# Table Of Contents

## Introduction
- 1-

## The IDSRL’s audit and investigatory powers
- 2-

## Assessment
- 3-
  - Notice
  - Penalties and interest
  - Reasons for sending notice of proposed assessment
    - Late payment
    - Desk examination
    - Audit findings
    - Failure to file
    - Failure to pay
    - Tax Warrant
  - Burden of proof
  - Statute of limitations for issuing proposed assessment
    - Three year statute of limitations
    - Six year statute of limitations
    - No time period
    - Agreement to extend assessment time period
    - Effect of assessment of federal deficiency or filing an amended federal income tax return on statute of limitations
  - Taxpayer protest of proposed assessment
  - IDSRL’s letter of findings
    - Request for rehearing
    - Appeal to the Indiana Tax Court
  - Settlement of tax liability dispute before or after original tax appeal
  - Amnesty Program
    - Taxpayer’s responsibility upon receiving notice

## Demand notice for payment
- 9-
  - Reasons for sending a demand for payment notice
  - Manner of making notice
  - When Notice is not required - Jeopardy Assessment
    - Jeopardy tax warrant
  - Time frame for payment - taxpayer’s responsibility upon receiving the notice

## Tax warrants
- 11-
  - Place of filing
  - Collection of tax warrant
  - Treatment of sale proceeds
  - Uncollected tax warrants
    - Effect of presence on the tax warrant list
    - Actions available after tax warrant returned uncollected
  - Release of tax warrant

## Collection
- 16-
  - When liability is discharged
  - Allocation of partial payments
  - Collection of judgment by IDSRL
  - Uncollectible liabilities
  - Restraining orders
  - Appointment of receiver
  - Remedies cumulative

## Penalties and Interest
- 18-
  - Failure to file return or to pay full amount of tax

---

Copyright © 1986 Through 2007, Professor Jegen’s Taxsite
The filing of a substantially blank or unsigned return does not constitute a return for purposes of determining liability for interest ................................................................. -19-
Fraudulent intent .................................................................................................... -19-
Failure to obtain payment for full face amount of check ....................................... -20-
Failure to file information return .......................................................................... -20-
Maximum and minimum penalties ......................................................................... -20-

### Death Taxes ................................................................. -20-
Inheritance tax ................................................................................................. -20-
- Limitations on the transfer of decedent’s property ............................................. -21-
- Notice of transfer .............................................................................................. -23-
- Filing of return ................................................................................................. -24-
- Time for payment ............................................................................................ -24-
- Collection, record and receipt of tax on non-resident decedents ......................... -25-
- Payment of and receipt for tax due by resident decedents ................................. -26-
- Distribution of inheritance tax funds collected ................................................. -26-
- Quarterly inheritance tax reports and warrants ............................................... -26-
- Receipt and accounting for warrants .................................................................. -27-
- Auditing of quarterly reports ............................................................................ -27-
- Actions to collect inheritance tax ....................................................................... -27-
- Compromise of tax or interest due ..................................................................... -28-
- Claim for refund of inheritance tax erroneously or illegally collected ............... -29-

### Indiana estate tax .......................................................... -30-
- Tax “effectively repealed” ................................................................................ -30-
- Due date of tax .................................................................................................. -30-
- Interest on late payments .................................................................................. -30-
- Credit against inheritance tax ........................................................................... -30-
- Collection and remittance of tax ....................................................................... -31-
- Distribution of taxes collected .......................................................................... -31-
- Appeal of estate tax determination .................................................................... -31-

### Indiana Generation-Skipping Transfer Tax ......................................................... -32-
- Due date of tax .................................................................................................. -32-
- Payment of tax .................................................................................................. -32-

### Property taxes .................................................................... -32-
- Imposition of tax ............................................................................................... -32-
- Persons liable for tax ......................................................................................... -32-
- Roll of property taxes payable .......................................................................... -33-
- Publication of notice of tax rate ......................................................................... -34-
- Abstract ............................................................................................................. -34-
- Register of taxes and special assessment .......................................................... -35-
- Daily cash book ................................................................................................ -35-
- Notice of Tax Liability ....................................................................................... -35-
- Time for payment .............................................................................................. -37-
- Penalty for late payment .................................................................................. -37-
- Installment payments with respect to homesteads ............................................ -38-
- Receipt for payment ......................................................................................... -38-
- Nature of liability ............................................................................................... -38-
- Collection of delinquent personal property taxes .............................................. -39-
- Demand for delinquent taxes ........................................................................... -39-
- Possession of personal property ...................................................................... -41-
- Taxpayer’s bond ................................................................................................ -41-
- Notice of sale ..................................................................................................... -41-
- Auction sale ....................................................................................................... -41-
- Distribution of sale proceeds ............................................................................ -42-
- Exemption for household goods ....................................................................... -42-
- Collection fees .................................................................................................. -42-
- Levy and sale without demand .......................................................................... -43-
- Record of delinquencies .................................................................................... -43-
- Notice of judgment ............................................................................................ -44-
- Restraining order .............................................................................................. -44-
- Remedies for collection without filing suit ...................................................... -44-
- Grounds for setting aside judgment ................................................................... -46-
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjusted gross income tax</td>
<td>67-</td>
</tr>
<tr>
<td>Imposition of tax</td>
<td>67-</td>
</tr>
<tr>
<td>Returns</td>
<td>68-</td>
</tr>
<tr>
<td>Time for filing</td>
<td>69-</td>
</tr>
<tr>
<td>Estimated tax returns</td>
<td>69-</td>
</tr>
<tr>
<td>Withholding by employer</td>
<td>70-</td>
</tr>
<tr>
<td>Time for payment</td>
<td>71-</td>
</tr>
<tr>
<td>Information to be included on return</td>
<td>72-</td>
</tr>
<tr>
<td>Annual report to employees</td>
<td>72-</td>
</tr>
<tr>
<td>Personal liability of employer</td>
<td>72-</td>
</tr>
<tr>
<td>Excess deductions</td>
<td>73-</td>
</tr>
<tr>
<td>Employers of domestic service employees</td>
<td>73-</td>
</tr>
<tr>
<td>Penalty for failure to remit withheld funds</td>
<td>73-</td>
</tr>
<tr>
<td>Withholding by partnership</td>
<td>73-</td>
</tr>
<tr>
<td>Time for reporting and payment</td>
<td>74-</td>
</tr>
<tr>
<td>Withholding by subchapter S corporation</td>
<td>75-</td>
</tr>
<tr>
<td>Time for reporting and payment</td>
<td>75-</td>
</tr>
<tr>
<td>Distributions made with property other than money and gains realized</td>
<td>77-</td>
</tr>
<tr>
<td>Withouting by trust or estate</td>
<td>77-</td>
</tr>
<tr>
<td>Time for payment</td>
<td>77-</td>
</tr>
<tr>
<td>Penalties</td>
<td>78-</td>
</tr>
<tr>
<td>Withholding from certain payments made to Indiana residents</td>
<td>79-</td>
</tr>
<tr>
<td>Report and remittance</td>
<td>79-</td>
</tr>
<tr>
<td>Circumstances requiring twenty day time limit for remittance of</td>
<td>79-</td>
</tr>
<tr>
<td>withholding and special requirements for large tax</td>
<td>79-</td>
</tr>
<tr>
<td>liability</td>
<td>79-</td>
</tr>
<tr>
<td>Distribution of collected taxes</td>
<td>80-</td>
</tr>
<tr>
<td>Corporations</td>
<td>80-</td>
</tr>
<tr>
<td>Persons</td>
<td>80-</td>
</tr>
<tr>
<td>Penalties related to the collection of adjusted gross income tax</td>
<td>80-</td>
</tr>
</tbody>
</table>
THE TAX COLLECTION PROCEDURE OF THE STATE OF INDIANA

I. Introduction.

A. In general, the main types of taxes collected in the State of Indiana are: the sales and use taxes, income taxes, death taxes, property taxes, and a variety of excise taxes.

B. The Indiana Department of State Revenue (IDSR) is charged with the responsibility of collecting the following taxes:

1. Pari-mutuel taxes (see I.C. § 4-31-9-3 thru 9-5);
2. Riverboat admissions tax (see I.C. § 4-33-12);
3. Riverboat wagering tax (see I.C. § 4-33-13);
4. Gross income tax (see I.C. § 6-2.1)(repealed);
5. Utility receipts and utility services use taxes (see I.C. § 6-2.3);
6. State gross retail and use taxes (see I.C. § 6-2.5);
7. Adjusted gross income tax (see I.C. § 6-3);
8. Supplemental net income tax (see I.C. § 6-3-8)(repealed);
9. County adjusted gross income tax (see I.C. § 6-3.5-1.1);
10. County option income tax (see I.C. § 6-3.5-6);
11. County economic development income tax (see I.C. § 6-3.5-7);
12. Municipal option income tax (see I.C. § 6-3.5-8);
13. Auto rental excise tax (see I.C. § 6-6-9);
14. Financial institutions tax (see I.C. § 6-5.5);
15. Alternative fuel permit fee (see I.C. § 6-6-2.1);
16. A motor fuel tax collected under a reciprocal agreement under I.C. § 6-8.1-3;
17. Various innkeeper’s taxes (see I.C. § 6-9);
18. Various food and beverage taxes (see I.C. § 6-9);
19. County admissions tax (see I.C. § 6-9-13 and see I.C. § 6-9-28);
20. Oil inspection fee (see I.C. § 16-44-2);
21. Emergency and hazardous chemical inventory form fee (see I.C. § 6-6-10);
22. Penalties assessed for oversize vehicles (see I.C. § 9-20-3 and see I.C. § 9-30);
23. Fees and penalties assessed for overweight vehicles (see I.C. § 9-20-4 and see I.C. § 9-30);
24. Underground storage tank fee (see I.C. § 13-23);
25. Solid waste management fee (see I.C. § 13-20-22); and,
26. Any other tax or fee that the IDSR is required to collect or administer.
C. The IDSR’s Special Tax Division administers and enforces the following taxes:
   1. Gasoline tax (see I.C. § 6-6-1.1);
   2. Special fuel tax (see I.C. § 6-6-2.5);
   3. Motor carrier fuel tax (see I.C. § 6-6-4.1);
   4. Hazardous waste disposal tax (see I.C. § 6-6-6.6);
   5. Cigarette tax (see I.C. § 6-7-1);
   6. Tobacco products tax (see I.C. § 6-7-2);
   7. Alcoholic beverage taxes (beer excise, liquor excise, wine excise, hard cider excise and malt excise taxes) (see I.C. § 6-7.1-4);
   8. Petroleum severance tax (see I.C. § 6-8-1); and,
   9. Any other tax the commissioner designates.

D. The IDSR is responsible for collecting the following taxes only where there is delinquency or evasion:
   1. Motor vehicle excise tax (see I.C. § 6-6-5 and see 6-8.1-3-1.); and,
   2. Commercial vehicle excise tax (see I.C. § 6-6-5.5 and see I.C. § 6-8.1-3-1).

II. The IDSR’s audit and investigatory powers.

A. The IDSR may audit any returns filed in respect to the above listed taxes, may appraise property if the property’s value relates to the administration or enforcement of those listed taxes, may audit gasoline distributors for financial responsibility, and may investigate any matters relating to the above listed taxes. See I.C. § 6-8.1-3-12(a).

B. For purposes of conducting its audit or investigative functions, the IDSR may:
   1. subpoena the production of evidence;
   2. subpoena witnesses; and,
   3. question witnesses under oath.

   The IDSR may serve its subpoenas or it may order the sheriff of the county in which the witness or evidence is located to serve the subpoenas. See I.C. § 6-8.1-3-12(b).

C. The IDSR may enforce its audit and investigatory powers by petitioning for a court order in any court of competent jurisdiction located in the county where the tax is due or in the county in which the evidence or witness is located. If the evidence or witness is not located in Indiana or if the IDSR does not know the location of the evidence or witness, the IDSR may file the petition in a court of competent jurisdiction in Marion County. The petition to the court must state the evidence or testimony subpoenaed and must allege that the subpoena was served but that the person did not comply with the terms of that subpoena. See I.C. § 6-8.1-3-12(c).
D. Upon receiving a proper petition, the court is required to promptly issue an order which:

1. sets a hearing on the petition on a date not more than 10 days after the date of the order; and,
2. orders the person to appear at the hearing prepared to produce the subpoenaed evidence and give the subpoenaed testimony.

If the defendant is unable to show good cause for not producing the evidence or giving the testimony, the court is required to order the defendant to comply with the subpoena. If the defendant fails to obey the court order, the court may punish him or her for contempt. See I.C. § 6-8.1-3-12(d) & (e).

E. Officers serving subpoenas or court orders and witnesses appearing in court are entitled to the normal compensation provided by law in civil cases. The IDSR must pay the compensation costs from the money appropriated for the administration of the listed taxes. See I.C. § 6-8.1-3-12(f).

F. County treasurers investigating tax matters under I.C. § 6-9 (innkeeper’s taxes and other local taxes) have:

1. concurrent jurisdiction with the IDSR;
2. the same audit, investigatory, appraisal and enforcement powers as described above; and,
3. authority to recover court costs, fees and other expenses related to the investigation. See I.C. § 6-8.1-3-12(g).

III. Assessment.

A. If the IDSR reasonably believes that a person has not reported the proper amount of tax due, the IDSR is required to make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the IDSR. See I.C. § 6-8.1-5-1(b). This does not apply to a motor carrier fuel tax return. See I.C. § 6-8.1-5-1(l).

B. Notice.

1. The IDSR is required to send the person a notice of the proposed assessment through the United States mail. See I.C. § 6-8.1-5-1(b). This does not apply to a motor carrier fuel tax return. See I.C. § 6-8.1-5-1(l).
2. If the person has a surety bond guaranteeing payment of the tax for which the proposed assessment is made, the IDSR is required to furnish a copy of the proposed assessment to the surety. See I.C. § 6-8.1-5-1(c).
3. The notice is required to state that the person has 45 days from the date the notice is mailed to pay the assessment or to file a written protest. Prior to January 1, 2007, the person had 60 days. See I.C. § 6-8.1-5-1(d).

C. Penalties and interest. The amount of the assessment is considered a tax payment not made by the due date and is subject to I.C. § 6-8.1-10 concerning the imposition of penalties and interest. See I.C. § 6-8.1-5-1(b).
This does not apply to a motor carrier fuel tax return. See I.C. § 6-8.1-5-1(f).

D. Reasons for sending notice of proposed assessment.

1. Late payment. If the payment is made after due date, the IDSR adds a 10% penalty of the base tax due or $5, whichever is more, plus interest to the amount due, unless:
   a. It is a late-filed tax return for Underground Storage Tank, Hazardous Chemical Inventory, Alcoholic Beverage, Cigarette, or a Prepaid Sales Tax - then there will be a 10% penalty and no $5 minimum;
   b. It is a late-filed International Fuel and Motor Carrier Fuel tax return, then there will be a 10% penalty or $50, whichever is more; or,
   c. It is a late-filed excise tax return for aircraft in which case the penalty is 20% or $20, whichever is more.
   d. If penalties and interest were not included with the payment when the return was filed, the IDSR issues a proposed assessment notice.

2. Desk examination. The IDSR checks each tax return for math accuracy and correct amount of payment. After reviewing deductions, exemptions, and other calculations, the IDSR will send a bill (a proposed assessment notice) to a taxpayer if the IDSR discovers that the wrong amount of tax, penalty, or interest due was reported by that taxpayer. Examples of math errors include:
   a. Using the wrong county rate.
   b. Calculating an amount incorrectly.

3. Audit findings.
   a. The IDSR is required by law to audit a sampling of tax returns each year and to send an audit report to taxpayers who were audited.
   b. If after conducting the audit, the IDSR finds tax, penalty or interest are due, it will send a notice of proposed assessment to a taxpayer.

4. Failure to file. If a taxpayer responsible for reporting tax does not file a return, the IDSR estimates the taxes based on the best information available to it, adds a penalty of 20% of the base tax due or $5, whichever is more, and adds interest to the amount, unless:
   a. It is a Cigarette Tax return - then the penalty is $10 per return; or,
   b. It is a Special Fuel Form SF-401, in which case the penalty is $1,000.
   c. These penalties are in addition to any amount that would be due on the tax return.

The IDSR will issue a proposed assessment to the taxpayer with this estimated amount. The taxpayer then has 45 days to protest the bill or file a return.
5. Failure to pay. If a taxpayer filed a tax return but did not pay the full amount that was due, the IDSR issues a Demand Notice for Payment, in which the taxpayer is granted 10 days to pay the full amount due. If a taxpayer is unable to pay the full amount due, he or she still must contact the IDSR by the due date.

6. Tax Warrant. If a taxpayer fails to properly address a demand notice or assessment notice, a tax warrant for collection of tax may be issued. At that point, a taxpayer must either:
   a. pay the total amount due; or,
   b. accept the expense and related outcome of a tax warrant being issued.

A tax warrant may become a judgment lien on all of a taxpayer’s real and/or personal property. Additionally, the warrant may be sent to the sheriff’s office. Though collected by the sheriff, this warrant is not a warrant for arrest. The sheriff may collect the amount of tax due, plus penalty, interest, clerk’s costs, and a collection fee of 10% of the base tax due on the bill. If the taxpayer does not pay the total amount owed, the sheriff may choose the method of collection. The sheriff may:
   a. sell the taxpayer’s property at an auction;
   b. garnish the taxpayer’s wages; or,
   c. levy the taxpayer’s bank account.

The sheriff has up to 120 days to collect the amount due before the IDSR takes further action (such as turning the taxpayer’s account over to a collection agency, etc.).

See IDSR’s Publication A(w), revised January, 2007.

E. Burden of proof. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made. See I.C. § 6-8.1-5-1(c). See also: Cliffit v. Indiana Dep’t of Revenue, 748 N.E.2d 449 (Ind. Tax 2001); Galligan v. Ind. Dep’t of State Revenue, 825 N.E.2d 467 (Ind. Tax 2005).

F. Statute of limitations for issuing proposed assessment.

1. Three year statute of limitations. The IDSR must issue a proposed assessment within three years of the latest of the following:
   a. the date on which the return is filed;
   b. the due date of the return; or,
   c. in the case of a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax:
      i. the end of the calendar year which contains the taxable period for which the return is filed.

See I.C. § 6-8.1-5-2(a).
2. Six year statute of limitations. The time period is extended to six years when a person understates income by at least 25% on an Indiana gross income tax, supplemental net income tax, county adjusted gross income tax, county option income tax, or financial institutions tax return. See I.C. § 6-8.1-5-2(b).

3. No time period. If a person files a fraudulent, unsigned, or substantially blank return (or if a person does not file a return) there is no time limit within which the IDSR must issue its proposed assessment. See I.C. § 6-8.1-5-2(e).
   a. Failure to properly register a vehicle and to pay the motor vehicle excise tax due is considered failure to file a return. See I.C. § 6-8.1-5-2(c).
   b. Failure to properly register a commercial vehicle and to pay the commercial vehicle excise tax is considered failure to file a return. See I.C. § 6-8.1-5-2(d).

