

## **IC 6-1.1-37**

### Chapter 37. Miscellaneous Penalty and Interest Provisions

#### **IC 6-1.1-37-1**

##### **State or local government officers; failure to perform**

Sec. 1. An officer of state or local government who recklessly violates or fails to perform a duty imposed on him under:

- (1) IC 6-1.1-10-1(b);
- (2) IC 6-1.1-12-6;
- (3) IC 6-1.1-12-7;
- (4) IC 6-1.1-17-1;
- (5) IC 6-1.1-17-3(a);
- (6) IC 6-1.1-17-5(d)(1);
- (7) IC 6-1.1-18-1;
- (8) IC 6-1.1-18-5;
- (9) IC 6-1.1-18-6;
- (10) IC 6-1.1-20-5;
- (11) IC 6-1.1-20-6;
- (12) IC 6-1.1-20-7;
- (13) IC 6-1.1-30-14; or
- (14) IC 6-1.1-36-13;

commits a Class A misdemeanor. In addition, the officer is liable for the damages sustained by a person as a result of the officer's violation of the provision or the officer's failure to perform the duty. *(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1978, P.L.2, SEC.605; P.L.49-1996, SEC.8; P.L.198-2001, SEC.91; P.L.1-2010, SEC.32.*

#### **IC 6-1.1-37-2**

##### **Assessment violations by public officials or employees**

Sec. 2. An assessing official or a representative of the department of local government finance who:

- (1) knowingly assesses any property at more or less than what the official or representative believes is the proper assessed value of the property;
- (2) knowingly fails to perform any of the duties imposed on the official or representative under the general assessment provisions of this article; or
- (3) recklessly violates any of the other general assessment provisions of this article;

commits a Class A misdemeanor.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1978, P.L.2, SEC.606; P.L.17-1984, SEC.3; P.L.146-2008, SEC.291.*

#### **IC 6-1.1-37-3**

##### **False information in return or document; offense**

Sec. 3. A person commits a Class D felony if:

- (1) he makes and subscribes a property tax return, statement, or document (except a statement described in section 4 or 5 of this chapter) that he does not believe is correct in every material

respect; and

(2) the return, statement, or document is certified to as to the truth of the information appearing in it.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1978, P.L.2, SEC.607.*

#### **IC 6-1.1-37-4**

##### **False claim for veteran's property tax deduction**

Sec. 4. A person who makes a false statement, with intent to obtain the property tax deduction provided in either IC 6-1.1-12-13 or IC 6-1.1-12-14, when he is not entitled to the deduction, commits a Class B misdemeanor.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1978, P.L.2, SEC.608.*

#### **IC 6-1.1-37-5**

##### **False statement concerning assessment of forest land**

Sec. 5. A person who recklessly makes a false statement on a report or application described in IC 6-1.1-6 commits a Class B misdemeanor.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1978, P.L.2, SEC.609.*

#### **IC 6-1.1-37-6**

##### **Class A misdemeanors related to property tax matters**

Sec. 6. A person who recklessly, knowingly, or intentionally:

- (1) disobeys a subpoena, or a subpoena duces tecum, issued under the general assessment provisions of this article;
- (2) refuses to give evidence when directed to do so by an individual or board authorized under the general assessment provisions of this article to require the evidence;
- (3) fails to file a personal property return required under IC 6-1.1-3;
- (4) fails to subscribe to an oath or certificate required under the general assessment provisions of this article;
- (5) temporarily converts property which is taxable under this article into property not taxable to evade the payment of taxes on the converted property; or
- (6) fails to file an information return required by the department of local government finance under IC 6-1.1-4-42;

commits a Class A misdemeanor.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1978, P.L.2, SEC.610; P.L.182-2009(ss), SEC.173.*

#### **IC 6-1.1-37-7**

##### **Personal property return; various violations and penalties**

Sec. 7. (a) If a person fails to file a required personal property return on or before the due date, the county auditor shall add a penalty of twenty-five dollars (\$25) to the person's next property tax installment. The county auditor shall also add an additional penalty

to the taxes payable by the person if the person fails to file the personal property return within thirty (30) days after the due date. The amount of the additional penalty is twenty percent (20%) of the taxes finally determined to be due with respect to the personal property which should have been reported on the return.

(b) For purposes of this section, a personal property return is not due until the expiration of any extension period granted by the township or county assessor under IC 6-1.1-3-7(b).

