
SENATE BILL No. 208

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1.

Synopsis: Deduction of tax payments from checking account. Allows a county to authorize all county taxpayers to pay property taxes by automatic deduction from a checking account. Establishes delinquent tax penalties for failure to comply with an automatic deduction schedule.

Effective: January 1, 2009.

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January 8, 2008, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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SENATE BILL No. 208



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-22-9.7 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JANUARY 1, 2009]: **Sec. 9.7. (a) As used in this**
- 4 **section, "current year" refers to the calendar year in which**
- 5 **property taxes are first due and payable and are subject to**
- 6 **payment under this section by automatic deduction from a**
- 7 **checking account.**
- 8 (b) As used in this section, "preceding year" refers to the
- 9 calendar year that immediately precedes the current year.
- 10 (c) As used in this section, "tax liability" includes liability for
- 11 special assessments and refers to liability for property taxes after
- 12 the application of all allowed deductions and credits.
- 13 (d) The county fiscal body (as defined in IC 36-1-2-6) may at any
- 14 time adopt an ordinance to allow all county taxpayers to pay one
- 15 (1) or more installments of property taxes by automatic monthly
- 16 deductions from a checking account.
- 17 (e) An ordinance adopted under subsection (d):



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- (1) may apply to more than one (1) calendar year;**
- (2) may provide a discount on payments made by automatic deduction under this section in an amount of not more than three percent (3%) to a taxpayer that makes on schedule the full amount of all payments payable by automatic deduction in the current year; and**
- (3) must include at least the following:**
 - (A) Identification of the property tax installment or installments for which payment by automatic deduction from a checking account is authorized.**
 - (B) Provisions for notice to county taxpayers of the option to pay one (1) or more property tax installments by automatic deduction from a checking account.**
 - (C) Authority for the county treasurer to make available to county taxpayers a form to be completed by a taxpayer and submitted to the county treasurer to:**
 - (i) direct the county treasurer to accept payment of the taxpayer's property taxes by automatic deduction from a checking account; and**
 - (ii) authorize the institution that holds the taxpayer's checking account to deduct monthly the appropriate amount from the account and to pay that amount to the county treasurer.**
- (f) If an ordinance is adopted under subsection (d), the county treasurer shall provide to each county taxpayer that submits to the county treasurer the form referred to in subsection (e)(3)(C) a statement that includes at least the following:**
 - (1) The amount to be deducted monthly from the taxpayer's checking account.**
 - (2) Identification of the day each month when the deduction will be made.**
 - (3) A calculation of the amount to be deducted.**
 - (4) An explanation of the manner in which property taxes for the current year will be reconciled under subsection (m) and notice that any property tax payments for the current year made by the taxpayer by means other than automatic deduction from the taxpayer's checking account will be taken into account in the reconciliation.**
 - (5) An explanation of the penalties under IC 6-1.1-37-10.3 that apply if there are insufficient funds in the taxpayer's checking account to cover one (1) or more automatic deductions.**
- (g) This subsection applies only if the county treasurer**

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determines that at the time the calculation under subsection (f)(3) is made the amount of tax liability for the current year has not been determined. Subject to subsections (h) and (i), the county treasurer shall do the following:

(1) Determine the following:

(A) For a parcel of real property, the most recently determined amount of tax liability that applied to the parcel for the preceding year.

(B) For a personal property return, the most recently determined amount of tax liability that applied for the personal property return for the same location for the preceding year.

(C) For distributable property, the most recently determined amount of tax liability that applied with respect to the statement filed by the taxpayer under IC 6-1.1-8-19 for the preceding year.

(D) For a mobile home subject to IC 6-1.1-7, the most recently determined amount of tax liability that applied to the mobile home for the preceding year.

(2) Determine the amount of the monthly deduction from the taxpayer's checking account in the amount determined in the last STEP of the following STEPS:

STEP ONE: Determine under subdivision (1) the amount of tax liability that applied for the preceding year.

