Birthday. [IC 1-1-9-1] |
| February | 28: | All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. [IC 5-13-6-1(e)] |

Please note IC 5-11-1-4 now provides the last day to file the 2010 Annual Report, Township Form 15, with the State Board of Accounts and is not later than sixty (60) days after the close of each fiscal year, (March 1, 2010)

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QUALIFYING FOR OFFICE - OATH

IC 5-4-1-1 states in part (a) ". . . every officer and every deputy, before entering on the officer's or deputy's official duties, shall take an oath to support the Constitution of the United States and the Constitution of the State of Indiana, and that the officer or deputy will faithfully discharge the duties of such office."

QUALIFYING FOR OFFICE – OFFICIAL BONDS

OBTAIN BOND FIRST

IC 5-4-1-9 states "An officer required to give an official bond shall give the bond before the commencement of his term of office. If the officer fails to give the bond before that time, the officer may not take office."

COUNTY AUDITOR APPROVAL

IC 5-4-1-8 states in part "The official bonds of officers, if sufficient, shall be approved as follows . . . township trustee . . . by the county auditor."

PAYABLE TO STATE

IC 5-4-1-10 states "All official bonds shall be payable to the state of Indiana; and every such bond shall be obligatory to such state, upon the principal and sureties, for the faithful discharge of all duties required of such officer by any law, then or subsequently in force, for the use of any person injured by any breach of the condition thereof."

AMOUNT OF BOND

IC 5-4-1-18 states in part "(c) Except as provided in subsections (h) and (i), the fiscal bodies of the respective units shall fix the amount of the bond of . . . township trustees . . . as follows: (1) The amount of annual coverage must equal thirty thousand dollars (\$30,000) for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2). (2) The amount of annual coverage may not be less than thirty thousand dollars (\$30,000) nor more than three hundred thousand dollars (\$300,000) unless the fiscal body approves a greater amount of annual coverage for the officer or employee. . ."

FILE BOND

IC 5-4-1-5.1 states in part (b) "Every elected or appointed officer, official, deputy, or employee of a political subdivision who is required by section 18 of this chapter to file an official bond for the faithful performance of duty . . . shall file the bond in the office of the county recorder in the county residence of the officer, official, deputy or employee."

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QUALIFYING FOR OFFICE – OFFICIAL BONDS

(Continued)

COST OF BOND

The cost on the trustee's bond is payable from the township fund. [IC 5-4-5-2]

OTHER BOND SITUATIONS

We have noted situations where various employees (other than bonded trustees and deputy trustees) are involved in handling cash and cash related transactions (i.e., township community centers, parks, etc.) without the township being afforded bond coverage.

We strongly recommend and encourage township officials to immediately obtain bond coverage for all employees that might be handling cash and related transactions. Township officials should also give consideration to providing crime insurance coverage.

Whenever deemed necessary by the trustee and township board to bond any employees not required by a specific statute to be bonded otherwise, such employees may be bonded by either individual or blanket bonds conditioned upon faithful performance of duties and in amounts and with surety approved by the township board by adopting a resolution in accordance with IC 36-1-3-1 et seq.

The State Board of Accounts is of the audit position continuation certificates or renewals should not be used in lieu of obtaining the required annual bond coverage.

No charge shall be made by the recorder of the county for recording the official bonds of any public officer, deputy, appointee or employee. [IC 36-2-7-10]

When a minimum premium is required for official bonds, the township should make certain maximum coverage is provided for the required minimum premium.

DESIGNATION OF TRUSTEE

We have received inquiries concerning designating an acting Trustee under certain circumstances.

The State Board of Accounts is of the audit position that IC 36-6-4-18 states in part "(a) Within thirty (30) days after taking office, the executive shall designate a person who shall perform the executive's duties whenever the executive is incapable of performing the executive's functions because the executive: (1) is absent from the township; or (2) becomes incapacitated. The executive shall give notice of the designation to the chairman of the township legislative body, the county sheriff, and any other persons that the executive chooses. The designee shall have all the powers of the executive. The executive is responsible for all acts of the designee. The executive may change the designee under this section at any time. (b) The designee shall perform the executive's duties until: (1) the executive is no longer absent from the township; or (2) an acting executive is appointed by the county executive under section 16 of this chapter."