(c) The penalties prescribed under this section do not apply to an individual or the individual's dependents if the individual:

(1) is in the military or naval forces of the United States on the assessment date; and

(2) is covered by the federal Soldiers' and Sailors' Civil Relief Act.

(d) If a person subject to IC 6-1.1-3-7(d) fails to include on a personal property return the information, if any, that the department of local government finance requires under IC 6-1.1-3-9 or IC 6-1.1-5-13, the county auditor shall add a penalty to the property tax installment next due for the return. The amount of the penalty is twenty-five dollars (\$25).

(e) If the total assessed value that a person reports on a personal property return is less than the total assessed value that the person is required by law to report and if the amount of the undervaluation exceeds five percent (5%) of the value that should have been reported on the return, then the county auditor shall add a penalty of twenty percent (20%) of the additional taxes finally determined to be due as a result of the undervaluation. The penalty shall be added to the property tax installment next due for the return on which the property was undervalued. If a person has complied with all of the requirements for claiming a deduction, an exemption, or an adjustment for abnormal obsolescence, then the increase in assessed value that results from a denial of the deduction, exemption, or adjustment for abnormal obsolescence is not considered to result from an undervaluation for purposes of this subsection.

(f) A penalty is due with an installment under subsection (a), (d), or (e) whether or not an appeal is filed under IC 6-1.1-15-5 with respect to the tax due on that installment.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.69-1983, SEC.10; P.L.71-1985, SEC.1; P.L.2-1998, SEC.22; P.L.90-2002, SEC.261; P.L.146-2008, SEC.292.*

### **IC 6-1.1-37-7.5**

#### **Failure to file personal property return**

Sec. 7.5. A person who fails to provide, within forty-five (45) days after the filing deadline, evidence of the filing of a personal property return to the township assessor or the county assessor, as required under IC 6-1.1-3-1(d), shall pay to the county a penalty equal to ten percent (10%) of the tax liability.

*As added by Acts 1979, P.L.48, SEC.9. Amended by Acts 1980, P.L.35, SEC.2; P.L.146-2008, SEC.293.*

### **IC 6-1.1-37-8**

#### **Vending machines without identification device**

Sec. 8. A township assessor, or the county assessor if there is no township assessor for the township, shall inform the county auditor of any vending machine which does not, as required under IC 6-1.1-3-8, have an identification device on its face. The county auditor shall then add a one dollar (\$1) penalty to the next property tax installment of the person on whose premises the machine is located.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.146-2008, SEC.294.*

### **IC 6-1.1-37-9**

#### **Interest; tax payment deadlines in certain circumstances; penalty for failure to meet deadline**

Sec. 9. (a) This section applies when:

- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;
- (2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or IC 6-1.1-15-10(a)(2) while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding;
- or
- (3) the collection of certain ad valorem property taxes has been enjoined under IC 33-26-6-2, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

- (1) the date of payment; or
- (2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

- (1) the date of payment; or
- (2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

- (1) the next May 10; or
- (2) the next November 10;

whichever occurs first.

(e) A taxpayer shall, to the extent that the penalty is not waived under section 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

- (1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and
- (2) the taxpayer either:
  - (A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or
  - (B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on:

- (1) the next May 10 which follows the date for payment prescribed in subsection (d); or
- (2) the next November 10 which follows the date for payment prescribed in subsection (d);

whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;
- (2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and
- (3) the assessment:
  - (A) would have been made on the normal assessment date if the error or neglect had not occurred; or
  - (B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1981, P.L.76, SEC.1; P.L.63-1986, SEC.2; P.L.90-1987, SEC.1; P.L.198-2001, SEC.92; P.L.1-2004, SEC.45 and P.L.23-2004, SEC.48; P.L.67-2006, SEC.10; P.L.219-2007, SEC.81; P.L.1-2010, SEC.33.*

**IC 6-1.1-37-10**

**Delinquent tax penalties; reduced penalty if payment within 30 days; when payments considered to be made**

Sec. 10. (a) Except as provided in sections 10.5 and 10.7 of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty shall be added to the unpaid portion in the year of the initial delinquency. The penalty is equal to an amount determined as follows:

(1) If:

- (A) an installment of real property taxes is completely paid on or before the date thirty (30) days after the due date; and
- (B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for the same parcel;

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(2) If:

- (A) an installment of personal property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for a personal property tax return for property in the same taxing district; the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(3) If subdivision (1) or (2) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates of the first and second installments in each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

- (1) six (6) months; or
- (2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes.