STEP TWO: Determine the quotient of:

- (i) the number of property tax installments for the current year identified in the ordinance under subsection (e)(3)(A); divided by
- (ii) the total number of property tax installments for the current year.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

STEP FOUR: Determine the quotient of:

- (i) the STEP THREE result; divided by
- (ii) the number of monthly deductions.

(h) The county treasurer may determine the monthly deduction in an amount different from the amount determined under subsection (g) if the county treasurer determines that changes in circumstances have caused the amount determined under subsection (g) to differ substantially from the tax liability likely to be determined for the current year.

(i) This subsection applies only if before an ordinance is adopted

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1 under subsection (d) the county treasurer determines to use
 2 provisional property tax statements under IC 6-1.1-22.5 for the
 3 current year. For purposes of determining the amount of the
 4 monthly deduction from the taxpayer's checking account, the
 5 county treasurer shall substitute for the tax liability that applied to
 6 the parcel for the preceding year under subsection (g) the tax
 7 liability to be indicated on the provisional statement.

8 (j) This subsection applies only if the county treasurer
 9 determines that at the time the calculation under subsection (f)(3)
 10 is made the amount of tax liability for the current year has been
 11 determined. The amount of the monthly deduction from the
 12 taxpayer's checking account is the amount of the tax liability for
 13 the current year payable in the installment or installments
 14 identified in the ordinance under subsection (e)(3)(A) divided by
 15 the number of monthly deductions.

16 (k) Tax liability paid under this section by automatic deduction
 17 from a checking account is not finally discharged and the person
 18 has not paid the tax until the taxpayer's checking account is
 19 charged for the payment.

20 (l) Penalties apply under IC 6-1.1-37-10.3 and IC 6-1.1-37-10.4
 21 to taxes payable by automatic deduction from a checking account
 22 under this section.

23 (m) After the last monthly checking account deduction under
 24 this section for the current year has been made and after the
 25 amount of tax liability for the current year has been determined,
 26 the county treasurer shall issue a reconciling statement to the
 27 taxpayer. Each reconciling statement must indicate at least the
 28 following:

29 (1) The sum of:

30 (A) the taxpayer's actual tax liability for the current year;
 31 plus

32 (B) any penalty that applies for the current year under
 33 IC 6-1.1-37-10.3.

34 (2) The total amount paid for the current year by automatic
 35 deductions and by means other than automatic deductions.

36 (3) If the amount under subdivision (1) exceeds the amount
 37 under subdivision (2), that the excess is payable by the
 38 taxpayer:

39 (A) as a final reconciliation of the tax liability; and

40 (B) not later than thirty (30) days after the date of the
 41 reconciling statement.

42 (4) If the amount under subdivision (2) exceeds the amount

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under subdivision (1), that:

(A) the taxpayer may claim a refund of the excess under IC 6-1.1-26; or

(B) the county treasurer will apply the excess as a credit against the taxpayer's tax liability for the immediately succeeding calendar year.

(n) Not later than fifty-one (51) days after each date identified under subsection (f)(2) and the due date of a reconciling statement issued under subsection (m), the county auditor shall:

(1) file with the auditor of state a report of settlement; and

(2) distribute tax collections to the appropriate taxing units.

(o) If a county auditor fails to make a distribution of tax collections under subsection (n), a taxing unit that was to receive a distribution may recover interest on the undistributed tax collections at the same rate and in the same manner that interest may be recovered under IC 6-1.1-27-1(b).

(p) IC 6-1.1-15:

(1) does not apply to a statement provided under subsection (f); and

(2) applies to a reconciling statement issued under subsection (m).

(q) IC 6-1.1-37-10 applies to a reconciling statement issued under subsection (m) in the same manner that IC 6-1.1-37-10 applies to an installment of property taxes.

(r) For purposes of IC 6-1.1-24-1(a)(1):

(1) property taxes to be paid by automatic deduction under this section before June of the current year are considered to be the taxpayer's spring installment of property taxes; and

(2) payment on a reconciling statement issued under subsection (m) is considered to be due before the due date of the first installment of property taxes payable in the year immediately following the current year.