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DESIGNATION OF TRUSTEE

(Continued)

We have not received any Official Opinions of the Attorney General of the State of Indiana which would indicate that a trustee could appoint a current township board member to serve as acting trustee in a township. Potential constitutional conflicts could exist concerning the holding of two (2) lucrative offices. However, Official Opinion Number 87-22 issued November 18, 1987, of the Attorney General of the State of Indiana discussed the possibility of designating another trustee and provides: "It is, therefore, my Official Opinion that a township trustee may appoint or designate pursuant to Public Law 105-1986 (HEA 1374), a township trustee of another township to act for him while he is absent from the township or while he is incapacitated. However, if any compensation is paid to the designee for the performance of the duties of the appointing township trustee, there may be a violation of Article 2, § 9 of the Constitution of Indiana." Therefore, we are of the audit position townships should consider appointing someone who is a resident of the township not currently holding another lucrative office. Examples might be the previous township trustee, previous board members, or a current clerk in the office. Finally, we are of the audit position that we are not aware of any provision for payment of compensation to an individual designated in accordance with IC 36-6-4-18.

RECEIVING TOWNSHIP PROPERTY AND RECORDS FROM PREDECESSOR

IC 36-6-4-14, concerning trustees who do not succeed themselves in office, states "When his term of office expires, the executive shall: (1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of his annual report; (2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records he has retained; and (3) attend the annual meeting of the township legislative body held under IC 36-6-6-9 and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year."

Therefore, the State Board of Accounts is of the audit position the trustee in office on December 31, 2010, is required to turn over to the new trustee all books, township bulletins, the township manual, and records of the township.

The bank accounts should be in the name of the township, for example, "Clay Township, St. Joseph County", not in the name of the trustee. Therefore, if the account is properly in the name of the township, the change can be made at the bank by simply registering the authorized signature of the incoming trustee.

Township business is a continuing one; a change of office need not interrupt that business.

We suggest the outgoing trustee prepare in duplicate an itemized inventory of equipment and other assets owned by the township on December 31, to be signed by the successor and outgoing trustee. One copy is for the outgoing trustee and one copy is to be kept by the incoming trustee as a township record.

Sometimes difficulty exists for a person in office to convey to their successor all of the knowledge gained during a term or terms of office. However, you may be able to give valuable assistance and you are urged to provide information to your successor.

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EXAMINATION OF TRUSTEE'S OFFICE

Several trustees have requested an audit of their office at the close of office on December 31, 2010. An audit is not necessarily required for the township trustee going out of office on December 31, 2010. Properly maintained and retained records in accordance with the Public Records Law should provide a clear audit trail. Contact our Office at (317) 232-2520 if problems exist with records prior to the regular audit and we will try to assist in resolving the situation.

TOWNSHIP BOARD OF FINANCE AND DEPOSITORIES

The township board of finance is composed of the township board. [IC 5-13-7-5]

IC 5-13-7-6 requires that the members of board of finance shall, annually, after the first Monday and on or before the last day of January, meet and elect a president and secretary from their membership.

Please see Chapter 18 of the Accounting and Uniform Compliance Guidelines Manual for Townships for more information on Deposits and Investments of Public Funds.

PUBLIC EMPLOYEE RETIREMENT FUND (PERF) CONTRIBUTIONS

IC 5-10.2-3-2 now states in part "(b) Except in cases where: (1) the contribution is made on behalf of the member; or (2) a retired member of the Indiana state teachers' retirement fund may not make contributions during a period of reemployment as provided in IC 5-10.2-4-8(d); each member shall, as a condition of employment, contribute to the fund three percent (3%) of the member's compensation. (c) Except as provided in IC 5-10.2-4-8(d), a member of a fund may make contributions to the member's annuity savings account in addition to the contributions required under subsection (b). The total amount of contributions that may be made to a member's annuity savings account with respect to a payroll period under this subsection may not exceed ten percent (10%) of the member's compensation for that payroll period. The contributions made under this subsection may be picked-up and paid by an employer as provided in subsection (d). (d) In compliance with rules adopted by each board, an employer, under Section 414(h)(2) of the Internal Revenue Code, may pick-up and pay the contributions under subsection (c), subject to approval of the board and to the board's receipt of a favorable private letter ruling from the Internal Revenue Service. The employer shall reduce the member's compensation by an amount equal to the amount of the member's contributions under subsection (c) that are picked-up by the employer. Each board shall by rule establish the procedural requirements for employers to carry out the pick-up in compliance with Section 414(h)(2) of the Internal Revenue Code."

