

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.

SENATE ENROLLED ACT No. 208

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-22-9.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9.7. (a) As used in this section, "current year" refers to the calendar year in which property taxes are first due and payable and are subject to payment under this section:**

- (1) by automatic deduction from a checking account; or**
- (2) under a monthly installment plan.**

(b) As used in this section, "monthly installment plan" means a plan that:

- (1) is adopted under this section;**
- (2) provides for the monthly payment of tax liability; and**
- (3) does not involve an automatic deduction from a checking account.**

(c) As used in this section, "preceding year" refers to the calendar year that immediately precedes the current year.

(d) As used in this section, "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

(e) After June 30, 2009, the county fiscal body (as defined in IC 36-1-2-6) may at any time adopt an ordinance to allow all

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county taxpayers to pay one (1) or more installments of property taxes by any combination of the following:

- (1) Automatic monthly deductions from a checking account.
- (2) Payments under a monthly installment plan.

(f) An ordinance adopted under subsection (e):

- (1) may apply to more than one (1) calendar year; and
- (2) must include at least the following:

(A) Identification of the property tax installment or installments for which payment:

- (i) by automatic deduction from a checking account; or
- (ii) under a monthly installment plan;

is authorized.

(B) Provisions for notice to county taxpayers of the option to pay one (1) or more property tax installments:

- (i) by automatic deduction from a checking account; or
- (ii) under a monthly installment plan.

(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.

However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by automatic deductions from a checking account.

(D) Authority for the county treasurer to accept payment of the taxpayer's property taxes under a monthly installment plan. However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by monthly installment payments under a monthly installment plan.

An ordinance adopted under subsection (e) may include a provision authorizing taxpayers to make monthly deductions or monthly installment payments in an amount determined by the taxpayer that is different from the amount otherwise determined by the county treasurer under subsection (h), (i), (j), or (k).

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(g) If an ordinance is adopted under subsection (e) to allow taxpayers to pay property taxes by automatic deductions from a checking account, the county treasurer shall provide to each county taxpayer that submits to the county treasurer the form referred to in subsection (f)(2)(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, as chosen by the taxpayer, 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 (n) 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 that apply if there are insufficient funds in the taxpayer's checking account to cover one (1) or more automatic deductions.**

(h) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (g)(3) is made the amount of tax liability for the current year has not been determined. Subject to subsections (i) and (j), 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 or the amount due under a**

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monthly installment plan 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 (f)(2)(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 or, in the case of payments under a monthly installment plan, the number of monthly installments.

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

(j) This subsection applies only if before an ordinance is adopted under subsection (e) the county treasurer determines to use provisional property tax statements under IC 6-1.1-22.5 for the current year. For purposes of determining the amount of the monthly deduction from the taxpayer's checking account or the amount of the taxpayer's monthly installment payment under a monthly installment plan, the county treasurer shall substitute for the tax liability that applied to the parcel for the preceding year under subsection (h) the tax liability to be indicated on the provisional statement.

(k) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (g)(3) is made the amount of tax liability for the current year has been determined. The amount of the monthly deduction from the taxpayer's checking account or the amount of the taxpayer's monthly installment payment under a monthly installment plan is the amount of the tax liability for the current year payable in the installment or installments identified in the ordinance under

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subsection (f)(2)(A) divided by the number of monthly deductions.

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

(m) Penalties apply under IC 6-1.1-37-10 as specified in this section to taxes payable by automatic deduction from a checking account or by monthly installment payments under a monthly installment plan under this section.

(n) After the last monthly checking account deduction or last monthly installment payment under a monthly installment plan under this section for the current year has been made and after the amount of tax liability for the current year has been determined, the county treasurer shall issue a reconciling statement to the taxpayer. Each reconciling statement must indicate at least the following:

- (1) The sum of:
 - (A) the taxpayer's actual tax liability for the current year; plus
 - (B) any penalty that applies for the current year.
- (2) The total amount paid for the current year by automatic deductions, monthly installment payments under a monthly installment plan, and by means other than automatic deductions or monthly installment payments.
- (3) If the amount under subdivision (1) exceeds the amount under subdivision (2), the deficiency is payable by the taxpayer:
 - (A) as a final reconciliation of the tax liability; and
 - (B) not later than thirty (30) days after the date of the reconciling statement.
- (4) If the amount under subdivision (2) exceeds the amount under subdivision (1), that the county treasurer will apply the excess as a credit against the taxpayer's tax liability for the immediately succeeding calendar year unless the taxpayer makes a claim for refund of the excess under IC 6-1.1-26.

(o) The county auditor shall distribute tax collections under this section to the appropriate taxing units at the semiannual settlements under IC 6-1.1-27. However, this subsection does not prohibit a county treasurer from making an advance to a political subdivision under IC 5-13-6-3 of a portion of the taxes collected.

(p) IC 6-1.1-15:

- (1) does not apply to a statement provided under subsection

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(g); and

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

(q) The following apply to a taxpayer that makes automatic monthly deductions or monthly installments under this section:

(1) If a taxpayer makes automatic monthly deductions or monthly installments of property taxes in the amount determined by the county treasurer under subsection (h), (i), (j), or (k), the taxpayer's property tax payments shall not be considered delinquent for purposes of IC 6-1.1-37-10 and the taxpayer is not subject to penalties under that section.

(2) If a taxpayer:

(A) makes automatic monthly deductions or monthly installments of property taxes in an amount that is less than the amount determined by the county treasurer under subsection (h), (i), (j), or (k); and

(B) the total amount of property taxes paid by the taxpayer under automatic monthly deductions, monthly installments, or any other method by the May or November due date is less than the amount determined by the county treasurer under subsection (h), (i), (j), or (k) that should have been paid by the taxpayer for the May or November due date;

the penalty provisions of IC 6-1.1-37-10 apply to the delinquent property taxes.

(r) IC 6-1.1-37-10 applies to any amounts due under a reconciling statement issued under subsection (n) that are not paid within thirty (30) days after the date of the reconciling statement, as required under subsection (n)(3).

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

(1) property taxes to be paid by automatic deduction or by monthly installments under a monthly installment plan 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 (n) 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 JULY 1, 2008]: Sec. 6. (a) Except as provided in subsection (c), with respect to property taxes payable under this article on assessments

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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.

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

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

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

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

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

(d) This subsection applies after June 30, 2009. Immediately upon determining to use provisional statements under subsection (a), the county treasurer shall give notice of the determination to the county fiscal body (as defined in IC 36-1-2-6).

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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