SECTION 2. IC 6-1.1-22.5-6, AS AMENDED BY P.L.67-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) Except as provided in subsection (c), with respect to property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year, the county treasurer may, except as provided by section 7 of this chapter, use a provisional statement under this chapter if the county auditor fails to deliver the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment date.

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1 (b) The county treasurer shall give notice of the provisional
2 statement, including disclosure of the method that is to be used in
3 determining the tax liability to be indicated on the provisional
4 statement, by publication one (1) time:

5 (1) in the form prescribed by the department of local government
6 finance; and

7 (2) in the manner described in IC 6-1.1-22-4(b).

8 The notice may be combined with the notice required under section 10
9 of this chapter.

10 (c) Subsection (a) does not apply if the county auditor fails to
11 deliver the abstract as provided in IC 6-1.1-22-5(b).

12 **(d) Immediately upon determining to use provisional statements**
13 **under subsection (a), the county treasurer shall give notice of the**
14 **determination to the county fiscal body (as defined in IC 36-1-2-6).**

15 SECTION 3. IC 6-1.1-37-10, AS AMENDED BY P.L.219-2007,
16 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JANUARY 1, 2009]: Sec. 10. (a) Except as provided in sections **10.3,**
18 **10.4,** 10.5, and 10.7 of this chapter, if an installment of property taxes
19 is not completely paid on or before the due date, a penalty shall be
20 added to the unpaid portion in the year of the initial delinquency. The
21 penalty is equal to an amount determined as follows:

22 (1) If:

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

25 (B) the taxpayer is not liable for delinquent property taxes first
26 due and payable in a previous installment for the same parcel;
27 the amount of the penalty is equal to five percent (5%) of the
28 amount of delinquent taxes.

29 (2) If:

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

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

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

41 (b) With respect to property taxes due in two (2) equal installments
42 under IC 6-1.1-22-9(a), on the day immediately following the due dates

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

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

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

12 (d) If the department of local government finance determines that
 13 an emergency has occurred which precludes the mailing of the tax
 14 statement in any county at the time set forth in IC 6-1.1-22-8, the
 15 department shall establish by order a new date on which the installment
 16 of taxes in that county is due and no installment is delinquent if paid by
 17 the date so established.

18 (e) If any due date falls on a Saturday, a Sunday, a national legal
 19 holiday recognized by the federal government, or a statewide holiday,
 20 the act that must be performed by that date is timely if performed by
 21 the next succeeding day that is not a Saturday, a Sunday, or one (1) of
 22 those holidays.

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

- 26 (1) received on or before the due date by the county treasurer or
- 27 a collecting agent appointed by the county treasurer;
- 28 (2) deposited in United States first class mail:
 - 29 (A) properly addressed to the principal office of the county
 - 30 treasurer;
 - 31 (B) with sufficient postage; and
 - 32 (C) postmarked by the United States Postal Service as mailed
 - 33 on or before the due date;
- 34 (3) deposited with a nationally recognized express parcel carrier
- 35 and is:
 - 36 (A) properly addressed to the principal office of the county
 - 37 treasurer; and
 - 38 (B) verified by the express parcel carrier as:
 - 39 (i) paid in full for final delivery; and
 - 40 (ii) received by the express parcel carrier on or before the
 - 41 due date;
 - 42 (4) deposited to be mailed through United States registered mail,

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- 1 United States certified mail, or United States certificate of
 2 mailing:
 3 (A) properly addressed to the principal office of the county
 4 treasurer;
 5 (B) with sufficient postage; and
 6 (C) with a date of registration, certification, or certificate, as
 7 evidenced by any record authenticated by the United States
 8 Postal Service, on or before the due date; or
 9 (5) made by an electronic funds transfer and the taxpayer's bank
 10 account is charged on or before the due date.

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

14 (g) If a payment is mailed through the United States mail and is
 15 physically received after the due date without a legible correct
 16 postmark, the person who mailed the payment is considered to have
 17 made the payment on or before the due date if the person can show by
 18 reasonable evidence that the payment was deposited in the United
 19 States mail on or before the due date.