4. Agreement to extend assessment time period. If, before the end of the time within which the IDSR may make an assessment, the IDSR and the person agree to extend that assessment time period, the period may be extended according to the terms of a written agreement signed by both the IDSR and the person. The agreement must contain:
   a. the date to which the extension is made; and,
   b. a statement that the person agrees to preserve the person’s records until the extension terminates.

   The IDSR and a person may agree to more than one extension. See I.C. § 6-8.1-5-2(f).

5. Effect of assessment of federal deficiency or filing an amended federal income tax return on statute of limitations. If a taxpayer’s federal income tax liability for a taxable year is modified due to the assessment of a federal deficiency or the filing of an amended federal income tax return, then the date by which the IDSR must issue a proposed assessment for adjusted gross income tax is extended to six months after the date on which the notice of modification is filed with the IDSR by the taxpayer. See I.C. § 6-8.1-5-2(g).

G. Taxpayer protest of proposed assessment.

1. If the person files a protest and requires a hearing on the protest, the IDSR is required to:
   a. set the hearing at the IDSR’s earliest convenient time; and,
   b. notify the person by United States mail of the time, date, and location of the hearing.

   See I.C. § 6-8.1-5-1(d).

2. The IDSR may hold the hearing at the location of its choice within Indiana if that location complies with I.C. § 6-8.1-3-8.5 (reasonable and convenient to the taxpayer whenever possible). See I.C. §
3. The IDSR may continue the hearing until a later date if the taxpayer presents additional information at the hearing or the taxpayer requests an opportunity to present additional information after the hearing. See I.C. § 6-8.1-5-1(f).

H. IDSR’s letter of findings.

1. No later than 60 days after conducting a hearing on a protest, or after making a decision on a protest when no hearing is requested, the IDSR must issue a letter of findings. A copy of the letter of findings must be sent by U.S. mail to the person who filed the protest and to his or her surety, if the surety was notified of the proposed assessment. See I.C. § 6-8.1-5-1(f). Effective January 1, 2007, a letter of finding includes, for purposes of this section, a supplemental letter of finding. See I.C. § 6-8.1-5-1(a).

2. Request for rehearing. A person that disagrees with a decision in a letter of findings may request a rehearing not more than 30 days after the date on which the letter of finding was issued by the IDSR. The IDSR is required to consider the request and may grant the rehearing if the IDSR reasonably believes that a rehearing would be in the best interests of the taxpayer and the state. See I.C. § 6-8.1-5-1(g).

3. Appeal to the Indiana Tax Court. If a person disagrees with a decision in a letter of findings, the person may appeal the decision to the Indiana Tax Court within 60 days of issuance of the letter of findings. See I.C. § 6-8.1-5-1(h).

a. However, the Indiana Tax Court does not have jurisdiction to hear an appeal that is filed more than 60 days after the date on which the letter of finding is issued by the IDSR if the person did not make a timely request for a rehearing under I.C. § 6-8.1-5-1(g) or the date on which the IDSR issued a denial of the person’s timely request for such a rehearing. Prior to January 1, 2007, the jurisdictional time limit was 180 days. See I.C. § 6-8.1-5-1(h).

b. The Indiana Tax Court is required to hear the appeal de novo and without a jury. See I.C. § 6-8.1-5-1(i).

c. The Indiana Tax Court may do the following:

i. Uphold or deny any part of the assessment that is appealed.

ii. Assess the court costs in a manner that the court believes to be equitable.

iii. Enjoin the collection of a listed tax.

See I.C. § 6-8.1-5-1(I).

I. Settlement of tax liability dispute before or after original tax appeal.
1. Before an original tax appeal is filed with the Indiana Tax Court, the commissioner may settle any tax liability dispute if a substantial doubt exists as to:
   a. the constitutionality of the tax under the Constitution of the State of Indiana;
   b. the right to impose the tax;
   c. the correct amount of tax due;
   d. the collectibility of the tax; or
   e. whether the taxpayer is a resident or nonresident of Indiana.

   See I.C. § 6-8.1-3-17(a).

2. After an original tax appeal is filed with the Indiana Tax Court, and notwithstanding I.C. § 4-6-2-11 (compromising the state’s interest requires the approval of the governor and the attorney-general), the commissioner may settle a tax liability dispute with an amount in contention of $25,000 or less.

   See I.C. § 6-8.1-3-17(b).

J. Amnesty Program.

1. The IDSIR established an amnesty program for taxpayers who had an unpaid tax liability for a listed tax that was due and payable for a tax period ending before July 1, 2004. Between September 15, 2005, and November 15, 2005, any individual or business that had a qualifying unpaid tax liability could apply for amnesty. The IDSIR waived all penalties, interest, and collection fees for full payment of taxes. In addition, the IDSIR agreed not to criminally or civilly prosecute the taxpayer for any taxes for which the taxpayer claimed amnesty relief. To participate, a taxpayer had to make full payment of taxes by November 15, 2005, or set up an installment agreement to pay the taxes in full by June 15, 2006. The taxpayer had to file all missing tax returns or file corrected tax returns if the tax obligation was understated. The taxpayer was also required to sign an amnesty application. See I.C. § 6-8.1-3-17(c) & (d).

2. If a taxpayer that was eligible to participate in the tax amnesty program failed to do so, any penalties calculated under I.C. § 6-8.1-1-8, I.C. § 6-8.1-10-2.1 through -9, or I.C. § 6-6, were doubled. This additional penalty did not apply if the taxpayer filed an original appeal contesting the penalty or the tax on which the penalty was based and the tax court enjoins collection of the penalty or the IDSIR consents to an injunction against collection of the penalty. The additional penalty also does not apply if the taxpayer had a legitimate hold on making the payment for a reason permitted by the IDSIR, the taxpayer had made a payment plan with the IDSIR before the tax amnesty plan began, or the taxpayer can show to the commissioner’s satisfaction that the taxpayer did not receive notice of the outstanding tax liability. See I.C. § 6-8.1-10-12.
K. Taxpayer’s responsibility upon receiving notice.

1. Reply by due date on bill.

2. Within 45 days from date of mailing, either pay tax or file written protest. Prior to January 1, 2007, the time limit was 60 days. See I.C. § 6-8.1-5-1(d).

3. Failure to reply by the due date will result in the IDSR starting collection efforts.

4. Taxpayer will lose protest rights once collection efforts are started.

See IDSR’s Publication A(w), revised January, 2007.

IV. Demand notice for payment.

A. The IDSR is to demand payment, as provided in I.C. § 6-8.1-8-2(a), of any part of the proposed tax assessment, interest, and penalties that it finds owing. See I.C. § 6-8.1-5-1(j).

B. Reasons for sending a demand for payment notice. The IDSR may send a demand notice to a taxpayer for the following reasons:

1. The person failed to properly respond to the notice of proposed assessment within the 45-day period. Prior to January 1, 2007, the time limit was 60 days. See I.C. § 6-8.1-5-1(j)(1).

2. The person requested a hearing but failed to appear at that hearing. See I.C. § 6-8.1-5-1(j)(2).

3. After consideration of the evidence presented in the protest or hearing, the IDSR finds that the person still owes tax. See I.C. § 6-8.1-5-1(j)(3).

4. Failure to pay the full amount due when the tax return was filed. See I.C. § 6-8.1-8-2(a).

5. Returned check. If the tax payment was made with a check the IDSR could not cash:

   a. A penalty of 10% of the unpaid tax or the face value of the check, whichever is smaller but in any case not less than $5, is imposed and the IDSR will mail a notice that the check was not honored to the person. See I.C. § 6-8.1-10-5(a) & (b); I.C. § 6-8.1-10-7.

   b. The notice gives the taxpayer 10 days from the date of the notice to pay the tax and the penalty either in cash, by certified check, or other guaranteed payment. See I.C. § 6-8.1-10-5(b).

   c. If the person does not pay within the 10 days, the penalty is increased to 100% of the face value of the check or the unpaid tax, whichever is smaller but in any case not less than $5. See I.C. § 6-8.1-10-5(b); I.C. § 6-8.1-10-7.

   d. All non-sufficient funds checks over $500 are sent to the Criminal Investigation Division of the IDR for criminal prosecution. See IDSR’s Publication A(w), revised January, 2007.

6. 45 days have elapsed since sending the notice of proposed assessment. Prior to January 1, 2007, the time limit was 60 days. See I.C. § 6-8.1-5.1(j)(1).
The IDSR has made findings at a hearing that the taxpayer owes the tax. See I.C. § 6-8.1-5-1(j)(3).

C. Manner of making notice:

1. The IDSR is required to make the demand for payment in the manner provided in I.C. § 6-8.1-8-2(a). See I.C. § 6-8.1-5-1(k). Specifically, the demand notice must: state that the person has 10 days from the date the IDSR mailed the notice to either pay the outstanding amount or show reasonable cause for not paying it; state the statutory authority of the IDSR for issuance of a tax warrant; state the earliest date a tax warrant may be filed and recorded; and, state the remedies available to the person to prevent the filing and recording of the judgment. Effective January 1, 2007, the notice must also include the statutory authority for the IDSR to levy against a person’s property that is held by a financial institution.

D. When Notice is not required - Jeopardy Assessment.

1. If the IDSR:
   a. has sent a notice of proposed assessment to a taxpayer by United States mail and the notice is returned to the IDSR because the taxpayer has moved and the IDSR is unable to determine the taxpayer’s new address; or,
   b. finds that the taxpayer owing taxes intends to:
      i. flee the jurisdiction;
      ii. remove property from the state;
      iii. conceal property in the state; or,
      iv. do any other act that would jeopardize the collection of taxes,

2. It may:
   a. declare the person’s tax period at an end;
   b. immediately make an assessment for taxes owing; and,
   c. demand immediate payment of the amount due without providing the notice otherwise required. See I.C. § 6-8.1-5-3(a) & (b).

   a. If payment is not made immediately, the IDSR may issue or request the state police department to serve a jeopardy tax warrant.
   b. The IDSR may then, with or without assistance of county sheriffs, levy on and sell the taxpayer’s property.
   c. The IDSR may accept a bond from taxpayer which is at least equal to the total liability of the taxpayer in place of the levy and sale procedure.
E. Time frame for payment - taxpayer’s responsibility upon receiving the notice.

1. Upon receiving the demand notice the taxpayer must call or write the IDSR by the due date.

2. The taxpayer has 10 days from the due date on the notice to pay the total amount due.

See IDSR’s Publication A(w), revised January, 2007.

V. Tax warrants.

A. Reasons for issuance. Failing to address either a proposed assessment or demand notice may cause the IDSR to issue a tax warrant for the amount of the tax, interest, penalties, collection fee, sheriff’s costs, clerk’s costs, and fees. See I.C. § 6-8.1-8-2.

B. Place of filing.

1. The warrant is to be filed in the clerk’s office(s) in the county(ies) in which taxpayer holds assets or owns property. See I.C. § 6-8.1-8-2(c).

2. The IDSR may file the warrant or it may have the sheriffs of those counties file the warrant. See I.C. § 6-8.1-8-2(c).

C. Collection of tax warrant.

1. The warrant is sent to the sheriff’s office in the county where the warrant was filed for collection.

2. The sheriff may collect the amount of the tax due, plus penalty, interest, clerk’s costs and a collection fee of 10% of the base tax due on bill. See I.C. § 6-8.1-8-2(b).

3. The sheriff must attempt to levy and collect a judgment lien on a tax warrant for a period of 120 days from the date the lien is entered, unless the IDSR relieves him or her of that duty at an earlier time. See I.C. § 6-8.1-8-3(a). The sheriff may, in an attempt to collect the tax due:

   a. Sell a delinquent taxpayer’s property at auction - unless taxpayer files an objection with the clerk of the court where the tax warrant was recorded within five days after the sheriff notifies the taxpayer of the taxpayer’s right to object. The sheriff is to sell any property necessary to satisfy the tax warrant in a manner most likely to bring the highest net proceeds. See I.C. § 6-8.1-8-3(b).


   c. Levy on and sell any interest in property or rights in any chose in action that the person has in the county. The Indiana laws which provide relief for debtors by exempting certain property from levy by creditors do not apply to levy and sale proceedings for judgments arising from tax warrants. See I.C. § 6-8.1-8.3(a).

4. Treatment of sale proceeds. The sale proceeds are to be deposited in a trust account, then disbursed
on or before the fifth day of each month in following order:

a. the amount representing taxes, interest and penalties is paid to the IDSR;
b. the assessed costs paid to the county treasurer and the circuit or superior court clerk;
c. a 10% collection fee paid to the sheriff, unless the sheriff is on a salary contract in which case the 10% collection fee is paid into the county’s general fund; and then,
d. any remaining balance is to be disbursed to the taxpayer.

See I.C. § 6-8.1-8-3(c).

5. Typically, if the sheriff is unable to collect within 120 days, the warrant is returned to the IDSR. Effective January 1, 2007, however, the sheriff may retain the warrant for more than 120 days if the sheriff is in the process of collecting the judgment through periodic payments of sufficient size so that the full judgment will be paid within one year (and the sheriff’s electronic database regarding tax warrants is compatible with the IDSR’s database). See I.C. § 6-8.1-8-3(d). After a warrant is returned, the IDSR may then institute legal action for collection or turn it over to a collection agency, attorney, etc. See I.C. § 6-8.1-8-4.


D. Effect of tax warrant.

1. Once the warrant is entered by the clerk on the judgment record, it becomes a judgment lien against the taxpayer. See I.C. § 6-8.1-8-2(e).

2. The lien attaches to the taxpayer’s interest in any chose in action and any interest in real and/or personal property (except negotiable interests that are not yet due). See I.C. § 6-8.1-8-2(e).

3. Effective January 1, 2007, if an apparent owner of unclaimed property is subject to a tax warrant issued under I.C. § 6-8.1-8-2, the IDSR may levy on the unclaimed property by filing a claim with the attorney general in accordance with the procedures described in I.C. § 32-34-1-36. See I.C. § 6-8.1-8-15.

4. A tax warrant is valid for up to 10 years from the date of filing and may be renewed for additional 10-year periods by filing an alias tax warrant with the clerk of the court in which liens previously existed. See I.C. § 6-8.1-8-2(f).

5. A tax warrant does not mean that the taxpayer will go to jail, but tax warrant information will appear on any credit report or title search for up to seven years. See IDSR’s Publication A(w), revised January, 2007.

E. Uncollected tax warrants.
1. Reporting - The IDSR prepares a list of outstanding tax warrants for listed taxes each month. Unless renewed, tax warrants must be removed from the list after 10 years. See I.C. § 6-8.1-3-16.

2. Effect of presence on the tax warrant list.
   a. If on the tax warrant list, the IDSR may not issue the taxpayer a retail merchant’s certificate, a motor fuel distributor’s license, a special fuel license, or a commercial motor vehicle permit unless the taxpayer makes satisfactory payment arrangements with the IDSR or a release is issued under I.C. § 6-8.1-8-2(k). See I.C. § 6-8.1-3-16(c).
   b. Lien on an automobile.
      i. Before issuing a title to a motor vehicle, the Bureau of Motor Vehicles is required to search the most recent monthly list of outstanding warrants. If the purchaser or assignee’s name is on the list, the Bureau will then enter the State of Indiana as lienholder on the title unless the Bureau has received notice from the commissioner under 6-8.1-8-2(k) that the judgment was in error or has been released because it was obstructing a legal transaction. See I.C. § 6-8.1-3-16(d).
      ii. The lien on the title is subordinate to a perfected security interest and is on parity with other title liens. See I.C. § 6-8.1-3-16(d)(1) & (2).
      iii. If the state of Indiana is the sole lienholder, the original automobile title will be retained by the IDSR and notice will be sent to the taxpayer that the IDSR is retaining the title. See I.C. § 6-8.1-3-16(e).

3. Actions available after tax warrant returned uncollected. If a tax warrant becomes a judgment or a tax warrant is returned uncollected to the IDSR, the IDSR may take any of the following actions without judicial proceedings (see I.C. § 6-8.1-8-8):
   a. The IDSR may levy upon the property of the taxpayer that is held by a financial institution by sending a claim to the financial institution.
      i. Upon receiving a claim, the financial institution is required to surrender to the IDSR the taxpayer’s property and, if the taxpayer’s property exceeds the amount owed, the financial institution is required to surrender the taxpayer’s property in an amount equal to the amount owed; and,
      ii. After receiving the IDSR’s notice of levy, the financial institution is required to place a 60-day hold on or restriction on the withdrawal of funds the taxpayer has on deposit or subsequently deposits, in an amount not to exceed the amount owed.

See I.C. § 6-8.1-8-8(1).
b. The IDSR may garnish the accrued earnings and wages of a taxpayer by sending a notice to the taxpayer’s employer.
   i. Upon receipt of the notice, the employer is required to garnish the accrued earnings and wages of the taxpayer in an amount equal to the full amount that is subject to garnishment under I.C. § 24-4.5-5.
   ii. The amount garnished will then be remitted to the IDSR by the employer.
   iii. The employer is entitled to a fee in an amount equal to the fee allowed under I.C. § 24-4.5-5-105(5). However, the fee will be borne entirely by the taxpayer. See I.C. § 6-8.1-8-8(2).

c. The IDSR may levy upon and sell property and may take immediate possession of the property and store it in a secure place or the IDSR may leave the property in the custody of the taxpayer until the day of the sale.
   i. The IDSR is required to provide notice of the sale in one newspaper, as provided in I.C. § 5-3-1-2.
   ii. If the property is left in the custody of the taxpayer, the IDSR may require the taxpayer to provide a joint and several delivery bond, in an amount and with a surety acceptable to the IDSR.
   iii. At any time before the sale, any owner or part owner of the property may redeem the property from the judgment by paying the IDSR the amount of the judgment.
   iv. The proceeds of the sale will be applied first to the collection expenses and second to the payment of the delinquent taxes and penalties. Any balance remaining is required to be paid to the taxpayer.

See I.C. § 6-8.1-8-8(3).

F. Release of tax warrant.

1. A judgment arising from a tax warrant in a county may be released by the IDSR:
   a. after the judgment, including all accrued interest to the date of payment, has been fully satisfied (see I.C. § 6-8.1-8-2(g)(1)); or,
   b. if the IDSR determines that the tax assessment or the issuance of the tax warrant was in error. See I.C. § 6-8.1-8-2(g)(2).

2. The IDSR is required to release a levy on property or request the sheriff to surrender a tax warrant (other than a jeopardy tax warrant issued under I.C. § 6-8.1-5-3) to the IDSR if:
   a. The expense of the sale process exceeds the liability for which the levy is made;
b. The proceeds of the sale would not reduce the tax liability by the lesser of:
   i. 10% of the liability; or,
   ii. $1,000; or,

c. the advocate, appointed under I.C. § 6-8.1-11-3, orders:
   i. the release of the levy; or,
   ii. the return of the tax warrant by the sheriff;

upon submitting a written finding to the commissioner that the levy threatens the health or welfare of the taxpayer or the taxpayer’s spouse, family, or dependents.