The State Board of Accounts has received inquiries in regards to the maximum possible contributions. Accordingly, we asked the Attorney General of the State of Indiana if the additional contributions provided for in IC 5-10.2-3-2 are limited to ten percent (10%) or thirteen percent (13%). The Conclusion of Advisory Opinion Number 00-36 issued by the Attorney General states "It is our opinion, that the ten percent (10%) limitation provided in Indiana Code § 5-10.2-3-2(c) applies to the sum of mandatory and voluntary contribution amounts. Moreover, the total amount contributed by a member, including mandatory, voluntary, and any amounts contributed on behalf of the member may not exceed ten percent (10%) of the member's compensation."

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TOWNSHIP ANNUAL REPORT (TOWNSHIP FORM 15) - FILING BY COMPUTER DISK

Please see the following letter concerning the required electronic filing changes in the Township Annual Financial Report.

To: Township Trustees

From: Bruce A. Hartman, C.P.A.
State Examiner

Date: November 2010

Re: 2010 Annual Financial Report
Due March 1, 2011

Public Law 176 House Enrolled Act 1514, effective July 1, 2009, amended IC 5-11-1-4 to provide "The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be filed electronically, in a manner prescribed by the state examiner that is compatible with the technology employed by the political subdivision."

Accordingly, the State Board of Accounts has prescribed the Annual Financial Report, Form 15 (Revised 2010) in a new format utilizing Excel 2007 in an attempt to make the form more user friendly. If you have Excel 2003 or an earlier version, you will have to download a compatibility pack from Microsoft to open the file. See the following link.

<http://www.microsoft.com/downloads/details.aspx?FamilyID=941b3470-3ae9-4aee-8f43-c6bb74cd1466&DisplayLang=en>. You can also go to <http://www.microsoft.com>: to go Support then to the Knowledgebase and then Search for article 924074. Knowledgebase article 924074 should be the first result of the search. Follow the first link to the article.

Report Preparation and Distribution

The Annual Report Excel file and instructions are available and may be downloaded from the State Board of Accounts website at: <http://www.in.gov/sboa/3393.htm>.

Prepare five copies of the report to be presented to the Township Board for approval on or before the third Tuesday after the first Monday in January. After approval, one copy is to be retained by the Chairman of the Township Board. One copy is to be kept on file by the Township Trustee. Within ten (10) days, one copy, together with all vouchers, shall be filed with the County Auditor (IC 36-6-4-12(d)). In addition, one copy, along with advertising instructions, is to be submitted to each newspaper for which this report is to be published, within four (4) weeks after the third Tuesday following the first Monday in January (IC 5-3-1 and IC 36-6-4-13(b)). The advertisement must state that a complete and detailed annual report, and the accompanying vouchers showing the names of persons paid money by the township, have been filed with the County Auditor. Also, that the Chairman of the Township Board has a copy of the report that is available for inspection by any taxpayer of the township. Please complete and return the Annual Report by e-mail to Brad Lindvall, blindvall@sboa.in.gov by March 1, 2011. (IC 5-11-1-4) You may also file your annual report by March 1, 2011 on a CD and mail to State Boards of Accounts, 302 W. Washington St, Rm E418, Indianapolis, IN, 46204-2765. **Remember the Annual Report must be submitted electronically to the State Board of Accounts.** E-mail submissions of the Annual Report should be sent to blindvall@sboa.in.gov

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TOWNSHIP ANNUAL REPORT (TOWNSHIP FORM 15) - FILING BY COMPUTER DISK

(Continued)

Annual Reports should be completed using the prescribed State Board of Accounts format. You should convert any other format contemplated to our format. Contact Brad Lindvall at (317) 232-4963, if you have any questions.

Please call (317) 232-2520 if you need assistance regarding any other situations not listed above.

Annual Report, Form 15 Downloading Instructions

Clicking on the download link at <http://www.in.gov/sboa/3393.htm> will download two files to your hard drive, C:\Annual Report; 1) the Annual Report Excel file which is named TownshipAnnualReport2010.xlsx and, 2) the Instructions file which is named TownshipAnnualReportInstructions.pdf. You will need Adobe Acrobat Reader to open the instructions. There is link to a free download of Acrobat Reader on the web page.

