

IC 6-1.1-36

Chapter 36. Miscellaneous Assessment and Collection Provisions

IC 6-1.1-36-1

Notice by mail

Sec. 1. If a notice is required to be given by mail under the general assessment provisions of this article, the day on which the notice is deposited in the United States mail is the day notice is given. The notice shall be given by first class mail.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.84-1989, SEC.1.

IC 6-1.1-36-1.5

When documents other than payments are considered filed

Sec. 1.5. (a) Subject to subsections (b) and (c), and except as provided in subsection (d), a document, including a form, a return, or a writing of any type, which must be filed by a due date under this article or IC 6-1.5, is considered to be filed by the due date if the document is:

- (1) received on or before the due date by the appropriate recipient;
- (2) deposited in United States first class mail:
 - (A) properly addressed to the appropriate recipient;
 - (B) with sufficient postage; and
 - (C) postmarked by the United States Postal Service as mailed on or before the due date;
- (3) deposited with a nationally recognized express parcel carrier and is:
 - (A) properly addressed to the appropriate recipient; and
 - (B) verified by the express parcel carrier as:
 - (i) paid in full for final delivery; and
 - (ii) received by the express parcel carrier on or before the due date; or
- (4) deposited to be mailed through United States registered mail, United States certified mail, or United States certificate of mailing:
 - (A) properly addressed to the appropriate recipient;
 - (B) with sufficient postage; and
 - (C) with a date of registration, certification, or certificate, as evidenced by any record authenticated by the United States Postal Service, on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

(b) If a document is mailed through the United States mail and is physically received after the due date without a legible correct postmark, the person who mailed the document is considered to have filed the document on or before the due date if the person can show by reasonable evidence that the document was deposited in the United States mail on or before the due date.

(c) If a document is sent via the United States mail or a nationally recognized express parcel carrier but is not received by the designated recipient, the person who sent the document is considered to have filed the document on or before the due date if the person:

(1) can show by reasonable evidence that the document was deposited in the United States mail, or with the express parcel carrier, on or before the due date; and

(2) files a duplicate document within thirty (30) days after the date the person is notified that the document was not received.

(d) This section does not apply to a payment addressed in IC 6-1.1-37-10(f).

As added by P.L.154-2006, SEC.53.

IC 6-1.1-36-2

Legal services for township assessor

Sec. 2. If a township assessor needs legal services, he may use the attorney appointed by the trustee of the township, or the legal services may be provided by the county.

(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-36-3

Certain irregularities not to affect validity of assessment

Sec. 3. (a) A township assessor's assessment or a county assessor's assessment of property is valid even if:

(1) the assessor does not complete, or notify the county auditor of, the assessment by the time prescribed under IC 6-1.1-3 or IC 6-1.1-4;

(2) there is an irregularity or informality in the manner in which the assessor makes the assessment; or

(3) there is an irregularity or informality in the tax list.

An irregularity or informality in the assessment or the tax list may be corrected at any time.

(b) This section does not release a township assessor or county assessor from any duty to give notice or from any penalty imposed on the assessor by law for the assessor's failure to make the assessor's return within the time prescribed in IC 6-1.1-3 or IC 6-1.1-4.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1977, P.L.2, SEC.29; P.L.6-1997, SEC.124; P.L.146-2008, SEC.285.

IC 6-1.1-36-4

Affidavits to compel production of books or records

Sec. 4. (a) An assessing official or a representative of the department of local government finance may file an affidavit with a circuit court of this state if:

(1) the official or representative has requested that a person give information or produce books or records; and

(2) the person has not complied with the request.

The affidavit must state that the person has not complied with the request.

(b) When an affidavit is filed under subsection (a), the circuit

court shall issue a writ which directs the person to appear at the office of the official or representative and to give the requested information or produce the requested books or records. The appropriate county sheriff shall serve the writ. A person who disobeys the writ is guilty of contempt of court.

(c) If a writ is issued under this section, the cost incurred in filing the affidavit, in the issuance of the writ, and in the service of the writ shall be charged to the person against whom the writ is issued. If a writ is not issued, all costs shall be charged to the county in which the circuit court proceedings are held, and the board of commissioners of that county shall allow a claim for the costs.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.41-1993, SEC.29; P.L.6-1997, SEC.125; P.L.90-2002, SEC.259; P.L.146-2008, SEC.286.