3. If the IDSR determines that the filing of a tax warrant was in error, the IDSR is required to mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed.
   a. The IDSR is required to mail the release as soon as possible but no later than seven days after:
      i. the determination by the IDSR that the filing of the warrant was in error; and,
      ii. the receipt of information by the IDSR that the judgment has been recorded by the circuit court clerk as provided under I.C. § 6-8.1-8-2(d).

See I.C. § 6-8.1-8-2(h).

b. If the IDSR determines that a judgment is obstructing a lawful transaction, the IDSR is required to mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the judgment was filed immediately upon making the determination. See I.C. § 6-8.1-8-2(i).

c. If the tax warrant is determined to be in error or a judgment is obstructing a lawful transaction, the release must state that the filing was in error and upon the request of the taxpayer, the IDSR is required to mail a copy of the release issued to each major credit reporting company located in each county where the judgment was filed. See I.C. § 6-8.8-8-2(j).

d. The commissioner is required to notify each state agency or officer supplied with a tax warrant list of the issuance of the release. See I.C. § 6-8.8-8-2(k).

4. If the sheriff collects the full amount of a tax warrant, the sheriff is required to disburse the money collected in the manner provided in I.C. § 6-8.1-8-3(c) and then release the judgment. If a judgment has been partially or fully satisfied by a person’s surety, the surety becomes subrogated to the IDSR’s
rights under the judgment and the sheriff may not release the judgment until the surety’s rights under the judgment have been satisfied by the person. If a sheriff releases a judgment:

i. before the judgment is fully satisfied;

ii. before the sheriff has properly disbursed the amount collected; or,

iii. after the sheriff has returned the tax warrant to the IDSR;

the sheriff commits a Class B misdemeanor and is personally liable for the part of the judgment not remitted to the IDSR.

See I.C. § 6-8.8-8-2(l).

VI. Collection.

A. A tax liability may be paid:

1. in cash;

2. by bank draft;

3. by check;

4. by cashier’s check;

5. by money order;

6. by credit card, debit card, charge card, or similar method; or,

7. if the IDSR approves, by an electronic fund transfer.

See I.C. § 6-8.1-8-1(a).

B. When liability is discharged.

1. If the payment is made by bank draft, check, cashier’s check, or money order, the liability is not finally discharged and the person has not paid the tax until the draft, check, or money order has been honored by the institution on which it is drawn. See I.C. § 6-8.1-8-1(a).

2. If the payment is made by credit card, debit card, charge card, or similar method, the liability is not finally discharged and the person has not paid the tax until the IDSR receives payment or credit from the institution responsible for making the payment or credit. See I.C. § 6-8.1-8-1(a).

3. The IDSR may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the IDSR or charged directly to the IDSR’s account, the IDSR or credit card vendor may collect from the person using the bank or credit card a fee that may not exceed the highest transaction charge or discount fee charged to the IDSR by the bank or credit card vendor during the most recent collection period. This fee may be collected regardless of any agreement between the bank and a credit card vendor or regardless of any internal policy of the credit card vendor that may prohibit this type of fee. See I.C.
§ 6-8.1-8-1(a).

4. The IDSR is required to issue a receipt for a tax payment made with currency. See I.C. § 6-8.1-8-1(b).

C. Allocation of partial payments. When only a partial payment of tax liability is received, the IDSR is required to apply the partial payment first to any penalty owed, then to any interest, and finally to the principal amount of the tax owed. See I.C. § 6-8.1-8-1.5.

D. Collection of judgment by IDSR.

1. When the IDSR collects a judgment arising from a tax warrant, it may proceed in the same manner that any debt due the state is collected, except as provided in I.C. § 6-8.1-8. See I.C. § 6-8.1-8-4(a).

2. The IDSR may employ special counsel or contract with a collection agency for the collection of a delinquent tax plus interest, penalties, collection fees, sheriff’s costs, clerk’s costs, and reasonable fees established under I.C. § 6-8.1-8-4(b) if:
   a. an unsatisfied warrant has been issued by the IDSR; or
   b. the IDSR received a tax payment by check or other instrument which was dishonored by the financial institution upon which it was drawn.

See I.C. § 6-8.1-8-4(a).

E. Uncollectible liabilities. Effective January 1, 2007, the commissioner may determine that an outstanding liability established under I.C. § 6-8.1-8-4(b) is uncollectible. However, any lien created by the operation of I.C. § 6-8.1-8-2(e) survives such determination. See I.C. § 6-8.1-8-14.

F. Restraining orders. Once a judgment has been recorded on a tax warrant, the IDSR may obtain a court order restraining the person owing the tax from conducting business in Indiana. The restraining order is valid as long as the judgment remains in effect, but the IDSR may have the order dissolved if it feels that by dissolving the order the judgment will be easier to collect. See I.C. § 6-8.1-8-5.

G. Appointment of receiver. If a person does not pay a tax payment within 60 days of the date that the particular payment is due, the IDSR may have a receiver appointed by the circuit or superior court of the county in which the taxpayer resides or is domiciled. See I.C. § 6-8.1-8-6(a).

1. Upon motion by the IDSR for a receiver, the court is required to appoint a receiver if the court finds that one of the listed taxes is due and has not been paid within 60 days of its due date. See I.C. § 6-8.1-8-6(a).

2. A receiver appointed under this section may, in place of the taxpayer:
   a. bring and defend any action;
   b. take possession of all property;
c. receive all funds;

d. collect any debts owed to the taxpayer; and,

e. perform all other functions and duties prescribed for receivers under Indiana law or under special authority granted by the court.

See I.C. § 6-8.1-8-6(a).

3. Within 10 days after the court order granting or refusing a receiver’s appointment, either party may appeal the order to the Indiana Tax Court. However, if the taxpayer makes the appeal, he or she must furnish bond in an amount sufficient to cover the payment of any costs or damages resulting from the appeal and to cover the amount of the bond the receiver would be required to file. As long as the appeal is in process, the receiver’s powers are suspended. See I.C. § 6-8.1-8-6(b).

H. Remedies cumulative. The remedies for tax collection provided to the IDSR under I.C. § 6-8.1-8 are cumulative and the selection or use of one of the remedies does not preclude the subsequent or corresponding use of one or more of the other remedies. See I.C. § 6-8.1-8-7.

VII. Penalties and Interest.

A. Failure to file return or to pay full amount of tax. If a person fails to file a return for any of the listed taxes, fails to pay the full amount of tax shown on his or her return by the due date for the return or the payment, or incurs a deficiency upon a determination by the IDSR, the person is subject to interest on the nonpayment. See I.C. § 6-8.1-10-1(a).

1. The interest for a failure to file a return is the adjusted rate established by the commissioner under (2) immediately following, from the due date for payment. The interest applies to:
   a. the full amount of the unpaid tax due if the person failed to file the return;
   b. the amount of the tax that is not paid, if the person filed the return but failed to pay the full amount of tax shown on the return; or,
   c. the amount of the deficiency.

See I.C. § 6-8.1-10-1(b).

2. The commissioner is required to establish an adjusted rate of interest for an insufficient tax payment and for an excess tax payment on or before November 1 of each year.

   a. For a failure to pay taxes due, as described in I.C. § 6-8.1-10-1(a), the adjusted rate of interest will be the percentage rounded to the nearest whole number that equals two percentage points above the average investment yield on state money for the state’s previous fiscal year, excluding pension fund investments, as published in the auditor of Indiana’s comprehensive annual financial report.
b. For purposes of an excess tax payment, as described in I.C. § 6-8.1-9-2(c), the adjusted rate of interest is the percentage rounded to the nearest whole number that equals the average investment yield on state money for the state’s previous fiscal year, excluding pension fund investments, as published in the auditor of state’s comprehensive annual financial report. The adjusted rates of interest will take effect on January 1 of the immediately succeeding year. See I.C. § 6-8.1-10-1(c).

3. The filing of a substantially blank or unsigned return does not constitute a return for purposes of determining liability for interest. See I.C. § 6-8.1-10-1(d).

4. Except as provided by I.C. § 6-8.1-3-17(c) (tax amnesty) and I.C. § 6-8.1-5-2, the IDSR may not waive the interest imposed hereunder. See I.C. § 6-8.1-10-1(e).

5. If a person fails to file a return on or before the due date, the IDSR is required to send that person a notice, by United States mail, stating that he or she has 30 days from the date the notice is mailed to file the return. See I.C. § 6-8.1-10-3(a).

6. If the person does not file the return within the 30 day period, the IDSR may prepare a return for that person, based on the best information available to the IDSR. See I.C. § 6-8.1-10-3(a).

7. The IDSR prepared return is prima facie correct. See I.C. § 6-8.1-10-3(a).

8. If the IDSR prepares a person’s return under this section, the person is subject to a penalty of 20% of the unpaid tax. See I.C. § 6-8.1-10-3(b).

9. In the absence of fraud, this penalty is in place of and not in addition to any other penalties imposed. See I.C. § 6-8.1-10-3(b).

10. Fraudulent intent. If the person failing to file a return or to make a full tax payment does so with the fraudulent intent of evading the tax, the person is subject to a penalty. See I.C. § 6-8.1-10-4(a).

a. Civil penalties.

i. The penalty for fraudulently failing to file a return is 100% of the full amount of the tax. See I.C. § 6-8.1-10-4(b)(1).

ii. The penalty for fraudulently failing to make a full tax payment is 100% of the amount of the tax that was not paid, if the person failed to pay the full amount of the tax. See I.C. § 6-8.1-10-4(b)(2).

b. Criminal penalty. In addition to the civil penalty imposed under this section (I.C. § 6-8.1-10-4(b)), a person who knowingly fails to file a return with the IDSR or fails to pay motor vehicle excise (I.C. § 6-6-5) or commercial vehicle excise tax (I.C. § 6-6-5.5) due commits a Class A misdemeanor. See I.C. § 6-8.1-10-4(c).
c. The penalty imposed under this section (I.C. § 6-8.1-10-4) is imposed in place of and not in addition to the penalty imposed under I.C. § 6-8.1-10-2.1. See I.C. § 6-8.1-10-4(d).

B. Failure to obtain payment for full face amount of check.
   1. If a person makes a tax payment with a check and the IDSR is unable to obtain payment on the check for its full face amount when the check is presented for payment through normal banking channels, a penalty of 10% of the unpaid tax or the face value of the check, whichever is smaller, is imposed. See I.C. § 6-8.1-10-5(a).
   2. The IDSR is required to send the person a notice by mail advising that the check was dishonored and that the person has 10 days from the date the notice was mailed to pay the tax and penalty. The payment must be made in cash, by certified check, or other guaranteed payment. If the person fails to make the payment within the 10 day period, the penalty is increased to 100% of the face value of the check or 100% of the unpaid tax, whichever is smaller. See I.C. § 6-8.1-10-5(b).
   3. The IDSR may waive the penalty if the taxpayer can show there was reasonable cause for the check’s dishonor. See I.C. § 6-8.1-10-5(c).

C. Failure to file information return.
   1. An information return includes Schedules K-1 of forms IT-20S, IT-41, or IT-65; any form, statement, or schedule required to be filed with respect to taxes under I.C. § 6; and any form, statement, or schedule required to be filed with the IRS under 26 C.F.R. 301.6721-1(g) (1993). It does not include forms IT-20FIT, IT-20S, IT-20SC, IT-41, or IT-65. See I.C. § 6-8.1-10-6(a).
   2. A penalty of $10 will be assessed for each failure to file an information return required by the IDSR, but no more than $25,000 in penalties will be imposed during a calendar year. See I.C. § 6-8.1-10-6(b).
   3. The filing of a substantially blank or unsigned return will constitute a failure to file. See I.C. § 6-8.1-10-6(c).

D. Maximum and minimum penalties. The maximum total penalty that may be assessed against a person under I.C. § 6-8.1-10-2.1 through I.C. § 6-8.1-10-5 is 100% of the unpaid tax. The minimum penalty, if any, that may be assessed under those sections is $5. See I.C. § 6-8.1-10-7.

VIII. Death Taxes.

A. Inheritance tax.
      a. Attachment to property - inheritance tax lien.
         i. The inheritance tax imposed as a result of a decedent’s death is a lien on the
property transferred by him or her. With the exception of contingent or defeasible interests in property, the inheritance tax accrues and the lien attaches at the time of the decedent’s death. See I.C. § 6-4.1-8-1.

ii. The inheritance tax imposed on the decedent’s transfer of a contingent or defeasible interest in property accrues and is due when the transferee of the interest obtains the beneficial enjoyment or possession of the property if the fair market value of the property interest as of the appraisal date prescribed by I.C. § 6-4.1-5-1.5 cannot otherwise be ascertained under this chapter. See I.C. § 6-4.1-6-6.

iii. The lien terminates when the inheritance tax is paid, when the affidavit procedures in I.C. § 6-4.1-4-0.5 provide for the termination of the lien, or five years after the date of the decedent’s death, whichever occurs first. See I.C. § 6-4.1-8-1.

iv. If property is sold, mortgaged, leased or exchanged under I.C. § 29-1-15 and the lien against the property is released under I.C. § 29-1-15-20, the lien will terminate as to the property so sold, mortgaged, leased or exchanged. The lien does not terminate in total, but rather attaches to the proceeds from the sale, the proceeds from the mortgage, the proceeds from the lease or the property received in exchange. The lien against the substitute property will terminate when the inheritance tax is paid or after five years, whichever occurs first. See 45 IAC 4.1-7-2(a)(3) and (b).

b. Attachment of personal liability. In addition to the lien on the decedent’s property, personal liability for the tax also attaches to any transferee of the decedent’s property and to any personal representative of the decedent’s estate or a trustee who has possession of or control over the property. See I.C. § 6-4.1-8-1 and 45 IAC 4.1-7-3(a).

c. Effect of termination of lien on personal liability. The termination of an inheritance tax lien does not have any effect on the personal liability of a transferee, personal representative or trustee. The tax due may still be determined and the tax collected. See 45 IAC 4.1-7-3(b).

2. Limitations on the transfer of decedent’s property.

a. In general. A personal representative of a decedent’s estate or the trustee of property transferred by the decedent may not transfer or deliver property to a transferee unless the inheritance tax owing as a result of the transfer has been paid. See I.C. § 6-4.1-8-2(a).

b. Joint property. Personal property held in joint names with a resident decedent may not be transferred to a surviving joint tenant without the written consent of the IDSR or the county assessor of the county where the resident decedent was domiciled unless:
i. The surviving joint tenant is the decedent’s surviving spouse, in which case consent to transfer and notice of transfer are not required (see 45 IAC 4.1-8-1); or

ii. The property is money held in a joint checking account, in which case consent to transfer is not required (see 45 IAC 4.1-8-2).

See I.C. § 6-4.1-8-4.

To ensure that transfers of joint property will not jeopardize the collection of the inheritance tax, the consent to transfer may not exceed 80% of the property transferred until the inheritance tax has been paid. See 45 IAC 4.1-8-3(b).

c. Personal property held in trust.

i. Written consent required. Property held in trust may not be transferred to a beneficiary or any other person, except the decedent’s surviving spouse, without the written consent of the IDSR or county assessor. See I.C. § 6-4.1-8-4(b).

ii. Affidavit in lieu of written consent. Property held in trust may be transferred without written consent if the transferee is domiciled in Indiana and the transferee completes and files with the IDSR a sworn affidavit stating that:

(a) The transfer is not subject to inheritance or estate tax; and,

(b) The reasons the transfer is not subject to tax.

See I.C. § 6-4.1-8-4(c).

d. Personal property of a resident decedent. A person who has possession of or control over a resident decedent’s personal property (except proceeds payable under a life insurance policy) may not transfer the property to any other person without the written consent of the IDSR or county assessor of the county where the resident decedent was domiciled unless:

i. The other person is the decedent’s surviving spouse; or,

ii. The property is money held in a checking account.

See I.C. § 6-4.1-8-4(d).

e. Safe deposit boxes.

i. Except for safe deposit boxes held in joint names by spouses on the date of death of the first joint tenant, a resident decedent’s safe deposit box will be examined and its contents listed by the IDSR or county assessor before it is released by the person who has possession or control over it. The inventory will include the contents of all sealed containers within the safe deposit box. See 45 IAC 4.1-8-9(a).

ii. A box in the name of a trust in which the decedent has a legal or equitable interest
will be inventoried. However, the following safe deposit boxes will be inventoried only if it is known that the decedent has deposited personal property therein:

(a) A corporate box if the decedent is an officer;
(b) A partnership box if the decedent is a partner; or,
(c) A box on which the decedent is designated as a deputy.

See 45 I.A.C. 4.1-8-9(b).

iii. Notice of time and place of box opening. At least 10 working days notice of the time and place of a safe deposit box opening must be given to the IDSR or county assessor before the box is inventoried. However, the IDSR or county assessor may agree to a shorter period of time if its schedule permits. See 45 I.A.C. 4.1-8-9(c).

iv. Confidentiality of box contents. The inventory of a safe deposit box is confidential and will not be disclosed except for the purpose of determining and collecting the inheritance tax. See 45 I.A.C. 4.1-8-9(d).

v. A safe deposit box held as joint tenants by spouses and a third party on the date of death of any of the joint tenants will be inventoried. See 45 I.A.C. 4.1-8-9(f).

f. Personal property of a non-resident decedent. There are no restrictions imposed on the transfer of personal property belonging to a non-resident decedent and the safe deposit box of a non-resident decedent need not be inventoried. See 45 I.A.C. 4.1-8-8.

g. Consents to transfer.

i. The IDSR or the appropriate county assessor may consent to a transfer if the IDSR or the assessor believes the transfer will not jeopardize the collection of inheritance tax. See I.C. § 6-4.1-8-4(e).

ii. If the consent is issued by the IDSR, it is required to send a copy to the county assessor of the county in which the decedent was domiciled at the time of death. See I.C. § 6-4.1-8-4(f).

3. Notice of transfer.

a. Checking account. Notice is required to be given to the IDSR or the county assessor of the county in which the decedent was domiciled at the time of death when money from a checking account in which a resident decedent had a legal interest is transferred to a person other than the resident decedent’s surviving spouse. See I.C. § 6-4.1-8-4.6.

b. Life insurance proceeds. The life insurance company paying life insurance proceeds to a resident decedent’s estate is required to notify the IDSR of the payment within 10 days after
c. Penalty for failure to notify. A person who fails to notify the IDSR or the county assessor (as required) of the transfer of checking account proceeds or payment of life insurance proceeds as provided by statute, will be liable for the inheritance and estate taxes imposed and will be subject to an additional penalty of no more than $1,000. The IDSR will initiate an action on behalf of the state to collect the taxes and the penalty. See I.C. § 6-4.1-8-7.