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in IC 6-1.1-22-8.1, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide

holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

(f) Subject to subsections (g) and (h), a payment to the county treasurer is considered to have been paid by the due date if the payment is:

- (1) received on or before the due date by the county treasurer or a collecting agent appointed by the county treasurer;
- (2) deposited in United States first class mail:
  - (A) properly addressed to the principal office of the county treasurer;
  - (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 principal office of the county treasurer; 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;
- (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 principal office of the county treasurer;
  - (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; or
- (5) made by an electronic funds transfer and the taxpayer's bank account is charged 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.

(g) If a payment 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 payment is considered to have made the payment on or before the due date if the person can show by reasonable evidence that the payment was deposited in the United States mail on or before the due date.

(h) If a payment 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 payment is considered to have made the payment on or before the due date if the person:

- (1) can show by reasonable evidence that the payment was deposited in the United States mail, or with the express parcel carrier, on or before the due date; and
- (2) makes a duplicate payment within thirty (30) days after the

date the person is notified that the payment was not received.  
*(Formerly: Acts 1975, P.L.47, SEC.1; Acts 1975, P.L.55, SEC.1.) As amended by Acts 1978, P.L.35, SEC.1; Acts 1981, P.L.71, SEC.4; P.L.23-1984, SEC.9; P.L.88-1995, SEC.9; P.L.154-1999, SEC.1; P.L.90-2002, SEC.262; P.L.1-2004, SEC.46 and P.L.23-2004, SEC.49; P.L.154-2006, SEC.55; P.L.67-2006, SEC.11; P.L.1-2007, SEC.50; P.L.219-2007, SEC.82; P.L.3-2008, SEC.58.*

#### **IC 6-1.1-37-10.5**

##### **Repealed**

*(Repealed by P.L.1-2010, SEC.156.)*

#### **IC 6-1.1-37-10.7**

##### **Delinquent tax penalty waiver based on death in family; procedure; appeal**

Sec. 10.7. (a) For purposes of this section, "immediate family member of the taxpayer" means an individual who:

- (1) is the spouse, child, stepchild, parent, or stepparent of the taxpayer, including adoptive relationships; and
- (2) resides in the taxpayer's home.

(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.

- (2) Give written notice to the taxpayer or the taxpayer's representative by mail of the treasurer's determination on the petition not later than thirty (30) days after the petition is filed with the treasurer.

(c) The department of local government finance shall prescribe:

- (1) the form of the petition; and
- (2) the type of written proof;

required under subsection (b).

(d) A taxpayer or a taxpayer's representative may appeal a determination of the county treasurer under subsection (b) to deny a penalty waiver by filing a notice in writing with the treasurer not more than forty-five (45) days after the treasurer gives the taxpayer or the taxpayer's representative notice of the determination. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

*As added by P.L.67-2006, SEC.12. Amended by P.L.146-2008, SEC.295.*

#### **IC 6-1.1-37-11**

**Interest on refunds or credits**

Sec. 11. (a) If a taxpayer is entitled to a property tax refund or credit because an assessment is decreased, the taxpayer shall also be paid, or credited with, interest on the excess taxes that he paid at the rate of four percent (4%) per annum.

(b) For purposes of this section and except as provided in subsection (c), the interest shall be computed from the date on which the taxes were paid or due, whichever is later, to the date of the refund or credit.

(c) This subsection applies if a taxpayer who is entitled to a refund or credit does not make a written request for the refund or credit to the county auditor within forty-five (45) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, the department of local government finance, the Indiana board, or the tax court that entitles the taxpayer to the refund or credit. In the case of a taxpayer described in this subsection, the interest shall be computed from the date on which the taxes were paid or due to the date that is forty-five (45) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, the department of local government finance, the Indiana board of tax review, or the Indiana tax court. In any event, a property tax refund or credit must be issued not later than ninety (90) days after the request is received.

*(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.198-2001, SEC.93.*

**IC 6-1.1-37-12****Interest or penalties credited or charged to appropriate taxing units**

Sec. 12. The amount of interest or penalty collected from, or credited or refunded to, a taxpayer under this chapter shall be credited or charged to the appropriate taxing units.

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

**IC 6-1.1-37-13****Prosecuting attorneys; enforcement**

Sec. 13. Except as otherwise specifically provided by law, the prosecuting attorneys of this state shall enforce all the penalties and forfeitures prescribed under this chapter.

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