IC 6-1.1-36-5

Officials authorized to administer oath

Sec. 5. In order to discharge their official duties, the following officials may administer oaths and affirmations:

- (1) County assessors.
- (2) Township assessors.
- (3) County auditors.
- (4) Members of a county property tax assessment board of appeals.
- (5) Members of the Indiana board.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.6-1997, SEC.126; P.L.198-2001, SEC.90; P.L.146-2008, SEC.287.

IC 6-1.1-36-6

Fiduciaries; filing personal property tax return

Sec. 6. If, subsequent to the assessment date in any year, a person receives possession or control of personal property in a fiduciary capacity, he shall ascertain whether a personal property return for that year has been filed. If a return is required but has not been filed, the fiduciary shall file the required return within sixty (60) days after the date on which he receives possession or control of the property.

(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-36-7

Real property taxes assessed against political subdivisions, state, or certain bodies corporate and politic; cancellation; compromise; distribution of receipts

Sec. 7. (a) The department of local government finance may cancel any property taxes assessed against real property owned by a county, a township, a city, a town, or a body corporate and politic established under IC 8-10-5-2(a) if a petition requesting that the department cancel the taxes is submitted by the auditor, assessor, and treasurer of the county in which the real property is located.

(b) The department of local government finance may cancel any property taxes assessed against real property owned by this state if

a petition requesting that the department cancel the taxes is submitted by:

- (1) the governor; or
- (2) the chief administrative officer of the state agency which supervises the real property.

However, if the petition is submitted by the chief administrative officer of a state agency, the governor must approve the petition.

(c) The department of local government finance may compromise the amount of property taxes, together with any interest or penalties on those taxes, assessed against the fixed or distributable property owned by a bankrupt railroad, which is under the jurisdiction of:

- (1) a federal court under 11 U.S.C. 1163;
- (2) Chapter X of the Acts of Congress Relating to Bankruptcy (11 U.S.C. 701-799); or
- (3) a comparable bankruptcy law.

(d) After making a compromise under subsection (c) and after receiving payment of the compromised amount, the department of local government finance shall distribute to each county treasurer an amount equal to the product of:

- (1) the compromised amount; multiplied by
- (2) a fraction, the numerator of which is the total of the particular county's property tax levies against the railroad for the compromised years, and the denominator of which is the total of all property tax levies against the railroad for the compromised years.

(e) After making the distribution under subsection (d), the department of local government finance shall direct the auditors of each county to remove from the tax rolls the amount of all property taxes assessed against the bankrupt railroad for the compromised years.

(f) The county auditor of each county receiving money under subsection (d) shall allocate that money among the county's taxing districts. The auditor shall allocate to each taxing district an amount equal to the product of:

- (1) the amount of money received by the county under subsection (d); multiplied by
- (2) a fraction, the numerator of which is the total of the taxing district's property tax levies against the railroad for the compromised years, and the denominator of which is the total of all property tax levies against the railroad in that county for the compromised years.

(g) The money allocated to each taxing district shall be apportioned and distributed among the taxing units of that taxing district in the same manner and at the same time that property taxes are apportioned and distributed.

(h) The department of local government finance may, with the approval of the attorney general, compromise the amount of property taxes, together with any interest or penalties on those taxes, assessed against property owned by a person that has a case pending under state or federal bankruptcy law. Property taxes that are compromised

under this section shall be distributed and allocated at the same time and in the same manner as regularly collected property taxes. The department of local government finance may compromise property taxes under this subsection only if:

- (1) a petition is filed with the department of local government finance that requests the compromise and is signed and approved by the assessor, auditor, and treasurer of each county and the assessor of each township (if any) that is entitled to receive any part of the compromised taxes;
- (2) the compromise significantly advances the time of payment of the taxes; and
- (3) the compromise is in the best interest of the state and the taxing units that are entitled to receive any part of the compromised taxes.

(i) A taxing unit that receives funds under this section is not required to include the funds in its budget estimate for any budget year which begins after the budget year in which it receives the funds.

(j) A county treasurer, with the consent of the county auditor and the county assessor, may compromise the amount of property taxes, interest, or penalties owed in a county by an entity that has a case pending under Title 11 of the United States Code (Bankruptcy Code) by accepting a single payment that must be at least seventy-five percent (75%) of the total amount owed in the county.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1977, P.L.75, SEC.1; P.L.69-1983, SEC.9; P.L.5-1988, SEC.45; P.L.30-1994, SEC.6; P.L.90-2002, SEC.260; P.L.146-2008, SEC.288; P.L.172-2011, SEC.48.