4. Filing of return.
   a. It is the responsibility of the personal representative of the decedent’s estate or an heir, trustee, joint owner, or transferee of property transferred by the decedent to file an inheritance tax return with the appropriate probate court. See I.C. § 6-4.1-4-1.
   b. The return is to be filed within nine months after the date of the decedent’s death. See I.C. § 6-4.1-4-1.
   c. Extension of filing time. If the IRS allows an extension on a federal estate tax return, the Indiana inheritance tax return is automatically extended for the same period. See I.C. § 6-4.1-4-2(a).
   d. The probate court may extend the period for filing a return if there is an unavoidable delay that prevents the return from being filed within nine months of the decedent’s death. A person may seek a subsequent extension by filing a written motion which states the reason for delay. See I.C. § 6-4.1-4-2(b).
   e. Penalty for failure to file return. A person who fails to file an inheritance tax return on or before the due date will be charged a penalty which equals the lesser of $.50 per day for each day the return is late or $50. The probate court will include the penalty in the inheritance tax order it issues. The court may waive the penalty if the court finds that the person had a justifiable excuse for not filing the return on time. See 45 I.A.C. 4.1-13-1.

5. Time for payment.
   a. With the exception of contingent or defeasible interests in property as described in I.C. § 6-4.1-6-6(b), the inheritance tax imposed as a result of a decedent’s death is due 12 months after the person’s date of death. See I.C. § 6-4.1-9-1(a).
   b. When the IDSR has filed a petition for redetermination of inheritance tax because of a change in fair market value of assets listed on a federal estate tax return (I.C. § 6-4.1-7-6),
the inheritance tax is not due until 30 days after the notice of the final determination of
federal estate tax is received by a person liable for paying the inheritance tax. Any tax so
imposed and not paid on or before the due date will accrue interest at the rate of 6% per year
from the date due until the date the tax is paid. See I.C. § 6-4.1-9-1.5.

c. Discount for early payment. A discount of 5% will be applied to the inheritance tax imposed
if the tax is paid within nine months after the date of the decedent’s death. When payment
is so made, the person collecting the tax will grant the 5% reduction to the payor. See I.C.
§ 6-4.1-9-2. The reduction applies only to amounts actually paid within the nine month
period and not to any amount paid thereafter. See 45 I.A.C. 4.1-9-2.

d. Mailed payments. If a tax payment is mailed by the day before the due date, it is considered
paid on the due date, regardless of when received, unless the payment is otherwise invalid.
See 45 I.A.C. 4.1-9-3(d).

e. Interest on late payments.

i. If the tax is not paid on or before the due date, the person responsible for paying the
tax will be charged interest on the delinquent portion at the rate of 10% per year
from the date of the decedent’s death to the date payment is made. See I.C. § 6-4.1-
9-1(a).

ii. If an unavoidable delay, such as necessary litigation, prevents a determination of the
amount of inheritance tax due, the appropriate probate court, in the case of a resident
decedent, or the IDSR, in the case of a non-resident decedent, may reduce the rate
of interest to 6% for the time period beginning on the decedent’s date of death and
ending when the cause for the delay is removed. See I.C. § 6-4.1-9-1(b).

6. Collection, record and receipt of tax on non-resident decedents.

a. The IDSR will maintain, as a public record, a book listing the amount of inheritance tax due
as a result of a non-resident decedent’s death. When the notice required by I.C. § 6-4.1-5-16
is given, the IDSR is required to concurrently enter in the book the amount of inheritance tax
stated in the notice. See I.C. § 6-4.1-9-3.

b. The inheritance tax due for a non-resident decedent is to be paid to the IDSR. The IDSR will
collect the tax and issue a receipt to the person paying the tax. See I.C. § 6-4.1-9-4.

c. On the first Monday of each month, the IDSR is required to submit a report to the Indiana
treasurer indicating which estates have paid inheritance tax and will also remit to the Indiana
treasurer the inheritance tax collected by the IDSR during the preceding month. See I.C. §
7. Payment of and receipt for tax due by resident decedents.
   a. The tax due as a result of the death of a resident decedent is payable to the treasurer of the county in which the decedent was domiciled on the date of death. See I.C. § 6-4.1-9-5(a).
   b. If the person responsible for paying the tax believes that more inheritance tax is due than is shown on the court’s order, the person may, without obtaining another court determination, pay the additional tax and any interest due on the additional tax to the county treasurer. See I.C. § 6-4.1-9-5(a).
   c. If a partial payment is made when tax, interest and penalty are due, the payment will be applied first to penalty, then to interest, and finally to the principal amount of tax due. See 45 I.A.C. 4.1-9-4(d).
   d. The county treasurer will collect the tax, issue a receipt for the tax payment in duplicate, and send one copy of the receipt to the IDSR. See I.C. § 6-4.1-9-5(b).
   e. The IDSR is then required to countersign the receipt, affix its seal to the receipt, return the signed and sealed copy to the taxpayer, and charge the county treasurer with the amount of inheritance tax collected. See I.C. § 6-4.1-9-5(b).

8. Distribution of inheritance tax funds collected.
   a. The county in which the tax is collected will receive 8% of the inheritance tax paid. On the first day of January, April, July and October of each year, the county treasurer is required to transfer to the county general fund the amount due the county. See I.C. § 6-4.1-9-6(a). In a county having a consolidated city, the amount due the county is required to be transferred to the general fund of the consolidated city. See I.C. § 6-4.1-9-5(b).
   b. The state of Indiana will receive the remaining 92% of the inheritance taxes, all the interest charges collected by the county treasurer, and all the penalties collected by the county treasurer. See I.C. § 6-4.1-9-5(a).

9. Quarterly inheritance tax reports and warrants.
   a. County treasurer reports. On the first day of January, April, July and October of each year, each county treasurer is required to send a written tax report to the IDSR. The report is required to be prepared under oath and will state the amount of inheritance taxes collected by the county treasurer during the preceding three months, the estates for which the taxes were paid, who paid the taxes, and when the taxes were paid. The form to be used by the county treasurer will be prescribed by the state board of accounts. See I.C. § 6-4.1-9-7(a).
b. County auditor warrants.
   
i. On the first day of January, April, July and October of each year, each county auditor is required to issue a warrant to the Indiana treasurer for the amount of inheritance taxes, interest charges and penalties which the state is to receive. See I.C. § 6-4.1-9-7(b).

   ii. The county treasurer will stamp and countersign the warrant and send it to the IDSR not more than 30 days after the date the quarterly inheritance tax reports are due to be sent. See I.C. § 6-4.1-9-7(b).

   
a. The IDSR is required to receipt and account for each warrant it receives from the county treasurer and forward the warrant to the Indiana treasurer. See I.C. § 6-4.1-9-8(a).

   b. The Indiana treasurer is required to deposit the warrants in a special account within the Indiana general fund, entitled the Inheritance Tax Account. See I.C. § 6-4.1-9-8(a).

   c. At the end of each month, the state auditor is required to issue a quietus to the IDSR for the money collected by the IDSR on its warrants. See I.C. § 6-4.1-9-8(b).

11. Auditing of quarterly reports.
   
a. The IDSR is required to audit the quarterly inheritance tax reports and is required to report to the county treasurer and county auditor any shortage it discovers. See I.C. § 6-4.1-9-9.

   b. Once notified of a shortage, the county treasurer and auditor are required to promptly issue a warrant to the Indiana treasurer for the balance due the state. See I.C. § 6-4.1-9-9.

   c. If the IDSR discovers an overpayment through its audit, it is required to enter an order for refund and send a copy to the treasurer of the county that collected the tax and to the Indiana treasurer. The Indiana treasurer is required to pay the refund from the money which is under his or her control and which has not otherwise been appropriated. The Indiana treasurer will receive a credit for the county portion of the amount so refunded and the county treasurer will account for the credit on the county’s inheritance tax report for the quarter in which the refund is paid. See I.C. § 6-4.1-9-9 and I.C. § 6-4.1-10-3.

12. Actions to collect inheritance tax.
   
a. Estate of resident decedent.

   i. If the inheritance tax is delinquent, the county treasurer is required to notify the county prosecutor attorney in writing of the non-payment of the tax. See 45 I.A.C. 4.1-9-5(a).
ii. The county prosecutor is required to then file a motion with the appropriate probate
court to show cause why the tax has not been paid. See 45 I.A.C. 4.1-9-5(b).

iii. If the probate court finds that tax is due and that payment cannot otherwise be
enforced under the inheritance tax statutes, it is required to direct the prosecuting
attorney to initiate an action in the name of the county to enforce payment of the tax.
See 45 I.A.C. 4.1-9-5(b).

iv. The action must be commenced within 10 years after the date of the order imposing
the tax unless the court did not mail a copy of its determination to all persons
interested in the decedent’s estate, including the IDSR and the county treasurer. See

b. Estate of non-resident decedent.

i. An action to collect inheritance taxes due as the result of the death of a non-resident
is at the discretion of the IDSR. See 45 I.A.C. 4.1-9-5(d).

ii. To start the action, the IDSR must file a petition with the Marion County Superior
Court, Probate Division, requesting the appointment of a resident or special
administrator for the non-resident decedent’s estate, and showing to the court that
the inheritance taxes have not been paid and that at least two years have passed since
the decedent died. See 45 I.A.C. 4.1-9-5(d). See also I.C. § 6-4.1-9-12.

13. Compromise of tax or interest due.

a. The IDSR, with the advice and approval of the attorney general, may enter into a
compromise agreement with the personal representative of a decedent’s estate or with a
transferee concerning the amount of inheritance tax, or interest charges on delinquent tax,
to be collected. See 45 IAC 4.1-9-6(a) & (c). See I.C. § 6-4.1-12-5(a).

b. The compromise agreement may be entered into if the IDSR and the attorney general believe
that a substantial doubt exists in any of the following:

i. the right to impose the tax under applicable Indiana law;
ii. the constitutionality, under either the Indiana or United States Constitution, of the
imposition of the tax;
iii. the correct value of property transferred under a taxable transfer;
iv. the correct amount of tax due;
v. the collectibility of the tax; or,
vi. whether the decedent was a resident or a non-resident of Indiana.
See 45 I.A.C. 4.1-9-6(b). See also I.C. § 6-4.1-12-5(b).

c. A compromise agreement is final and irrevocable as to the issue of the amount of inheritance tax to be collected unless the amount of the tax agreed to by the parties is not paid; or the agreement was entered into fraudulently. See 45 I.A.C. 4.1-9-6(d). See also I.C. § 6-4.1-12-5(c).

14. Claim for refund of inheritance tax erroneously or illegally collected.

a. A person may file a claim for refund with the IDSR of inheritance or Indiana estate tax which has been erroneously or illegally collected. See I.C. § 6-4.1-10-1.

b. Time limit for filing. To be valid, a claim for refund of inheritance tax or Indiana estate tax must be filed with the IDSR within the later of three years after the date the tax is paid or one year after the date the tax is finally determined, unless the claim is for the refund of inheritance tax which has been determined in the manner provided in I.C. § 6-4.1-6 ("Special Procedures for Appraising and Taxing Certain Property Interests"). See I.C. § 6-4.1-10-2. See also 45 I.A.C. 4.1-10-1.

c. Each claim for refund is required to be reviewed by the IDSR and the IDSR is required to enter an order either approving, partially approving, or disapproving the refund. See 45 IAC 4.1-10-3(a). See also I.C. § 6-4.1-10-3(a).

d. A copy of the refund order is required to be sent to the claimant within five days of its entry. See 45 IAC 4.1-10-3(b). See also I.C. § 6-4.1-10-3(b).

e. If the refund is approved or partially approved, the IDSR is required to also send a copy of the order to the treasurer of the county that collected the tax, if applicable, or to the Indiana treasurer if the IDSR collected the tax. See I.C. § 6-4.1-10-3 (a).

f. The treasurer will pay the refund from the money which is under his or her control and which has not otherwise been appropriated. The Indiana treasurer will receive a credit for the county portion of the amount refunded and the county treasurer of the county owing the credit is required to account for the credit on the county’s inheritance tax report for the quarter in which the refund is paid. See I.C. § 6-4.1-10-3(a).

g. Appeal of refund order.

i. A person who files a claim for refund of inheritance tax or Indiana estate tax may appeal any refund order entered by the IDSR. See I.C. § 6-4.1-10-4(a).

ii. The claimant must file a complaint, naming the IDSR as a party, in one of the following courts:
(a) If the appeal involves either a resident or non-resident decedent’s estate and administration of the estate is pending, then in the probate court of the county in which administration of the estate is pending;
(b) If the appeal involves a resident decedent’s estate and no administration of the estate is pending in Indiana, then in the probate court of the county in which the decedent was domiciled at the time of death; and,
(c) If the appeal involves a non-resident decedent’s estate and no estate is pending in Indiana, then in the probate court of any county in which any of the decedent’s property was located at the time of death.

See I.C. § 6-4.1-10-4(b).

iii. The appeal must be initiated within 90 days after the IDSR enters the refund order. See I.C. § 6-4.1-10-4(a).

iv. When an appeal is initiated, the probate court determines the amount of any tax refund due. See I.C. § 6-4.1-10-5.

v. Either party may appeal the probate court’s decision to the Indiana Tax Court in accordance with the rules of appellate procedure. See I.C. § 6-4.1-10-5.

B. Indiana estate tax.

1. Tax “effectively repealed”. The repeal of the federal estate tax credit leads the calculation of the Indiana estate tax to always equal zero. While this code section has not been repealed, there is effectively no Indiana estate tax.

2. Due date of tax.

a. The tax accrues at the time of the decedent’s death.

b. The Indiana estate tax is due 12 months after the date of the decedent’s death unless the tax results from a final change in the amount of federal estate tax due. In that case, the tax is due:
   i. 18 months after the date of the decedent’s death; or
   ii. one month after final notice of the federal estate tax due is given to the person liable for the tax; whichever is later.

See I.C. § 6-4.1-11-3.

3. Interest on late payments. If the estate tax is not paid on or before the due date, interest will be applied to the delinquent portion of the tax at the rate of 6% per year from the due date until it is paid. See I.C. § 6-4.1-11-4.

4. Credit against inheritance tax. A person may claim the amount of Indiana estate tax paid as a credit
against inheritance tax imposed if:

a. the inheritance tax is imposed after the Indiana estate tax is paid; and,

b. both taxes are imposed as a result of the same decedent’s death.

See I.C. § 6-4.1-11-5. This credit applies against the inheritance tax due and not to any interest imposed under 45 IAC 4.1-9-3 due to the late payment of the inheritance tax. See 45 IAC 4.1-11-4.

5. Collection and remittance of tax.

a. The IDSR is required to collect the Indiana estate tax and any interest charges imposed thereon.

b. The IDSR is required to remit the money it collects to the Indiana treasurer.

c. The Indiana treasurer is required to deposit the money in the Indiana general fund.

See I.C. § 6-4.1-11-6(a).

6. Distribution of taxes collected.

a. Before August 15 of each year, the Indiana treasurer is required to distribute to each county, from the Indiana general fund, the county’s inheritance tax replacement amount. See I.C. § 6-4.1-11-6(b).

b. The inheritance tax replacement amount is calculated using the following formula:

i. Determine the amount of inheritance tax revenue retained by each county in each state fiscal year beginning with the state fiscal year that began July 1, 1990 and ending with the state fiscal year that ends June 30, 1997.

ii. Drop the highest and lowest amount from the amounts determined above and find the average of the remaining five years’ revenues.

iii. Subtract the immediately preceding year’s inheritance taxes retained from the average determined above. The remainder is the amount of the inheritance tax replacement.

See I.C. § 6-4.1-11-6(c).

7. Appeal of estate tax determination.

a. To commence an appeal of the IDSR’s determination of the amount of estate tax due, the claimant must file a complaint, naming the IDSR as a party, in one of the following courts:

i. If the appeal involves either a resident or non-resident decedent’s estate and administration of the estate is pending, then in the probate court of the county in which administration of the estate is pending;

ii. If the appeal involves a resident decedent’s estate and no administration of the estate
is pending in Indiana, then in the probate court of the county in which the decedent was domiciled at the time of death;

iii. If the appeal involves a non-resident decedent’s estate and no estate is pending in Indiana, then in the probate court of any county in which any of the decedent’s property was located at the time of death.

See 45 IAC 4.1-11-5(a).

b. A probate court’s final determination concerning the amount of tax owed may be appealed to the Indiana Tax Court in accordance with the rules of appellate procedure. See I.C. § 6-4.1-11-7.

C. Indiana Generation-Skipping Transfer Tax.

1. Due date of tax. The transfer tax is due 12 months after the date of death of the person whose death resulted in the generation-skipping transfer. See I.C. § 6-4.1-11.5-9.

2. Payment of tax.
   a. The tax and any interest due thereon is required to be paid to the IDSR.
   b. If the tax is not paid on or before the due date, interest will accrue on the delinquent portion of the tax at the rate of 6% per annum from the date the tax is due to the date the tax is paid.

See I.C. § 6-4.1-11.5-12.

IX. Property taxes.

A. Imposition of tax. Except as otherwise provided by law, all tangible property which is within the jurisdiction of the state of Indiana on the assessment date of a year is subject to assessment and taxation for that year. See I.C. § 6-1.1-2-1.

B. Persons liable for tax.

1. The owner of any real property on the assessment date of a year is liable for the taxes imposed on the property for that year unless he or she entered into a memorandum of lease or other contract with the person holding, possessing, controlling or occupying the property on the date of the assessment which makes the person holding, possessing, controlling or occupying the property liable for the taxes and the contract or memorandum of lease was recorded with the county recorder before January 1, 1998. See I.C. § 6-1.1-2-4(a).

2. A person holding, possessing, controlling, or occupying any personal property on the assessment date of a year is liable for the taxes imposed for that year on the property unless:
   a. the person establishes that the property is being assessed and taxed in the name of the owner; or,
b. the owner is liable for the taxes under a contract with that person. See I.C. § 6-1.1-2-4(a).

3. The statute does not clearly indicate any order of priority, so the board has the discretion to tax either the owner or the possessor. See State Bd. of Tax Commissioners v. Jewell Grain Co., 556 N.E.2d 920 (Ind. 1990).

4. When a person other than the owner pays any property taxes that person may recover the amount paid from the owner, unless the parties have agreed to other terms in a contract. See I.C. § 6-1.1-2-4(a).

5. An owner on the assessment date of a year of real property that has an improvement or appurtenance that is: (1) assessed as real property; and (2) owned, held, possessed, controlled, or occupied on the assessment date of a year by a person other than the owner of the land; is jointly liable for the taxes imposed for the year on the improvement or appurtenance with the person holding, possessing, controlling, or occupying the improvement or appurtenance on the assessment date. See I.C. § 6-1.1-2-4(b).