You should open the TownshipAnnualReport2010.xlsx file and immediately use Save As to save a file to your hard drive with a name in a standard format of CountyNameTownshipNameAR2010.xlsx, for example BlueCoBlueTownshipAR2010.xlsx. **Use the file thus created to enter and submit your Annual Report information.**

You can print the blank spreadsheets to use as worksheets. You can select print the Entire Workbook in the print options which will print all the sheets at once.

When you are done entering the data into the spreadsheets on the computer file, attach the file in a e-mail or burn a CD making sure the file name is in the correct standard format such as, BlueCoBlueTownshipAR2010.xlsx

Before completing the Annual Report, special attention should be given to reviewing the instructions provided which should answer many of your questions. Also, the Annual Financial Report shall be advertised pursuant to the guidelines furnished included in Part 10 of the instructions.

The TA-7 (Township Assistance Statistical Report) should be filed annually as Part 11 of your Township Annual Report, Form 15. The information will cover the time period of January 1, 2010, through December 31, 2010. Please note the TA-7 was totally revised in 2006.

Additionally, pursuant to IC 5-11-13-1, Form 100R (Names, Addresses, Duties, and Compensation of Public Employees) must be completed and filed with the State Board of Accounts by January 31, 2011. The form can be obtained from your local printer or and should be sent directly to the State Board of Accounts, 302 West Washington Street, Rm E418, Indianapolis, Indiana, 46204-2765, ATTN: 100R.

We appreciate your cooperation in providing the required information to us promptly so that our reporting of your required annual report information to the Indiana Legislature and the Bureau of the Census is not delayed.

CWN/bgf
Enclosure

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ACCESS TO PUBLIC RECORDS

We have received inquiries concerning who has the responsibility regarding access and retention of public records such as when a bank/payroll vendor will be serving as an agent for an Indiana governmental unit. An example would be a bank only offers to provide on line access to cancelled checks. We consulted with the Indiana Commission on Public Records and the response we received provided in part "The bank/vendor would thus be required to maintain the checks, bank statements, payroll records, etc. for the same period as the agency. The bank/vendor may well hold the information, but the obligation remains with the agency to provide access upon request, not the bank or vendor. The agency further has the obligation to provide access to the materials throughout the required retention. In the case of cancelled checks/warrants they are currently required to be maintained for 6 (six) years after the completion of the State Board of Accounts Audit. Payroll records are dependent upon the type."

INDIANA DEPARTMENT OF REVENUE-ELECTRONIC FILING; WITHHOLDING

The Indiana Department of Revenue asked us to convey the following regarding the W-2 and WH-3 Filing Requirements Booklet (Revised October 25, 2010 and available here – <http://www.in.gov/dor/files/w-2book.pdf>) and the Bulk Upload Guide (Revised Aug. 1, 2010 and available here – <http://www.in.gov/dor/files/bulk-upload-guide.pdf>);

IC 6-3-4-16.5 states "(a) This section applies to: (1) Form W-2 federal income tax withholding statements; and (2) Form WH-3 annual withholding tax reports; filed with the department after December 31, 2010. (b) If an employer or any person or entity acting on behalf of an employer files more than twenty-five (25) Form W-2 federal income tax withholding statements with the department in a calendar year, all Form W-2 federal income tax withholding statements and Form WH-3 annual withholding tax reports filed with the department in that calendar year by the employer or the person or entity acting on behalf of the employer must be filed in an electronic format specified by the department."

Indiana law now requires that all businesses that file more than 25 wage statements per calendar year must now file their WH-3 returns and W-2s, 1099s, and WH-18s electronically with the state. To comply with this law, these businesses will need to be registered to file electronically, and those that file more than 2,000 wage statements per calendar year must be certified to bulk upload those statements.

To better assist businesses in completing this process before the end of the year, the Department of Revenue has established a website to specifically to help businesses quickly and easily register and certify to file their WH-3s and W2s in 2011.

Businesses can visit the website at: www.in.gov/dor/4455.htm

The deadline for businesses to register to file electronically and to be certified for bulk upload of their wage statements is Dec. 31, 2010. WH-3s are due the end of February 2011.

Should you have any questions please feel free to contact me at the number listed below.

Thank you,

Carol Dollens
Indiana Department of Revenue
P. O. Box 6108
Indianapolis, IN 46206
Phone: (317) 615-2591
Fax: (317) 615-2520

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