IC 6-1.1-36-8

Free official service

Sec. 8. When an officer is required to perform a service under chapter 22, 23, 24, 25, 26, or 27 of this article and a fee is not provided for that service, the officer shall perform the service without charge.

(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-36-9

Failure to make official certificate or perform clerical duty within time required; effect

Sec. 9. An officer's failure to make an official certificate or to perform a clerical duty within the time required under chapter 22, 23, 24, 25, 26, or 27 of this article does not, except where otherwise expressly provided by law, affect the validity of an assessment, tax levy, or tax collection.

(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-36-10

Taxes uncollectible because of erroneous proceeding

Sec. 10. If the taxes for a year on any property which is subject to

taxation under this article cannot be collected because of an erroneous proceeding, the amount of the taxes, together with any penalties, interest, or costs carried forward on account of those taxes, shall be added to the amount to be collected the following year.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1978, P.L.33, SEC.5.

IC 6-1.1-36-11

Quitclaim deed from state

Sec. 11. The governor shall, in the name of this state and as governor, execute and deliver a quitclaim deed to the record owner of real property if:

- (1) the record owner requests the deed;
- (2) the auditor and the recorder of the county in which the real property is located each file with the governor a verified statement which contains:
 - (A) a complete legal description of the real property; and
 - (B) a declaration that the records in the auditor's and recorder's office indicate that the state does not claim an interest in the real property;
- (3) the land office division of the department of administration files with the governor a verified statement which contains a declaration that the records in the office do not indicate that the state claims an interest in the real property; and
- (4) the record owner pays:
 - (A) the department of administration consideration for the deed in the amount of one dollar (\$1); and
 - (B) the necessary expenses incurred in preparing and executing the deed.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.3-1989, SEC.38.

IC 6-1.1-36-12

Contracts for discovery of omitted property; fund for additional receipts; use of fund

Sec. 12. (a) A board of county commissioners, a county assessor, or a township assessor (if any) may enter into a contract for the discovery of property that has been undervalued or omitted from assessment. The contract must prohibit payment to the contractor for discovery of undervaluation or omission with respect to a parcel or personal property return before all appeals of the assessment of the parcel or the assessment under the return have been finalized. The contract may require the contractor to:

- (1) examine and verify the accuracy of personal property returns filed by taxpayers with the county assessor or a township assessor of a township in the county; and
 - (2) compare a return with the books of the taxpayer and with personal property owned, held, possessed, controlled, or occupied by the taxpayer.
- (b) This subsection applies if funds are not appropriated for

payment of services performed under a contract described in subsection (a). The county auditor may create a special nonreverting fund in which the county treasurer shall deposit the amount of taxes, including penalties and interest, that result from additional assessments on undervalued or omitted property collected from all taxing jurisdictions in the county after deducting the amount of any property tax credits that reduce the owner's property tax liability for the undervalued or omitted property. The fund remains in existence during the term of the contract. Distributions shall be made from the fund without appropriation only for the following purposes:

- (1) All contract fees and other costs related to the contract.
- (2) After the payments required by subdivision (1) have been made and the contract has expired, the county auditor shall distribute all money remaining in the fund to the appropriate taxing units in the county using the property tax rates of each taxing unit in effect at the time of the distribution.

(c) A board of county commissioners, a county assessor, or a township assessor may not contract for services under subsection (a) on a percentage basis.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.178-2002, SEC.39; P.L.154-2006, SEC.54; P.L.146-2008, SEC.289.

IC 6-1.1-36-13

List of lands and lots within limits of newly formed political subdivision

Sec. 13. When a political subdivision is formed, the auditor of the county in which the political subdivision is situated shall, at the written request of the legislative body of the political subdivision, prepare a list of all the lands and lots within the limits of the political subdivision, and the county auditor shall deliver the list to the appropriate township assessor, or the county assessor if there is no township assessor for the township, on or before the assessment date which immediately follows the date of incorporation. The county auditor shall use the records in the auditor's office in order to compile the list.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.8-1989, SEC.26; P.L.25-1995, SEC.54; P.L.146-2008, SEC.290.