6. An improvement or appurtenance to land that, on the assessment date of a year, is held, possessed, controlled, or occupied by a different person than the owner of the land may be listed and assessed separately from the land only if the improvement or appurtenance is held, possessed, controlled, or occupied under a memorandum of lease or other contract that is recorded with the county recorder before January 1, 1998. See I.C. § 6-1.1-2-4(c).

C. Roll of property taxes payable.

1. On or before March 15 of each year, the auditor of each county is required to prepare a roll of property taxes payable in that year for that county. See I.C. § 6-1.1-22-3(a).

2. The roll, known as the “tax duplicate” will show:
   a. the value of all the assessed property of the county;
   b. the person liable for the taxes on the assessed property; and
   c. any other information that the state board of accounts, with the advice and approval of the Department of Local Government Finance (DLGF), may prescribe. See I.C. § 6-1.1-22-3(a).

3. If the county auditor receives a copy of an appeal petition under I.C. § 6-1.1-18.5-12(g) (appeal for relief of levy limitations by a civil taxing unit) before the roll is completed, the county auditor is required to complete preparation of the tax duplicate when the appeal is resolved by the DLGF. See I.C. § 6-1.1-22-3(b).
4. If the county auditor receives a copy of an appeal petition under I.C. § 6-1.1-18.5-12(g) (appeal for relief of levy limitations by a civil taxing unit) after the tax duplicate is completed, the county auditor is required to prepare a revised tax duplicate when the appeal is resolved by the DLGF. See I.C. § 6-1.1-22-3(c).

5. The county auditor is required to comply with the instructions issued by the state board of accounts for the preparation, preservation, alteration, and maintenance of the tax duplicate. See I.C. § 6-1.1-22-3(d).

6. The county auditor is required to deliver a copy of the tax duplicate to the county treasurer when preparation of the tax duplication is complete. See I.C. § 6-1.1-22-3(d).

D. Publication of notice of tax rate.

1. Immediately upon the receipt of the tax duplicate, the county treasurer will give notice of the rate of tax per $100 of assessed valuation to be collected in the county for each purpose and the total of the rates in each taxing district. See I.C. § 6-1.1-22-4(a).

2. This notice is required to be published in the form prescribed by the DLGF three times with each publication one week apart. See I.C. § 6-1.1-22-4(a).

3. The notice is required to be printed in two newspapers which represent different political parties and which are published in the county. However, if two newspapers which represent different political parties are not published in the county, the notice is required to be printed in one newspaper. See I.C. § 6-1.1-22-4(b).

E. Abstract.

1. Unless the county auditor has received an appeal under I.C. § 6-1.1-18.5-12(g), then on or before March 15 of each year, the county auditor is required to prepare and deliver to the state auditor and the county treasurer a certified copy of an abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in that year in each taxing district of the county. See I.C. § 6-1.1-22-5(a).

2. The county auditor is required to prepare the abstract in such a manner that the information concerning property tax deductions reflects the total amount of each type of deduction. See I.C. § 6-1.1-22-5(a).

3. The abstract is required to also contain a statement of the taxes and penalties unpaid in each taxing unit at the time of the last settlement between the county auditor and county treasurer and the status of these delinquencies. See I.C. § 6-1.1-22-5(a).

4. The county auditor is required to prepare the abstract on the form prescribed by the state board of accounts.

Copyright © 1986 Through 2007, Professor Jegen’s Taxsite
5. The auditor of state, county auditor, and county treasurer are each required to keep a copy of the abstract as a public record. See I.C. § 6-1.1-22-5(a).

6. If the county auditor receives a copy of an appeal petition under I.C. § 6-1.1-18.5-12(g) before the certified copy of the abstract is prepared and delivered, the county auditor will prepare and deliver the certified copy of the abstract when the appeal is resolved by the DLGF. See I.C. § 6-1.1-22-5(b).

7. If the county auditor receives a copy of an appeal petition under I.C. § 6-1.1-18.5-12(g) after the certified copy of the abstract is prepared and delivered, the county auditor will prepare and deliver the certified copy of the revised abstract when the appeal is resolved by the DLGF. See I.C. § 6-1.1-22-5(c).

E. Register of taxes and special assessment. The county treasurer is required to keep a register of taxes in which he or she is required to record each payment of taxes and the date the payment is received. The register is required to be kept in the manner and on the form prescribed by the state board of accounts. See I.C. § 6-1.1-22-6.


1. The county treasurer is required to keep a daily cash book in which he or she will record all funds received by him or her on the day the funds are received as well as all the deposits, withdrawals, and other entries necessary to correct reflect the financial condition of the funds for which the county treasurer is responsible. See I.C. § 6-1.1-22-7.

2. The daily cash book will be kept on the form prescribed by the state board of accounts. See I.C. § 6-1.1-22-7.

G. Notice of Tax Liability.

1. The county treasurer is required to send to each person liable for any property taxes or special assessments as shown on the tax duplicate or special assessment records, a statement of current and delinquent taxes and special assessments. See I.C. § 6-1.1-22-8(a).

2. The county treasurer may either:
   a. mail the statement to the last known address of the person or to the last known address of the most recent owner shown in the transfer book a statement of current and delinquent taxes and special assessments (see I.C. § 6.1.1-22-8(a)(1)); or,
   b. transmit by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records, a statement of current and delinquent taxes and
special assessments. See I.C. § 6-1.1-22-8(a)(2).

3. The county treasurer may include the following information in the statement:
   a. An itemized listing for each property tax levy, including:
      i. the amount of the tax rate;
      ii. the entity levying the tax owed;
      iii. the dollar amount of the tax owed; and,
      iv. the dollar amount of each special assessment owed.
      See I.C. § 6-1.1-22-8(b)(1).
   b. Information which clearly and accurately informs the taxpayer or mortgagee of the manner in which the taxes billed in the tax statement are to be used. See I.C. § 6-1.1-22-8(b)(2).
   c. The form used and the method by which the statement and information, if any, are transmitted must be approved by the state board of accounts. See I.C. § 6-1.1-22-8(b).

4. The following language is required to be included on every statement:
   a. “If any circumstances have changed that would make you ineligible for a deduction that you have been allowed in the exemption block on this tax bill, you must notify the county auditor. If such a change in circumstances has occurred and you have not notified the county auditor, the deduction will be disallowed and you will be liable for taxes and penalties on the amount deducted.” See I.C. § 6-1.1-22-8.5.

5. The county treasurer may mail or transmit the statement and information, if any, one time each year at least fifteen days before the date on which the first or only installment is due.
   a. Whenever a person’s tax liability for a year is due in one installment under I.C. § 6-1.1-7-7 or under I.C. § 6-1.1-22-9, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment.
   b. Whenever a person’s tax liability is due in two installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.
      See I.C. § 6-1.1-22-8(b).

6. All payments of property taxes and special assessments are to be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat. See I.C. § 6-1.1-22-8(c).

7. A few counties are participating in a pilot program for property taxes that first become due and
payable after December 31, 2004, and before January 1, 2008. This pilot program tests the provision of a statement that contains more detailed information and that is presented in an easier to understand format. The pilot program will be extended to all counties for taxes first due and payable after December 31, 2007. See I.C. § 6-1.1-22-8(d) through (h). Effective December 31, 2007, any reference in a law or rule to I.C. § 6-1.1-22-8 will be treated as a reference to I.C. § 6-1.1-22-8.1, wherein the final provisions of the new statement requirements are codified.

H. Time for payment.

1. The property taxes assessed for a year are due in two equal installments on May 10 and November 10 of the following year. See I.C. § 6-1.1-22-9(a).

2. A county council may adopt an ordinance to require a person to pay his or her property tax liability in one installment, if the tax liability for a particular year is less than $25. If the county council has adopted such an ordinance, then whenever the tax statement mailed shows that the person’s property tax liability for a year is less than $25 for the property covered by that statement, the tax liability for that year is due in one installment on May 10 of that year. See I.C. § 6-1.1-22-9(c).

3. If the county treasurer receives a copy of an appeal petition under I.C. § 6-1.1-18.5-12(g) before the county treasurer mails or transmits property tax statements, the county auditor may mail the statements without regard for the appeal and provide a reconciling statement after the appeal is settled or may delay mailing or transmitting the statements if the due date would not be delayed by more than 60 days and all statements reflect any changes caused by the resolution of the appeal. See I.C. § 6-1.1-22-9(d).

4. If the county treasurer chooses to mail or transmit the statements before the appeal is resolved, the reconciling statement must indicate:
   a. the total amount due for the year; and,
   b. the total amount of the installments paid that did not reflect the resolution of the appeal under I.C. § 6-1.1-18.5-12(g) by the DLGF.

5. If the amount under (a) above exceeds the amount under (b) above, the statement must include the adjusted amount that is payable by the taxpayer as a final reconciliation of all amounts due for the year (payable by the taxpayer not later than November 10 or the date or dates established under I.C. § 6-1.1-22-9.5 (Alternative Schedule of Installment Payments)).

6. If the amount under (b) above exceeds the amount under (a) above, that the taxpayer may claim a refund of the excess under I.C. § 6-1.1-26 (Refunds for Erroneous or Excessive Tax Payments).

7. Penalty for late payment - If property taxes are not paid on or before the due date, the penalties
prescribed in I.C. § 6-1.1-37-10 will be added to the delinquent taxes. See I.C. § 6-1.1-22-9(f).

8. A property tax liability of less than $5 is increased to $5. The difference between the actual liability and the $5 amount that appears on the statement is a statement processing charge which is considered a part of the tax liability. See I.C. § 6-1-22-9(g).

9. Installment payments with respect to homesteads. At any time before the mailing or transmission of property tax statements for a year, a county may petition the DLGF to establish a schedule of installments for the payment of property taxes. The county fiscal body must approve the petition. The DLGF may not make the first installment date earlier than May 10 nor later than November 10, and may not make the last installment date later than May 10 of the year after the statements were mailed or transmitted. See I.C. § 6-1.1-22-9.5.

I. Receipt for payment.

1. A taxpayer is entitled to a validated receipt upon request. See I.C. § 6-1.1-22-12(c).

2. When a property owner pays the taxes or special assessments levied against any property, and a receipt is provided by the county treasurer, the receipt is required to be on a form prescribed or approved by the state board of accounts and is required to contain:
   a. the name of the person liable for the amount paid;
   b. the amount paid;
   c. the year for which the payment is made; and,
   d. a description of the property which corresponds to the description used on the tax duplicate. See I.C. § 6-1.1-22-12(a).

3. If the county treasurer does not provide a receipt, the treasurer is required to maintain records containing the date and amount paid per parcel or property description as used on the tax duplicate. See I.C. § 6-1.1-22-12(b).

4. When a person other than the property owner pays any property taxes or special assessment levied against the property, the county treasurer is required to, if the payor requests, provide a receipt in a form prescribed or approved by the state board of accounts. See I.C. § 6-1.1-22-12(d).

5. If a receipt for the payment of property taxes or a special assessment is lost or destroyed, the entry in the register of taxes and special assessments or the entry on the tax duplicate may be presented as evidence of payment in lieu of the receipt. See I.C. § 6-1.1-22-12(e).

J. Nature of liability. A person who is liable for property taxes is personally liable for those taxes and all penalties, costs, and collection expenses, including reasonable attorney fees and court costs, resulting from late payment of the taxes. See I.C. § 6-1.1-22-10(a).
1. “A reasonable attorney’s fee means a fee that is reasonable in relation to the matter involving the individual delinquent taxpayer, not a fee that is reasonable taking the whole class of delinquent taxpayers into account.”


K. Collection of delinquent personal property taxes.

1. Demand for delinquent taxes.

   a. Time for and method of sending. Annually, after November 10th but before August 1st of the succeeding year, each county treasurer is required to serve – by registered or certified mail, in person, or by proof of certificate of mailing – a written demand upon each county resident who is delinquent in the payment of personal property taxes. Annually, after May 10 but before October 31 of the same year, each county treasurer may serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. See I.C. § 6-1.1-23-1(a).

   b. Contents. The written demand is required to contain:

      i. A statement that the taxpayer is delinquent in the payment of personal property taxes;

      ii. The amount of the delinquent taxes;

      iii. The penalties due on the delinquent taxes;

      iv. The collection expenses which the taxpayer owes; and,

      v. A statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within 30 days from the date the demand is made, then:

         (a) personal property of the taxpayer sufficient to satisfy the total amount due plus additional collection expenses incurred will be sold; or,

         (b) a judgment may be entered against the taxpayer in the circuit court of the county.

      See I.C. § 6-1.1-23-1(b).

   c. Creditor’s lien on personal property. Personal property that:

      i. is subject to a lien of a creditor imposed under an agreement entered into between the debtor and the creditor after June 30, 2005;

      ii. comes into the possession of the creditor after May 10, 2006, to satisfy all or part
of the agreement; and,

iii. has an assessed value of at least $3,200

d. is subject to special rules before property can satisfy the creditor’s lien. See I.C. § 6-1.1-23-1(c)).

i. The creditor of a taxpayer that comes into possession of personal property on which the taxpayer is adjudicated delinquent in the payment of personal property taxes must pay in full to the county treasurer the amount of the delinquent personal property taxes determined under a statutory formula from the proceeds of any transfer of the personal property made by the creditor or the creditor’s agent before applying the proceeds to the creditor’s lien on the personal property. See I.C. § 6-1.1-23-1(d).

ii. For transfers made by a creditor after May 10, 2006, the creditor should request a delinquent personal property tax form from the county treasurer as soon as practicable after coming into possession of personal property that meets the requirements of I.C. § 6-1.1-23-1(c). The creditor must provide the county treasurer with the debtor’s name and a specific description of the personal property. Within 14 days, the county treasurer is required to provide the creditor with a delinquent personal property tax form that indicates the assessed value of the personal property and the amount of any delinquent taxes owed on the personal property. Before transferring the property, the creditor must satisfy the delinquent personal property taxes. See I.C. § 6-1.1-23-1(d) through (g).

2. A county treasurer may enter into a contract for the collection of delinquent personal property taxes and the county treasurer may collect a reasonable collection fee from the taxpayer. See I.C. § 6-1.1-23-1.5.

3. If the taxpayer does not pay the total amount due within 30 days after the date the written demand is made, the county treasurer is required to levy upon and sell personal property which is of sufficient value to pay the delinquent taxes, penalties and any anticipated collection expenses. See I.C. § 6-1.1-23-2(a).

a. Levy - The county treasurer is required to levy upon personal property by calling upon the delinquent taxpayer at his or her residence or place of business and making a list in duplicate of all of his or her personal property.

i. The county treasurer is required to retain one copy of the list and deliver the other
copy to the delinquent taxpayer.

ii. The county treasurer may require the delinquent taxpayer to give a list under oath of all the personal property owned by him or her, and the names of the owners of other personal property which is in the delinquent taxpayer’s possession.

iii. If the delinquent taxpayer fails to provide the list, the county treasurer will file a petition which states that fact in the circuit court of the county, and the circuit court is required to order the delinquent taxpayer to provide the list.

See I.C. § 6-1.1-23-2(b).

b. Appraisal. The county treasurer is required to appraise the personal property included in a levy. See I.C. § 6-1.1-23-2(c).

c. Sale - The personal property included in a levy is subject to sale for the payment of the delinquent taxes, penalties, and collection expenses without further notice to the delinquent taxpayer. See I.C. § 6-1.1-23-2(c).

4. Possession of personal property. When the county treasurer levies upon the taxpayer’s personal property he or she may: take immediate possession of the property and store it in a secure place; or leave the property in the custody of the delinquent taxpayer until the day of the sale. See I.C. § 6-1.1-23-3(a).

5. Taxpayer’s bond. If the personal property is left in the custody of the delinquent taxpayer, the delinquent taxpayer is required to give the county treasurer a joint and several delivery bond, with a surety acceptable to the county treasurer.

a. The bond must be payable to Indiana in an amount at least equal to the sum of the delinquent taxes, penalties, and anticipated collection expenses.

b. The state may not initiate an action on the bond if:

   i. the personal property is delivered for sale at the time and place designated by the county treasurer; or,

   ii. the taxpayer pays to the county treasurer the amount of the delinquent taxes, penalties, and collection expenses before the time of the sale.

See I.C. § 6-1.1-23-3(b).

6. Notice of sale. After the county treasurer levies upon the taxpayer’s personal property, he or she is required to give notice setting forth the time and place of the sale and a list of the property to be sold. The notice is required to be given at least 10 days before the sale and is required to be published once in the manner prescribed in I.C. § 6-1.1-22-4(b) and posted in a public place of posting in the county.
7. **Auction sale.** If the delinquent taxes, penalties and collection expenses are not paid by the time set for the sale, the county treasurer is required to sell enough personal property of the taxpayer to pay the delinquent taxes, collection expenses and penalties. The items will be sold at public auction to the highest bidder. The treasurer will record all sales on a form prescribed by the state board of accounts. See I.C. § 6-1.1-23-5(a).

8. **Distribution of sale proceeds.** The proceeds of the sale will be paid into the county treasury and are required to be distributed in the following order:

   a. first, to the collection expenses;
   b. second, to the payment of the delinquent taxes and penalties; and,
   c. third, to the payment of other tax delinquencies as follows:
      i. first, to the payment of delinquent personal property taxes owed in the county by the taxpayer;
      ii. second, to the payment of delinquent real property taxes owed in the county by the taxpayer; and,
      iii. third, to the payment of delinquent personal property taxes owed by the taxpayer and certified from another county.

      See I.C. § 6-1.1-23-5(b).

   d. Any balance remaining after the above payments is required to be paid to the delinquent taxpayer.

      See I.C. § 6-1.1-23-5(a).

9. **Exemption for household goods.**

   a. The first $600 worth of a taxpayer’s household goods are exempt from levy and sale. All other personal property owned by the taxpayer is subject to levy and sale. See I.C. § 6-1.1-23-6(a) and (b).

   b. The county treasurer is required to determine the value of a person’s household goods. If the taxpayer disputes the value, the county assessor is required to view the property and fix the true cash value of it. The value so fixed is binding upon the county treasurer and the owner of the property. See I.C. § 6-1.1-23-6(b).

10. **Collection fees.** The county treasurer is required to charge each delinquent taxpayer the following fees for the collection of delinquent personal property taxes:

   a. For making a demand by:
i. Registered or certified mail, $8; or

ii. Any other manner permitted by section I.C. § 6-1.1-23-1, $5.

b. For making a levy, $10.

c. For selling personal property, 10% of the sale price.

d. For advertising a sale, the legal rates for advertising.

e. For transfer and storage of personal property, the actual expense incurred.

f. Other reasonable expenses of collection, including:

   i. title search expenses;

   ii. uniform commercial code search expenses; and

   iii. reasonable attorney’s fees or court costs incurred:

      (a) in the collection process;

      (b) due to a court order; or,

      (c) due to an order of the treasurer

      under I.C. § 6-1.1-23-10.