20 (h) If a payment is sent via the United States mail or a nationally
 21 recognized express parcel carrier but is not received by the designated
 22 recipient, the person who sent the payment is considered to have made
 23 the payment on or before the due date if the person:

- 24 (1) can show by reasonable evidence that the payment was
 25 deposited in the United States mail, or with the express parcel
 26 carrier, on or before the due date; and
 27 (2) makes a duplicate payment within thirty (30) days after the
 28 date the person is notified that the payment was not received.

29 SECTION 4. IC 6-1.1-37-10.3 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JANUARY 1, 2009]: **Sec. 10.3. (a) As used in this**
 32 **section, "current year" has the meaning set forth in**
 33 **IC 6-1.1-22-9.7(a).**

34 **(b) This section applies only if:**

- 35 **(1) property tax payments by automatic deduction are**
 36 **authorized for the current year under IC 6-1.1-22-9.7; and**
 37 **(2) property taxes are due for the current year in two (2)**
 38 **equal installments under IC 6-1.1-22-9(a).**

39 **(c) If the ordinance adopted under IC 6-1.1-22-9.7(d) authorizes**
 40 **the first automatic deduction of property tax payments for a**
 41 **current year in a month that follows May of that year, penalties**
 42 **apply to the May installment of property taxes under section 10 of**

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this chapter.

(d) If the total amount due to be paid by automatic deductions under IC 6-1.1-22-9.7 for the current year not later than November 10 of the current year is not completely paid by automatic deductions or by means other than automatic deductions on or before that date, the amount unpaid is considered delinquent and a penalty is added to the amount unpaid. Except as provided in subsection (c), the penalty is equal to an amount determined as follows:

(1) If:

(A) the delinquent amount of real property taxes is completely paid on or before December 10 of the current year; 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 delinquent amount.

(2) If:

(A) the delinquent amount of personal property taxes is completely paid on or before December 10 of the current year; 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 delinquent amount.

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

(e) On May 11 and November 11 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.

(f) The penalties under this section are imposed on only the principal amount of the delinquent taxes.

SECTION 5. IC 6-1.1-37-10.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 10.4. (a)** As used in this section, "current year" has the meaning set forth in IC 6-1.1-22-9.7(a).

(b) This section applies only if:

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- (1) property tax payments by automatic deduction are authorized for the current year under IC 6-1.1-22-9.7; and
- (2) property taxes are due for the current year in installments determined under IC 6-1.1-22-9.5.

(c) If the ordinance adopted under IC 6-1.1-22-9.7(d) authorizes the first automatic deduction of property tax payments for a current year in a month that follows one (1) or more months of that year in which property taxes are due by one (1) or more installments determined under IC 6-1.1-22-9.5, penalties apply to those installments under section 10 of this chapter.

(d) If the total amount due to be paid by automatic deductions under IC 6-1.1-22-9.7 for the current year is not completely paid by automatic deductions or by means other than automatic deductions on or before the last installment date established under IC 6-1.1-22-9.5, the amount unpaid is considered delinquent and a penalty is added to the amount unpaid. Except as provided in subsection (c), the penalty is equal to an amount determined as follows:

- (1) If:
 - (A) the delinquent amount of real property taxes is completely paid on or before the date thirty (30) days after the last installment date established under IC 6-1.1-22-9.5; 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 delinquent amount.
- (2) If:
 - (A) the delinquent amount of personal property taxes is completely paid on or before the date thirty (30) days after the last installment date established under IC 6-1.1-22-9.5; 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 delinquent amount.
- (3) If subdivision (1) or (2) does not apply, the amount of the penalty is equal to ten percent (10%) of the delinquent amount.

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1 (e) An additional penalty equal to ten percent (10%) of any
2 taxes remaining unpaid shall be added on the day immediately
3 following each date that succeeds the last installment due date
4 established under IC 6-1.1-22-9.5 by:

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

7 (f) The penalties under this section are imposed on only the
8 principal amount of the delinquent taxes.

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