IC 6-1.1-36-16

Approval upon finding all property taxes paid; certificate of clearance; other evidence of payment

Sec. 16. (a) A court may allow or approve a final report or account of:

- (1) a receiver;
- (2) a trustee in dissolution;
- (3) a trustee in bankruptcy;
- (4) a commissioner appointed for the sale of real estate; or
- (5) any other officer acting under the authority and supervision of a court;

only if the account or final report shows and the court finds that all

property taxes on real property have been paid or otherwise satisfied.

(b) A fiduciary described in subsection (a) shall provide proof to a court that all property taxes on real property for which the due date has passed as of the date that the account or report is approved have been paid or satisfied. The fiduciary shall request the county treasurer of the county where real property is located to issue a certificate of clearance certifying that all property taxes that are due and payable have been paid or satisfied. The certificate shall be issued by the county treasurer within three (3) business days after request on a form provided by the state board of accounts. When issued, the certificate is conclusive proof that property taxes are not due.

(c) If the county treasurer of the county where real property is located fails to issue a certificate of clearance under subsection (b) within thirty (30) days after request, a fiduciary may provide evidence to a court that demonstrates that property taxes on real property are not due. Upon approval by the court, the evidence is conclusive proof of payment or satisfaction of the tax imposed by this article.

(d) The state board of accounts shall provide forms to county treasurers, as needed, to carry out subsection (b).

As added by P.L.56-1996, SEC.9.

IC 6-1.1-36-17

Notice of ineligibility for standard deduction or homestead credit; collection of adjustments in tax due; nonreverting fund

Sec. 17. (a) As used in this section, "nonreverting fund" refers to a nonreverting fund established under subsection (c).

(b) Each county auditor that makes a determination that property was not eligible for a standard deduction under IC 6-1.1-12-37 or a homestead credit under IC 6-1.1-20.9 (repealed) in a particular year shall notify the county treasurer of the determination. The county auditor shall issue a notice of taxes, interest, and penalties due to the owner and include a statement that the payment is to be made payable to the county auditor. The notice must require full payment of the amount owed within thirty (30) days.

(c) Each county auditor shall establish a nonreverting fund. Upon collection of the adjustment in tax due (and any interest and penalties on that amount) after the termination of a deduction or credit as specified in subsection (b), the county treasurer shall deposit that amount in the nonreverting fund. Any part of the amount that is not collected by the due date shall be placed on the tax duplicate for the affected property and collected in the same manner as other property taxes. The adjustment in tax due (and any interest and penalties on that amount) after the termination of a deduction or credit as specified in subsection (b) shall be deposited in the nonreverting fund only in the first year in which that amount is collected.

(d) The amount to be deposited in the nonreverting fund includes adjustments in the tax due as a result of the termination of deductions or credits available only for property that satisfies the eligibility for

a standard deduction under IC 6-1.1-12-37 or a homestead credit under IC 6-1.1-20.9 (repealed), including the following:

- (1) Supplemental deductions under IC 6-1.1-12-37.5.
- (2) Homestead credits under IC 6-1.1-20.4, IC 6-3.5-1.1-26, IC 6-3.5-6-13, IC 6-3.5-6-32, IC 6-3.5-7-13.1, or IC 6-3.5-7-26, or any other law.
- (3) Credit for excessive property taxes under IC 6-1.1-20.6-7.5 or IC 6-1.1-20.6-8.5.

Any amount paid that exceeds the amount required to be deposited in the nonreverting fund shall be distributed as property taxes.

(e) Money in the nonreverting fund shall be treated as miscellaneous revenue. Distributions shall be made from the nonreverting fund established under this section upon appropriation by the county fiscal body and shall be made only for the following purposes:

- (1) Fees and other costs incurred by the county auditor to discover property that is eligible for a standard deduction under IC 6-1.1-12-37 or a homestead credit under IC 6-1.1-20.9 (repealed).
- (2) Other expenses of the office of the county auditor.
- (3) The cost of preparing, sending, and processing notices described in IC 6-1.1-22-8.1(b)(9) and checklists or notices described in IC 6-1.1-22.5-12(d).

The amount of deposits in a reverting fund, the balance of a nonreverting fund, and expenditures from a reverting fund may not be considered in establishing the budget of the office of the county auditor or in setting property tax levies that will be used in any part to fund the office of the county auditor.

As added by P.L.87-2009, SEC.14.