See I.C. § 6-1.1-23-7(a).

g. The fees collected under this section are the property of the county and will be deposited in

the county general fund. The collection expenses incurred in connection with the levy upon

and sale of personal property will be paid from the county general fund without prior

appropriation. See I.C. § 6-1.1-23-7(b).

11. Levy and sale without demand. When a county treasurer believes that a person who is liable for
delinquent personal property taxes is about to take his or her property from the county without paying
the taxes, the treasurer may levy upon and sell sufficient personal property of that person to pay the
delinquent taxes, penalties, and collection expenses without first making the demand required by


12. Record of delinquencies.

a. In the year immediately following the year in which the personal property taxes become
delinquent, each county treasurer is required to prepare a record of the delinquencies for

which written demand has been made and which remain unpaid for at least 60 days after the

demand is made. See I.C. § 6-1.1-23-9(a).

b. The record is required to be prepared on a form prescribed or approved by the state board

of accounts and must contain for each delinquent taxpayer:

   i. The name of the taxpayer who is personally liable for the taxes as shown by the tax
duplicate;

ii. The last known address of the taxpayer;

iii. The date when the last installment of taxes included in the record became delinquent; and,

iv. The amount of all delinquent taxes, penalties, and collection expenses for which such a demand has been made and which remain unpaid.

See I.C. § 6-1.1-23-9(b).

c. The county treasurer must swear to the accuracy of the record before the clerk of the circuit court and is required to file the record with the clerk. See I.C. § 6-1.1-23-9(c).

d. Judgment. Once filed, the amount of delinquent taxes, penalties, and collection expenses stated in the record constitute a debt of the named taxpayer which carries the same force and effect as a judgment. The judgment so entered is required to be in favor of the county for the benefit of all taxing units having an interest in it. See I.C. § 6-1.1-23-9(c).

e. Beginning with the day the record is filed, the delinquent taxpayer is required to, instead of the penalties prescribed in I.C. § 6-1.1-37-10, pay interest on the amount of the judgment at the same rate imposed on other judgments. See I.C. § 6-1.1-23-9(c).

13. Notice of judgment. If the judgment entered is not paid, the county treasurer may notify the delinquent taxpayer by certified mail that a judgment has been entered against him or her and that the treasurer is going to file a praecipe for execution.

a. If the judgment is not paid within 10 days after the date the notice is given, the county treasurer is required to file the praecipe for execution.

b. If this notice is not given, an execution upon the judgment is invalid.

See I.C. § 6-1.1-23-10(a).

14. Restraining order. If a judgment has been entered against a taxpayer, the county treasurer may obtain a court order restraining the taxpayer from transacting business in that county. The court may dissolve the restraining order if it believes dissolution will make collection of the judgment more likely. See I.C. § 6-1.1-23-10(b).

15. Remedies for collection without filing suit. If a judgment against a taxpayer has not been satisfied within 60 days after it is entered, the county treasurer may do the following without judicial proceedings:

a. Levy upon property of the taxpayer held by a financial institution.

i. The levy is required to be made in the same manner as that required of the IDSR
under I.C. § 6-8.1-8-8.

ii. Upon receipt of the claim, the financial institution is required to transfer to the county treasurer the property of the taxpayer held by it; however, if the value of the taxpayer’s property held by the financial institution is greater than the amount of the judgment, it is required to transfer property in an amount equal to the amount of the judgment.

See I.C. § 6-1.1-23-10(c)(1).

b. Garnish wages of taxpayer. The county treasurer may also, without judicial proceedings, garnish the accrued earnings and wages of the taxpayer by giving notice to the taxpayer’s employer.

i. The employer is required to garnish the accrued earnings and wages of the taxpayer in an amount equal to the full amount subject to garnishment under I.C. 24-4.5-5-105 and is required to remit the amount garnished to the county treasurer.

ii. The employer is entitled to a fee equal to the amount of the fee that may be collected under I.C. 24-4.5-5-105(5) in a garnishment action; however, the taxpayer is responsible for the entire fee collected.

See I.C. § 6-1.1-23-10(c)(2).

c. Withhold the amount of the judgment in full or in part from any payment that is due to the taxpayer from the county and requires the signature of the county treasurer. See I.C. § 6-1.1-23-10(c)(3).

d. The treasurer of a county may use any combination of these remedies to collect the delinquent taxes and collection expenses incurred. See I.C. § 6-1.1-23-10(d).

e. A county treasurer that incurs attorney’s fee expenses for legal services not related to formal judicial proceedings is required to petition a circuit or superior court in the county for approval to pay the expenses. The court may conduct a hearing on the petition and may authorize the auditor of the county to issue a warrant for the amount of the reasonable expenses. The county treasurer is required to pay the warrant without an appropriation for the disbursement. See I.C. § 6-1.1-23-10(e).

16. If the treasurer of a county in which a judgment is entered determines that the delinquent taxpayer does not have property of sufficient value in that county to satisfy the judgment and does have property in another county, the treasurer is required to send a certificate of judgment to the treasurer of the other county and to the DLGF. See I.C. § 6-1.1-23-11(a).
17. A county treasurer who receives a certificate of judgment is required to have the judgment indexed in the judgment docket by the clerk of the circuit court of the county the treasurer serves. The county treasurer must proceed to have execution issued upon the judgment in the same manner as if the judgment had been originally entered in the county he or she serves. See I.C. § 6-1.1-23-11(b). The DLGF is required to make periodic audits of the records of the county treasurers to insure compliance with the provisions of this section. See I.C. § 6-1.1-23-11(c).

18. Grounds for setting aside judgment. A judgment entered may be set aside only for one of the following reasons:
   a. The person against whom the judgment was entered was not liable for the delinquent taxes, penalties, and collection expenses for which the judgment was entered;
   b. The delinquent taxes, penalties, and collection expenses have been paid either in whole or in part. If only part of the items have been paid, the judgment may be set aside only in the amount of the payment;
   c. The required written demand was not given in the manner prescribed in I.C. § 6-1.1-23-1;
   d. The person against whom the judgment was entered is deceased, as evidenced by a certificate of death;
   e. The corporation against whom the judgment was entered has been formally dissolved or is no longer in business;
   f. The judgment is uncollectible as a result of bankruptcy; or,
   g. The county treasurer has exhausted all reasonable efforts to collect the delinquent taxes, penalties, and collection expenses for the period specified in I.C. § 6-8.1-8-2(f) without success.

See I.C. § 6-1.1-23-12(a).

A judgment may be set aside only under a finding entered of record by a court which has jurisdiction. See I.C. § 6-1.1-23-12(b).

19. Satisfaction of judgment. Payment of delinquent tax judgments and interest is required to be made to the county treasurer. On a daily basis the county treasurer is required to enter a satisfaction of all judgments paid in the delinquent tax judgment record maintained in the office of the clerk of the circuit court. The county treasurer is required to apply the amount so paid to the delinquent taxes, penalties, and collection expenses for which the judgment was entered. See I.C. § 6-1.1-23-13.

L. Collection of delinquent real property taxes - real property tax sales.

1. Delinquent tax list of real property.
a. On or before July 1 of each year or 51 days after the tax payment due date the county treasurer (or county executive, in the case of property described in 6-1.1-24-2(a)(2)) is required to certify to the county auditor a list of real property on which any of the following exist:
   i. any property taxes or special assessments certified to the county auditor for collection by the county treasurer from the prior year’s spring installment or before are delinquent as determined under I.C. § 6-1.1-37-10;
   ii. any property taxes or special assessments from the prior year’s fall installment or before that are delinquent as determined under I.C. § 6-1.1-37-10 on real property that a county executive has certified to the county auditor is vacant or abandoned. The county executive must make this certification at least 61 days before the earliest date on which application for judgment and order for sale may be made; and,
   iii. any unpaid costs are due under I.C. § 6-1.1-24-2(b) from a prior tax sale.
See I.C. § 6-1.1-24-1(a).

b. The county auditor is required to maintain a list of all real property eligible for sale and the taxpayer will remain on the list until he or she pays to the county treasurer the amounts due. The list must:
   i. describe the real property by parcel number and common address, if any;
   ii. for a tract or item of real property with a single owner, indicate the name of the owner; and,
   iii. for a tract or item with multiple owners, indicate the name of at least one of the owners.
See I.C. § 6-1.1-24-1(b).

c. Except as otherwise provided, the real property so listed is eligible for sale in the manner prescribed by I.C. § 6-1.1-24. See I.C. § 6-1.1-24-1(c).

d. Not later than 15 days after the date of the county treasurer’s certification, the county auditor is required to mail by certified mail a copy of the list to each mortgagee who requests from the county auditor by certified mail a copy of the list. Failure of the county auditor to mail the list does not invalidate an otherwise valid sale. See I.C. § 6-1.1-24-1(d).

e. Removal of real property from list. A tract or an item of real property may not be removed from the certified list before the tax sale unless all delinquent taxes, special assessments, penalties due on the delinquency, interest, and costs directly attributable to the tax sale have
been paid in full. See I.C. § 6-1.1-24-1.2(a).

Exception:

i. The county auditor in a county having a population of more than 400,000 but less than 700,000 (Lake County) may remove a tract or an item of real property from the certified list before the tax sale if the county treasurer and the taxpayer agree to a mutually satisfactory arrangement for the payment of the delinquent taxes. See I.C. § 6-1.1-24-1.2(c).

ii. The county treasurer may remove the tract or item from the certified list if the arrangement:

(a) is in writing;
(b) is signed by the taxpayer; and,
(c) requires the taxpayer to pay the delinquent taxes in full within one year of the date the agreement is signed.

See I.C. § 6-1.1-24-1.2(d).

iii. If the taxpayer fails to make a payment under the arrangement, the county auditor is required to immediately place the tract or item of real property on the list of real property eligible for sale at a tax sale. See I.C. § 6-1.1-24-1.2(e)

iv. If the tract or item of real property subject to a payment arrangement is within the jurisdiction of a:

(a) city having a population of more 90,000 but less than 105,000 (Gary);
(b) city having a population of more than 32,000 but less than 32,800 (East Chicago); or,
(c) city having a population of more than 75,000 but less than 90,000 (Hammond),

the county auditor is required to notify the mayor of the city of the arrangement. See I.C. § 6-1.1-24-1.2(f).

v. Per I.C. 1-1-3.5-3, population figures refer to the most recent federal decennial census data released to the state. City and county names are included above based on that data.

f. A county treasurer may accept partial payments of amounts due after the list is certified. See I.C. § 6-1.1-24-1.2(b).

g. Lists of properties in Marion County.
i. In a county not containing a consolidated city, the “county executive” refers to the county executive or the county executive’s designee. In a county containing a consolidated city (currently only Marion County), the “county executive” refers to the executive of the consolidated city. See I.C. § 6-1.1-24-1.5(a).

ii. The county executive may prepare a list of real property from the list prepared under I.C. § 6-1.1-24-4.5(b) (applicable only to Marion County) and certify the list of designated properties to the county auditor no later than 61 days prior to the earliest date on which application for judgment and order for sale may be made. See I.C. § 6-1.1-24-1.5(b) and (c).

iii. Upon receiving the certified list, the county auditor is required to prepare a list of the properties certified by the commission; and, delete any property appearing on it from the delinquent tax list prepared under I.C. § 6-1.1-24-1. See I.C. § 6-1.1-24-1.5(d).

2. Notice of sale at public auction.

   a. In addition to the delinquency list, each county auditor is required to prepare a notice which contains:

      i. A list of tracts or real property eligible for sale. See I.C. § 6-1.1-24-2(a)(1);
      
      ii. A statement that the tracts or real property included in the list will be sold at public auction to the highest bidder, subject to the right of redemption. See I.C. § 6-1.1-24-2(a)(2);
      
      iii. A statement that the tracts or real property will not be sold for an amount which is less than the sum of:

             (a) the delinquent taxes and special assessments on each tract or item of real property;
             
             (b) the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, whether or not they are delinquent;
             
             (c) all penalties due on the delinquencies;
             
             (d) an amount prescribed by the county auditor that equals the sum of: the greater of $25 or postage and publication costs; and, any other actual costs incurred by the county that are directly attributable to the tax sale; and,
             
             (e) any unpaid costs due from a prior tax sale.
iv. A statement that a person redeeming each tract or item of real property after the sale must pay:

(a) 110% of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed not more than six months after the date of sale;

(b) 115% of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed more than six months after the date of sale;

(c) the amount by which the purchase price exceeds the minimum bid on the tract or item of real property plus 10% per annum on the amount by which the purchase price exceeds the minimum bid; and,

(d) all taxes and special assessments on the tract or item of real property paid by the purchaser after the tax sale plus interest at the rate of 10% per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property.

See I.C. § 6-1.1-24-2(a)(4);

v. A statement for informational purposes only, of the location of each tract or item of real property by key number, if any, and street address, if any, or a common description of the property other than a legal description. The township assessor, upon written request from the county auditor, is required to provide the information to be in the notice of sale at public auction, as described above. A misstatement in the key number or street address does not invalidate an otherwise valid sale. See I.C. § 6-1.1-24-2(a)(5);

vi. A statement that the county does not warrant the accuracy of the street address or common description of the property. See I.C. § 6-1.1-24-2(a)(6);

vii. A statement indicating:

(a) the name of the owner of each tract or item of real property with a single owner; or,

(b) the name of at least one of the owners of each tract or item of real property with multiple owners.

viii. A statement of the procedure to be followed for obtaining or objecting to a judgment and order of sale, that must include:

(a) A statement that the county auditor and county treasurer will apply on or after a date designated in the notice for a court judgment against the tracts or real property for an amount that is not less than the amount set under subdivision (iii) above, and for an order to sell the tracts or real property at public auction to the highest bidder, subject to the right of redemption; and indicating the date when the period of redemption will expire;

(b) A statement that any defense to the application for judgment must be filed with the court before the date designated as the earliest date on which the application for judgment may be filed; and,

(c) A statement that the court will set a date for a hearing at least seven days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.

See I.C. § 6-1.1-24-2(a)(8).

ix. A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.

See I.C. § 6-1.1-24-2(a)(9);

x. A statement that the sale will take place at the times and dates designated in the notice. The sale must take place on or after August 1 and before November 1 of each year. See I.C. § 6-1.1-24-2(a)(10);

xi. A statement that a person redeeming each tract or item after the sale must pay the costs described in I.C. § 6-1.1-25-2(e). See I.C. § 6-1.1-24-2(a)(11);

xii. If a county auditor and county treasurer have entered into an agreement under I.C. § 6-1.1-25-4.7, a statement that the county auditor will perform the duties of the notification and title search under I.C. § 6-1.1-25-4.5 and the notification and petition to the court for the tax deed under I.C. § 6-1.1-25-4.6. See I.C. § 6-1.1-24-2(a)(12);

xiii. A statement that, if the tract or item of real property is sold for an amount more than the minimum bid and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus. See I.C. § 6-1.1-24-2(a)(13); and,
xiv. If a determination has been made under I.C. § 6-1.1-24-2(d) that a tract or item will be sold or redeemed only with another tract or item owned by the same person, a statement that tracts or items will be sold together. See I.C. § 6-1.1-24-2(a)(14).

b. For the notice requirements applicable to a county having a consolidated city (Marion County), see I.C. § 6-1.1-24-2.2.

c. Unpaid costs.

i. If within 60 days before the date of the tax sale the county incurs postage and publication costs or any other actual costs directly attributable to the tax sale and those costs are not paid, the county auditor is required to enter the amount of costs that remain unpaid upon the tax duplicate of the property for which the costs were set. See I.C. § 6-1.1-24-2(b).

ii. The county treasurer is required to mail notice of unpaid costs entered upon a tax duplicate under this subsection to the owner of the property identified in the tax duplicate. See I.C. § 6-1.1-24-2(b).

iii. The amount of unpaid costs entered upon a tax duplicate must be paid no later than the date upon which the next installment of real estate taxes for the property is due. See I.C. § 6-1.1-24-2(c).

iv. Unpaid costs entered upon a tax duplicate are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected. See I.C. § 6-1.1-24-2(c).

d. Publication of notice of sale. When real property is eligible for tax sale, the county auditor is required to post a copy of the notice at a public place of posting in the county courthouse or in another public county building at least 21 days before the earliest date of application for judgment. In addition, the county auditor is required to, in accordance with I.C. 5-3-1-4, publish the notice once each week for three consecutive weeks before the earliest date on which the application for judgment may be made. The expenses of this publication is required to be paid out of the county general fund without prior appropriation. See I.C. § 6-1.1-24-3(a).

e. Copy of notice to mortgagee. At least 21 days before the application for judgment is made, the county auditor is required to mail a copy of the notice by certified mail, return receipt requested, to any mortgagee who annually requests, by certified mail, a copy of the notice.
However, the failure of the county auditor to mail this notice or its nondelivery does not affect the validity of the judgment and order. See I.C. § 6-1.1-24-3(b).

f. Sufficiency of notice. The notices mailed and the advertisement published are considered sufficient notice of the intended application for judgment and of the sale of real property under the order of the court. See I.C. § 6-1.1-24-3(c).

g. Notice to owner of sale.

i. Not less than 21 days before the earliest date on which the application for judgment and order for sale of real property eligible for sale may be made, the county auditor must send a notice of the sale by certified mail to:

(a) the owner of record of real property with a single owner; or,

(b) to at least one of the owners of real property with multiple owners; at the last address of the owner for the property as indicated in the records of the county auditor.

See I.C. § 6-1.1-24-4(a).

ii. The notice is required to be prepared in the form prescribed by the state board of accounts and must set forth the key number, if any, of the real property and a street address, if any, or other common description of the property other than a legal description. See I.C. § 6-1.1-24-4(a).


iv. The county auditor must present proof of this mailing to the court along with the application for judgment and order for sale. See I.C. § 6-1.1-24-4(a).

v. Failure by an owner to receive or accept the notice required by this section does not affect the validity of the judgment and order. See I.C. § 6-1.1-24-4(a).

vi. The owner of real property is required to notify the county auditor of the owner’s correct address. See I.C. § 6-1.1-24-4(a).

vii. The notice is considered sufficient if the notice is mailed to the address required by this section. See I.C. § 6-1.1-24-4(a).

viii. In addition to the notice required for real property on the list prepared under section I.C. § 6-1.1-24-1(a)(2) or 1.5(d), the county auditor is required to prepare and mail the notice required under I.C. § 6-1.1-24-2.2 no later than August 15 in the year in which the property is to be sold. See I.C. § 6-1.1-24-4(b).
ix. On or before the day of sale, the county auditor is required to list, on the tax sale record required by I.C. § 6-1.1-25-8, all properties that will be offered for sale. See I.C. § 6-1.1-24-4(c).

3. Treasurer’s report of properties with delinquent taxes.
   a. On the day on which the application for judgment and order for sale is made, the county treasurer is required to report to the county auditor all of the tracts and real property listed in the notice upon which all delinquent taxes and special assessments, all penalties due on the delinquencies, any unpaid costs due from a prior tax sale, and the amount due under I.C. § 6-1.1-24-2(a)(3)(D) have been paid up to that time. See I.C. § 6-1.1-24-4.6(a).
   b. The county auditor, assisted by the county treasurer, is required to compare and correct the list, removing tracts and real property for which all delinquencies have been paid, and is required to make and subscribe an affidavit attesting to the accuracy of the list. See I.C. § 6-1.1-24-4.6(a).
   c. The county auditor is also required to make and subscribe an affidavit affirming that the notice of application for judgment and order for sale was mailed via certified mail to the owners of property on the list. See I.C. § 6-1.1-24-4.6(a).
   d. Application for judgment and order for sale is required to be made as one cause of action to any court of competent jurisdiction jointly by the county treasurer and county auditor. The application must include name of at least one owner of each tract of land or item of real property, the dates of mailing of the notice, the dates of publication, and the affidavit and corrected list. See I.C. § 6-1.1-24-4.6(b).
   e. Any defense to the application for judgment and order of sale is required to be filed with the court on or before the earliest date on which the application may be made as set forth in the notice. See I.C. § 6-1.1-24-4.6(c).

4. Court review of list. No later than 15 days before the advertised date of the tax sale, the court is required to examine the list of tracts and real property as provided under I.C. § 6-1.1-24-4.6. See I.C. § 6-1.1-24-4.7(a).

5. Judgment. No later than three days before the advertised date of the tax sale, the court is required to enter judgment for those taxes, special assessments, penalties, and costs that appear to be due.
   a. This judgment is considered as a judgment against each tract or item of real property for each kind of tax, special assessment, penalty, or cost included in it.
   b. The affidavit provided under I.C. § 6-1.1-24-4.6 is prima facie evidence of delinquency for
purposes of proceedings.

See I.C. § 6-1.1-24-4.7(a).

6. Order for sale. The court is required to also direct the clerk to prepare and enter an order for the sale of those tracts and real property against which judgment is entered. See I.C. § 6-1.1-24-4.7(a).

7. Hearing. Not later than seven days before the advertised date of the tax sale, the court is required to conduct a hearing. At the hearing, the court is required to hear any defense offered by any person interested in any of the tracts or items of real property to the entry of judgment against them, hear and determine the matter in a summary manner, without pleadings, and enter its judgment. The objection must be in writing, and no person may offer any defense unless the writing specifying the objection is accompanied by an original or a duplicate tax receipt or other supporting documentation. At least seven days before the date set for the hearing, notice of the date, time, and place of the hearing is required to be provided by the court to any person filing a defense to the application for judgment and order of sale. See I.C. § 6-1.1-24-4.7(b).

8. Removal from list. If judgment is entered in favor of the respondent under these proceedings or if judgment is not entered for any particular tract, part of a tract, or items of real property because of an unresolved objection, the court is required to remove those tracts, parts of tracts, or items of real property from the list of tracts and real property. See I.C. § 6-1.1-24-4.7(c).

9. A judgment and order for sale is required to contain the final listing of affected properties and the name of at least one owner of each tract or item of real property. See I.C. § 6-1.1-24-4.7(d).

10. The order of the court constitutes the list of tracts and real property that will be offered for sale. See I.C. § 6-1.1-24-4.7(e).

11. Continuing jurisdiction. The court that enters judgment under this section is required to retain exclusive continuing supervisory jurisdiction over all matters and claims relating to the tax sale. See I.C. § 6-1.1-24-4.7(f).

12. No error or informality in the proceedings of any of the officers connected with the assessment, levying, or collection of the taxes that does not affect the substantial justice of the tax itself will invalidate or in any manner affect the tax or the assessment, levying, or collection of the tax. See I.C. § 6-1.1-24-4.7(g).

13. Any irregularity, informality, omission, or defective act of one or more officers connected with the assessment or levying of the taxes may be, in the discretion of the court, corrected, supplied, and made to conform to law by the court, or by the officer (in the presence of the court). See I.C. § 6-1.1-24-4.7(h).
14. Conduct of sale; levy on personal property unnecessary; and clerk of sale.

a. The sale must:
   i. be held at the times and place stated in the notice of sale; and,
   ii. not extend beyond 171 days after the list containing the tract or item of real property is certified to the county auditor.

See I.C. § 6-1.1-24-5(b).

b. A tract or an item of real property may not be sold to collect:
   i. delinquent personal property taxes; or,
   ii. taxes or special assessments which are chargeable to other real property.

See I.C. § 6-1.1-24-5(c).

c. A tract or an item of real property may not be sold if all the delinquent taxes, penalties, and special assessments on the tract or an item of real property and the amount prescribed by I.C. § 6-1.1-24-2(a)(3)(D), reflecting the costs incurred by the county due to the sale, are paid before the time of sale. See I.C. § 6-1.1-24-5(d).

d. The county treasurer will sell the tract or real property, subject to the right of redemption, to the highest bidder at public auction. However, a tract or an item of real property may not be sold for an amount which is less than the sum of:
   i. the delinquent taxes and special assessments on each tract or item of real property;
   ii. the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, regardless of whether the taxes and special assessments are delinquent;
   iii. all penalties which are due on the delinquencies;
   iv. the amount prescribed by I.C. § 6-1.1-24-2(a)(3)(D) reflecting the costs incurred by the county due to the sale;
   v. any unpaid costs which are due under I.C. § 6-1.1-24-2(b) from a prior tax sale; and
   vi. other reasonable expenses of collection, including title search expenses, uniform commercial code expenses, and reasonable attorney’s fees incurred by the date of the sale.

See I.C. § 6-1.1-24-5(e).

e. The statutes and the limitations upon a treasurer’s power under the law preclude the real estate of a delinquent taxpayer from being sold for more than the lawful taxes, interests, penalties and costs. See Watson v. Bagaloff, 135 N.E.2d 736, 739 (Ind. App. 1956).
15. It is not necessary for the county treasurer to first attempt to collect the real property taxes or special assessments out of the personal property of the owner of the tract or real property before conducting the sale. See I.C. § 6-1.1-24-5(f).

16. The county auditor will serve as the clerk of the sale. See I.C. § 6-1.1-24-5(g).

17. Real property certified to the county auditor under section 6-1.1-24-1(a)(2) of this chapter must be offered for sale in a different phase of the tax sale or on a different day of the tax sale than the phase or day during which other real property is offered for sale. See I.C. § 6-1.1-24-5(h).

18. Persons prohibited from purchasing. A person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale on a tract of real property listed or that person’s agent may not purchase a tract offered for sale under sections I.C. § 6-1.1-24-5 or 6.1. Parties who own an interest in a property that is subject to a court order or judgment due to unsafe conditions are also prohibited from purchasing tracts offered for sale under sections I.C. § 6-1.1-24-5 or 6.1. See I.C. § 6-1.1-24-5.3(a).

19. The county treasurer must require each person who will be bidding at a tax sale to sign a statement under penalties of perjury that the person is not subject to any of the situations that would prohibit the person from purchasing a tract. The statement also indicates that the person is aware that a successful bid made in violation of the statement is subject to forfeiture. See I.C. § 6-1.1-24-5.3(c).

20. Forfeiture. If a person purchases a tract that the person was not eligible to purchase, the sale of the property is subject to forfeiture. If the county treasurer becomes aware that the sale should be forfeited no later than six months after the date of sale, the county treasurer is required to notify the person that the sale may be forfeited if the person does not pay the amounts owed within 30 days. If the person does not pay within 30 days, the county treasurer must apply the amount of the person’s bid to the person’s delinquent taxes, special assessment, penalties, and interest. The county treasurer must also remit any amounts owed from a final adjudication or civil penalties in favor of a political subdivision to that subdivision. The county treasurer is required to also notify the county auditor that the sale has been forfeited whereupon the county auditor is required to issue a certificate to the county executive. See I.C. § 6-1.1-24-5.3(d).

21. A county treasurer may decline to forfeit a sale because of inadvertence or mistake, lack of actual knowledge by the bidder, substantial harm to other parties with interests in the tract or item of real property, or other substantial reasons. The treasurer must explain in writing the reasons for declining to forfeit a sale and retain the written statement as an official record. See I.C. § 6-1.1-24-5.3(e).

22. If a sale is forfeited and the tract or item of real property is redeemed, the county auditor must deposit
the proceeds from the redemption into the county general fund and notify the county executive of the redemption. Upon being notified of the redemption, the county executive must surrender the certificate to the county auditor. See I.C. § 6-1.1-24-5.3(f).

23. Purchase by county.
   a. Property fails to sell for minimum sale price.
      i. When a tract or an item of real property is offered for sale and an amount is not received equal to or in excess of the minimum sale price, the county executive acquires a lien in the amount of the minimum sale price. This lien attaches on the day after the last date on which the tract or item was offered for sale. See I.C. § 6-1.1-24-6(a).
      ii. When a county executive acquires a lien in this manner, the county auditor is required to issue a tax sale certificate to the county executive dated the day that the county executive acquires the lien. When a county executive acquires a certificate under this section, the county executive has the same rights as a purchaser. See I.C. § 6-1.1-24-6(b).
      iii. When the above described lien is acquired by a county executive, no money will be paid by the county executive. However, each of the taxing units having an interest in the taxes on the tract will be charged with the full amount of all delinquent taxes due them. See I.C. § 6-1.1-24-6(c).
   b. Identification and notice of properties for sale.
      i. The county executive may identify properties described in I.C. § 6-1.1-24-6.7(a) (properties identified for transfer to non-profit agencies) that the county executive wants to offer to the public the certificates of sale acquired by the county executive under I.C. § 6-1.1-24-6. See I.C. § 6-1.1-24-6.1(a)(1).
      ii. The county executive must provide notice as described in I.C. 5-3-1 of the date, time and place of the sale that is at least ninety days after the last date that the notice was published. See I.C. § 6-1.1-24-6.1(a)(2).
      iii. The notice must:
         (a) include a description of the property by parcel number and common address;
         (b) specify that the county executive will accept bids for the certificates of sale for the price referred to in I.C. § 6-1.1-24-6.1(a)(3);
(c) specify the minimum bid for each parcel;

(d) include a statement that a person redeeming each tract or item of real property after the sale of the certificate must pay:

i) the amount of the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale;

ii) 10% of the amount for which the certificate is sold;

iii) the attorney’s fees and costs of giving notice under I.C. § 6-1.1-25-4.5;

iv) the costs of a title search or of examining and updating the abstract of title for the tract or item of real property; and,

v) all taxes and special assessments on the tract or item of real property paid by the purchaser after the sale of the certificate plus interest at the rate of 10% per year on the amount of taxes and special assessments paid by the purchaser on the redeemed property; and,

(e) include a statement that, if the certificate is sold for an amount more than the minimum bid under I.C. § 6-1.1-24-5(e) for which the tract or item of real property was last offered for sale and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

See I.C. § 6-1.1-24-6.1(b).

iv. The county executive may sell the certificates of sale for a price that is less than the minimum sales price prescribed by I.C. § 6-1.1-24-5(e) and includes any costs to the county executive directly attributable to the sale of the certificate of sale. See I.C. § 6-1.1-24-6.1(a)(3).

v. The sale of certificates of sale must be held at the time and place stated in the notice of sale. See I.C. § 6-1.1-24-6.3(a).

c. Conduct of sale.

i. A certificate of sale may not be sold if all of the delinquent taxes, penalties, and special assessments on the tract or an item of real property as well as the amount prescribed by I.C. § 6-1.1-24-2(a)(3)(D) that reflects the costs incurred by the...
county due to the sale have been paid. See I.C. § 6-1.1-24-6.3(b).

ii. The county executive is to sell the certificate of sale, subject to the right of redemption, to the highest bidder at public auction. See I.C. § 6-1.1-24-6.3(c).

iii. The county auditor serves as the clerk of the sale. See I.C. § 6-1.1-24-6.3(d).

d. Distribution of proceeds.

i. When a certificate of sale is sold, the purchaser at the sale is required to immediately pay the amount of the bid to the county treasurer. The county treasurer will then apply the payment in the following manner:

(a) first, to the taxes, special assessments, penalties, and costs described in I.C. § 6-1.1-23-5(e);

(b) second, to other delinquent property taxes in the manner provided by I.C. § 6-1.1-23-5(b); and,

(c) third, to a separate “tax sale surplus fund”.

See I.C. § 6-1.1-24-6.4(a).

ii. Upon the assignment of a certificate of sale to the purchaser, the county auditor is to indicate on the certificate the amount for which the certificate of sale was sold.

See I.C. § 6-1.1-24-6.4(d).

e. Claims against tax sale surplus fund.

i. The owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed, or the purchaser of the certificate or the purchaser’s assignee, upon redemption of the tract or item of real property may file a verified claim for money that is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor will issue a warrant to the claimant for the amount due. See I.C. § 6-1.1-24-6.4(b).

ii. An amount deposited in the tax sale surplus fund is to be transferred by the county auditor to the county general fund and may not be disbursed under 6-1.1-24-6.4(b) if it is claimed more than 3 years after the date of its receipt. See I.C. § 6-1.1-24-6.4(c).

f. Transfer of properties to nonprofit corporations.

i. The county executive may identify properties that it received under I.C. § 6-1.1-24-6 and that the county executive desires to transfer to a nonprofit corporation for use
for the public good and set a date, time, and place for a public hearing to consider the transfer of the property to a nonprofit corporation. See I.C. § 6-1.1-24-6.7(a).

ii. Notices of the property described in I.C. § 6-1.1-24-6.7(a) and the date, time, and place for the hearing on the proposed transfer of the property on the list is to be published in accordance with I.C. 5-3-1. The notice must include a description of the property by legal description and parcel number or street address or both. The notice must specify that the county executive will accept applications submitted by nonprofit corporations as provided in I.C. § 6-1.1-24-6.7(d) and hear any opposition to a proposed transfer. See I.C. § 6-1.1-24-6.7(b).

iii. After the hearing set under I.C. § 6-1.1-24-6.7(a), the county executive, by resolution, will make a final determination concerning the properties that are to be transferred to a nonprofit corporation, the nonprofit corporation to which each property is transferred, and the terms and conditions of the transfer. See I.C. § 6-1.1-24-6.7(c).

iv. To be eligible to receive property under this section, a nonprofit corporation must file an application with the county executive. The application must state the property that the corporation desires to acquire, the use to be made of the property, and the time period anticipated for implementation of the use. The application must be accompanied by documentation verifying the nonprofit status of the corporation and be signed by an officer of the corporation. If more than one application for a single property is filed, the county executive determines which application is to be accepted based on the benefit to be provided to the public and the neighborhood and the suitability of the stated use for the property and the surrounding area. See I.C. § 6-1.1-24-6.7(d).

v. After the hearing set under subsection I.C. § 6-1.1-24-6.7(a) and the final determination of properties to be transferred under subsection I.C. § 6-1.1-24-6.7(c), whichever is applicable, the county executive, on behalf of the county, is to cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the county auditor to prepare a deed transferring the property to the nonprofit corporation. The deed must provide for:

(a) the use to be made of the property;
(b) the time within which the use must be implemented and maintained;
(c) any other term and conditions that are established by the county executive; and,
(d) the reversion of the property to the county executive if the grantee nonprofit corporation fails to comply with the terms and conditions.

If the grantee nonprofit corporation fails to comply with the terms and conditions of the transfer and title to the property reverts to the county executive, the property may be retained by the county executive or disposed of under any of the provisions of I.C. § 6-1.1-24-6.7(e) or I.C. § 6-1.1-24, or both. See I.C. § 6-1.1-24-6.7(e).

24. Payment of sales price. When real property is sold under I.C. § 6-1.1-24, the purchaser at the sale is required to immediately pay the amount of the bid to the county treasurer. The county treasurer is required to apply the payment in the following manner:
   a. first, to the taxes, special assessments, penalties, and costs described in I.C. § 6-1.1-24-5(e);
   b. second, to other delinquent property taxes in the manner provided in I.C. § 6-1.1-23-5(b); and,
   c. third, to a separate “tax sale surplus fund”.

See I.C. § 6-1.1-24-7(a).

25. Distribution claim for surplus money. The owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed; or tax sale purchaser or purchaser’s assignee upon redemption of the tract or item of real property; may file a verified claim for money which is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor is required to issue a warrant to the claimant for the amount due. See I.C. § 6-1.1-24-7(b). If the owner who was divested of ownership by the issuance of a tax deed “acquired the property from a delinquent taxpayer after the property was sold at a tax sale, the county auditor may not issue a warrant to the person unless the person is named on a tax sale surplus fund disclosure form filed with the county auditor under I.C. § 32-21-8. See I.C. § 6-1.1-24-7(c).

26. Disbursement of taxes collected.
   a. An amount deposited in the tax sale surplus fund is required to be transferred by the county auditor to the county general fund and may not be disbursed if it is not claimed within the three year period after the date of its receipt. See I.C. § 6-1.1-24-7(d).
   b. If an amount applied to taxes is later paid out of the county general fund to the purchaser or the purchaser’s successor due to the invalidity of the sale, all the taxes will be reinstated and,
recharged to the tax duplicate and collected in the same manner as if the property had not been offered for sale. See I.C. § 6-1.1-24-7(e).

c. When a refund is made to any purchaser or purchaser’s successor by reason of the invalidity of a sale, the county auditor is required to, at the December settlement immediately following the refund, deduct the amount of the refund from the gross collections in the taxing district in which the land lies and is required to pay that amount into the county general fund. See I.C. § 6-1.1-24-7(f).

27. If a board of county commissioners enters into a contract for the discovery of property which has been omitted from assessment, the investigation and collection expenses will be deducted from the gross amount of taxes collected on the omitted property which is so discovered. The remainder of the taxes collected on the omitted property will be distributed to the appropriate taxing units. See I.C. § 6-1.1-36-12.

M. Action to enforce payment.

1. A person’s property tax liability may be enforced by any legal remedy including a civil lawsuit brought by a county treasurer or other county executive to collect delinquent taxes. See I.C. § 6-1.1-22-10(b).

2. One action may be initiated to collect all taxes, penalties, cost, and collection expenses levied against a person in the same county for one or more years. See I.C. § 6-1.1-22-10(b).

3. Limitation of action. However, an action may not be initiated to enforce the collection of taxes after 10 years from the first Monday in May of the year in which the taxes first became due. An action initiated within the 10-year period may be prosecuted to termination. See I.C. § 6-1.1-22-10(b).

N. State Liens on Real Property.

1. The state acquires a lien on each tract of real property for all property taxes levied against the tract, including the land under an improvement or appurtenance described in I.C. § 6-1.1-2-4(b), and all subsequent penalties and cost resulting from the taxes. See I.C. § 6-1.1-22-13(a).

2. The lien attaches on the assessment date of the year for which the taxes are assessed and continues for 10 years from May 10 of the year in which the taxes first become due. If any proceeding is instituted to enforce the lien within the 10-year period, the limitation will be extended, if necessary, to permit the termination of the proceeding. See I.C. § 6-1.1-22-13(a) & (b).

3. The lien is not affected by any sale or transfer of the tract. See I.C. § 6-1.1-22-13(a).

4. The lien of the state inures to taxing units which impose the property taxes on which the lien is based, and the lien is superior to all other liens except a federal lien arising through an insolvency
proceeding. See I.C. § 6-1.1-22-13(c).

5. The taxing unit may institute a civil suit against a person or an entity liable for delinquent property taxes and after obtaining a judgment may collect delinquent real property taxes, penalties due to the delinquency, and costs and expenses incurred in collecting the delinquent property tax, including reasonable attorney’s fees and court costs approved by a court with jurisdiction. See I.C. § 6-1.1-22-13(d).

6. The statute imposes a lien on the land itself as well as personal liability upon those responsible for payment of the tax and “[t]he fact that someone is personally liable for the taxes does not, of itself, relieve the real estate of the tax lien; that lien can be removed only by the actual payment of the taxes.” Schofield v. Green, 56 N.E.2d 506, 508 (Ind. App. 1944).

O. Political Subdivision Liens on Real Property.

1. A political subdivision acquires a lien on each tract of real property for all special assessments levied against the tract, including the land under an improvement or appurtenance described in I.C. § 6-1.1-2-4(b), and all subsequent penalties and cost resulting from the special assessments. See I.C. § 6-1.1-22-13.5(a).

2. The lien attaches on the assessment date of the year for which the special assessments are certified for collection and continues for 10 years from May 10 of the year in which the special assessments first become due. If any proceeding is instituted to enforce the lien within the 10-year period, the limitation will be extended, if necessary, to permit the termination of the proceeding. See I.C. § 6-1.1-22-13.5(a) & (b).

3. The lien is not affected by any sale or transfer of the tract. See I.C. § 6-1.1-22-13(a).

4. The lien of the state inures to political subdivisions that impose the special assessments on which the lien is based, and the lien is superior to all other liens except the lien of the state for property taxes. See I.C. § 6-1.1-22-13.5(c).

5. The political subdivision may institute a civil suit against a person or an entity liable for delinquent special assessments and after obtaining a judgment may collect delinquent special assessments, penalties due to the delinquency, and costs and expenses incurred in collecting the delinquent special assessments, including reasonable attorney’s fees and court costs approved by a court with jurisdiction. See I.C. § 6-1.1-22-13.5(d).

P. Payment of delinquent tax by lienholders.

1. A person who holds a lien of record on any real property on which taxes are delinquent may pay the delinquent taxes, penalties and costs. See I.C. § 6-1.1-22-11.
2. The amount paid constitutes an additional lien on the real property in favor of the lienholder and is collectible, with interest at 10% per year from the time of payment, in the same manner as the original lien. See I.C. § 6-1.1-22-11.

Q. Effect of dishonored financial instrument.

1. If a property tax payment is made by:
   a. check;
   b. bank draft;
   c. money order;
   d. bank card or credit card; or,
   e. any other draft or financial instrument that is payable by a third party and the third party refuses to pay the amount of the payment to the county treasurer after proper presentment, the county treasurer is required to adjust the county treasurer’s records to remove any credit made for the payment.

   See I.C. § 6-1.1-22-6.5.

2. If the financial instrument is subsequently honored, the county treasurer is required to record the payment as being made on the date the financial instrument is honored. See I.C. § 6-1.1-22-6.5.

3. The county treasurer may deduct any costs incurred because of the dishonoring of the check before crediting the payment. See I.C. § 6-1.1-22-6.5.

4. Any costs incurred by the county treasurer because of the dishonoring of a draft are a liability of the taxpayer, which may be entered on the tax duplicate for the property. If entered on the tax duplicate, the amount of the liability is subject to interest, penalty, and collection in the same manner as all other special assessments. See I.C. § 6-1.1-22-12.1.

R. Comparison of list of persons to whom taxing unit owes money with tax delinquencies list.

1. On or before June 1 and December 1 of each year the responsible disbursing officers for each political subdivision, each state educational institution, and every other governmental entity in Indiana is required to certify and submit to the county treasurer the name and address of each person to whom money is owed or who is employed by the governmental entity to the county treasurer for the county where the employee works. A governmental entity that has an employee who works in more than one county will certify the information for the employee to the county where the employee has the employee’s principal office. See I.C. § 6-1.1-22-14(a) and (b).

2. Upon the receipt of this information, the county treasurer is required to search the treasurer’s records to ascertain if any person so certified to the treasurer is delinquent in the payment of property taxes.
3. If the county treasurer finds that a person whose name is certified to him or her is delinquent in the payment of his or her taxes, the county treasurer is required to certify the name of that person and the amount of the delinquency to the official of the political subdivision or other governmental entity who is to make payment to the person. The disbursing officer is required to periodically make deductions from money due the person and is required to pay the amount of these deductions to the county treasurer. See I.C. § 6-1.1-22-15.

4. On or before June 1 and December 1 of each year, each county treasurer is required to provide the state auditor, the Indiana Department of Transportation, and the board of trustees of each state institution or school with a list of each person who is delinquent in the payment of property taxes and who the county treasurer believes has money due the person from that state official or body. The auditor of state, the Indiana Department of Transportation, and the board of trustees of each state institution or school are required to then make periodic deductions from money due any person whose name is found on the delinquent tax list and are required to pay the amount of these deductions to the appropriate county treasurer. See I.C. § 6-1.1-22-16.

5. The county treasurer is required to apply the funds deducted to the delinquent taxes, penalties, and interest owed by that person until those items are paid in full. See I.C. § 6-1.1-22-17.

S. Penalties related to the collection of property taxes.

1. False returns. If a person makes and subscribes a property tax return, statement, or document (except a statement described in I.C. § 6-1.1-37-4 [false claim for veteran’s property tax deduction] or I.C. § 6-1.1-37-5 [false statement concerning assessment of forest land]) that he or she does not believe is correct in every material respect; and the return, statement, or document is certified to as to the truth of the information appearing in it, he or she has committed a Class D felony. See I.C. § 6-1.1-37-3.

2. A person who makes a false claim for the veteran’s property tax deduction or a false statement concerning assessment of forest land commits a Class B misdemeanor. See I.C. §§ 6-1.1-37-4 and 5.

3. A person who fails to file a personal property return required under I.C. § 6-1.1-3 or temporarily converts property which is taxable under this article into property not taxable to evade the payment of taxes on the converted property commits a Class A misdemeanor. See I.C. § 6-1.1-37-6.

4. Late personal property return. If a person fails to file a required personal property return on or before the due date, the county auditor will add a penalty of $25 to the person’s next property tax
installment. The county auditor will also add an additional penalty to the taxes payable by the person if he or she fails to file the personal property return within 30 days after the due date. The amount of the additional penalty is 20% of the taxes finally determined to be due with respect to the personal property which should have been reported on the return. See I.C. § 6-1.1-37-7(a). A penalty is due with an installment whether or not an appeal is filed under I.C. § 6-1.1-15-5 with respect to the tax due on that installment. See I.C. § 6-1.1-37-7(f). For purposes of assessing the penalty, a personal property return is not due until the expiration of any extension period granted by the township assessor under I.C. § 6-1.1-3-7(b). See I.C. § 6-1.1-37-7(b).

5. Incomplete personal property return. If a person subject to I.C. § 6-1.1-3-7(d) fails to include on a personal property return the information, if any, that the DLGF requires under I.C. § 6-1.1-3-9 or I.C. § 6-1.1-5-13, the county auditor will add a penalty to the property tax installment next due for the return. The amount of the penalty is $25. See I.C. § 6-1.1-37-7(d). A penalty is due with an installment whether or not an appeal is filed under I.C. § 6-1.1-15-5 with respect to the tax due on that installment. See I.C. § 6-1.1-37-7(f).

6. Undervaluation on personal property return. 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 5% of the value that should have been reported on the return, then the county auditor is required to add a penalty of 20% of the additional taxes finally determined to be due as a result of the under-valuation. The penalty will 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. See I.C. § 6-1.1-37-7(e). A penalty is due with an installment whether or not an appeal is filed under I.C. § 6-1.1-15-5 with respect to the tax due on that installment. See I.C. § 6-1.1-37-7(f).

7. Disposition of interest and penalty. The amount of interest or penalty collected from, or credited or refunded to, a taxpayer under this chapter is required to be credited or charged to the appropriate taxing units. See I.C. § 6-1.1-37-12.

X. Adjusted gross income tax.

A. Imposition of tax.

1. The adjusted gross income tax is imposed annually upon the adjusted gross income of every resident
person, and on that part of the adjusted gross income derived from sources within Indiana of every non-resident person; See I.C. § 6-3-2-1(a).

2. The adjusted gross income tax is also imposed annually on that part of the adjusted gross income derived from sources within Indiana of every corporation. See I.C. § 6-3-2-1(b).

3. The tax rate of the adjusted gross income tax imposed on persons is 3.4%. See I.C. § 6-3-2-1(a).

4. Except in qualified areas as defined in I.C. § 6-3-2-1.5, the tax rate of the adjusted gross income tax imposed on corporations is 8.5%. See I.C. § 6-3-2-1(b).

5. The meaning of and formulas for determining “adjusted gross income derived from sources within Indiana” can be found at I.C. § 6-3-2-2.

6. A partnership as such is not subject to adjusted gross income tax. Persons or corporations carrying on business as partners are to be liable for the tax only in their separate or individual capacities. See I.C. § 6-3-4-11.

B. Returns.

1. The following individuals and/or entities are required to file an adjusted gross income tax return with the IDSR:
   a. Every resident individual whose gross income is greater than the personal exemptions allowed by I.C. § 6-3-1-3.5(a)(3) and (a)(4).
   b. Every nonresident individual who has gross income from sources within the state of Indiana, except for a team member as defined in I.C. § 6-3-2-2.7 who is covered by a composite return filed under I.C. § 6-3-2-2.7.
   c. Every corporation, resident estate, resident trust, nonresident estate, and nonresident trust having for the taxable year gross income from sources within the state of Indiana. See I.C. § 6-3-4-1.

2. The taxpayer is required to make the return and pay the tax at the time fixed for filing the return without assessment or notice and demand from the IDSR. See I.C. § 6-3-4-5.

3. A deceased individual’s return is required to be made by the executor, administrator, or other person charged with the decedent’s property. See I.C. § 6-3-4-2(a).

4. The return of a person unable to make a return is required to be made by a duly authorized agent, the individual’s committee, guardian, fiduciary, or other person charged with the care of the person or the person’s property. See I.C. § 6-3-4-2(b).

5. An estate’s return or a trust’s return is required to be made by its fiduciary. See I.C. § 6-3-4-2(c).

6. If a husband and wife file a joint federal income tax return, they are required to file a joint Indiana
adjusted gross income tax return. Where a husband and wife file a joint Indiana adjusted gross income tax return, one spouse has no liability for the adjusted gross income tax imposed upon the income of the other spouse. I.C. § 6-3-4-2(d).

7. If a husband and wife file separate federal income tax returns, they must file separate Indiana adjusted gross income tax returns. See I.C. § 6-3-4-2(e).

8. Time for filing. Returns are required to be filed with the IDSR on or before the 15th day of the fourth month following the close of the taxable year. (April 15th for calendar-year taxpayers.) See I.C. § 6-3-4-3.

   a. Individuals.
      i. Individuals required to file federal estimated tax returns and to make estimated federal tax payments must also file estimated returns and make estimated payments of adjusted gross income tax to the state in the same manner except that “estimated tax” means the amount which the individual estimates as the amount of the Indiana adjusted gross income tax for the taxable year minus the sum of any estimated credits. See I.C. § 6-3-4-4.1(b).
      ii. Every individual who has income subject to the adjusted gross income tax and from which tax is not withheld by his or her employer is required to make a declaration of estimated tax for the taxable year, unless the estimated tax can reasonably be expected to be less than $400. See I.C. § 6-3-4-4.1(c).
      iii. Underpayment of the estimated tax will result in the addition of a penalty in an amount prescribed by I.C. § 6-8.1-10-2.1(b). See I.C. § 6-3-4-4.1(c).
   b. Corporations.
      i. Every corporation having an after-credit adjusted gross income tax liability exceeding $1,000 for its taxable year is required to report and pay, on a quarterly basis, an estimated tax equal to 25% of such corporation’s estimated adjusted gross income tax liability for the taxable year. See I.C. § 6-3-4-4.1(d) & (f).
      ii. Such estimated payment is required to be made on or before the 20th day of the fourth, sixth, ninth, and twelfth months of the corporation’s taxable year. See I.C. § 6-3-4-4.1(d).
      iii. The IDSR prescribes the manner and forms for such reporting and payment. See I.C. § 6-3-4-4.1(d).
iv. Corporations failing to make the required estimated payments will be assessed the penalty prescribed by I.C. § 6-8.1-10-2.1(b); however, no penalty will be assessed as to any estimated payments of adjusted gross income tax which equal or exceed:
(a) 20% of the final tax liability for such taxable year; or,
(b) 25% of the final tax liability for the taxpayer’s previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return will only be assessed on the difference between the actual amount paid by the corporation on such estimated return and 25% of the sum of the corporation’s final adjusted gross income tax for such taxable year. See I.C. § 6-3-4-4.1(e).

v. Special payment instructions for large tax liability. If the IDSR determines that a corporation’s estimated quarterly adjusted gross income tax liability for the current year or average estimated quarterly adjusted gross income tax liability for the preceding year exceeds $10,000, the corporation is required to pay the estimated adjusted gross income taxes due by electronic funds transfer or by delivering in person or overnight by courier a payment by cashier’s check, certified check, or money order to the IDSR. The transfer or payment is required to be made on or before the date the tax is due. See I.C. § 6-3-4-4.1(g).

vi. If a corporation’s adjusted gross income tax payment is made by electronic funds transfer, the corporation is not required to file an estimated adjusted gross income tax return. See I.C. § 6-3-4-4.1(h).

c. Partnerships. Unless it is exempt from income taxation under section 1363 of the Internal Revenue Code, every partnership doing business in Indiana, every partnership of which a resident is a partner, and every partnership which has gross income derived from sources within Indiana is required to make a return for each taxable year on the form prescribed by the IDSR. See I.C. § 6-3-4-10(a) & (b)

C. Withholding by employer.

1. Except for a county making wage payments to a precinct election officer and for an employer paying employees who have elected to receive the advance earned income tax credit, every employer making payments of wages subject to adjusted gross income tax, regardless of the place where such payment is made, who is required to withhold, collect, and pay over federal income tax on wages paid to its employees, is required to, at the time of payment of such wages, deduct and retain therefrom the amount prescribed in withholding instructions issued by the IDSR. See I.C. § 6-3-4-8(a), (d), and
2. The IDSR is required to base its withholding instructions on the adjusted gross income tax rate for persons, on the total rates of any income taxes that the taxpayer is subject to under I.C. § 6-3.5, and on the total amount of personal exemptions the taxpayer is entitled to under I.C. § 6-3-1-3.5(a)(3) and I.C. § 6-3-1-3.5(a)(4). See I.C. § 6-3-4-8(a).

3. The employer will be liable to the state of Indiana for the payment of the adjusted gross income tax required to be deducted and withheld and will not be liable to any individual for the amount deducted from his or her wages and paid over in compliance or intended compliance with the statute. See I.C. § 6-3-4-8(a)(1).

4. The amount of tax withheld is required to be paid to and the return filed with the IDSR monthly. See I.C. § 6-3-4-8(a)(2).

5. Time for payment.
   a. An employer is required to pay taxes the taxes withheld during a particular month to the IDSR no later than 30 days after the end of that month. See I.C. § 6-3-4-8(b).
   b. However, in place of monthly reporting periods, the IDSR may permit an employer to report and pay the tax:
      i. on a calendar year basis if the average monthly amount of all tax required to be withheld by the employer in the previous calendar year does not exceed $10;
      ii. on a six month reporting period, if the average monthly amount of all tax required to be withheld by the employer in the previous calendar year does not exceed $25;
      or,
      iii. on a quarterly basis, if the average monthly amount of all tax required to be withheld by the employer in the previous calendar year does not exceed $75.
      See I.C. § 6-3-4-8(b).
   c. An employer using a reporting period (other than a monthly reporting period) must file the employer’s return and pay the tax for a reporting period no later than the last day of the month immediately following the close of the reporting period. See I.C. § 6-3-4-8(b).
   d. If an employer files a combined sales and withholding tax report, the reporting period for the combined report is the shortest period required under I.C. § 6-3-4-8.1 or I.C. § 6-2.5-6-1.
      See I.C. § 6-3-4-8(b).

6. For purposes of determining whether an employee is subject to county adjusted gross income tax, an employer may rely on the statement of the employee as to his or her county of residence as
represented by the statement of address in forms claiming exemptions for purposes of withholding, regardless of when the employee supplied the forms. See I.C. § 6-3-4-8(c).

7. An employee must notify his or her employer within five days after any change in his or her county of residence. See I.C. § 6-3-4-8(c).

8. Information to be included on return. When remitting payment to the IDSR, the employer must also deliver a return using the form prescribed by the IDSR. The form must state:
   a. the total amount of wages paid to his or her employees;
   b. the amount deducted from the wages in accordance with the provisions of the Internal Revenue Code;
   c. the amount of Indiana adjusted gross income tax deducted;
   d. the amount of county adjusted gross income tax deducted; and,
   e. any other information the IDSR may require.
   See I.C. § 6-3-4-8(c).

9. Annual report to employees. Every employer making a declaration of withholding of adjusted gross income tax must furnish his or her employees annually, but not later than 30 days after the end of the calendar year, a record of the total amount of adjusted gross income tax and the amount of each county adjusted gross income tax, if any, withheld from the employees, on the forms prescribed by the IDSR. See I.C. § 6-3-4-8(e).

10. Once deducted and withheld by the employer, the money collected as adjusted gross income tax becomes the money of the state and the employer must hold the money in trust for the state of Indiana and for payment thereof to the IDSR in the manner and at the times required by statute. See I.C. § 6-3-4-8(f).

11. Any employer may be required to post a surety bond in the sum the IDSR determines to be appropriate to protect the state with respect to money withheld. See I.C. § 6-3-4-8(f).

12. Penalties. The provisions of I.C. § 6-8.1 relating to additions to tax in case of delinquency and penalties apply to employers subject to the provisions of this section. See I.C. § 6-3-4-8(g).

13. Personal liability of employer. Any adjusted gross income tax deducted or required to be deducted and remitted to the IDSR will be considered to be the tax of the employer, and the employer is to be considered the taxpayer. In the case of a corporate or partnership employer, every officer, employee, or member of such employer, who, as such officer, employee, or member is under a duty to deduct and remit such taxes is to be personally liable for such taxes, penalties, and interest. See I.C. § 6-3-4-8(g).
14. Amounts deducted from wages of an employee during any calendar year are to be considered to be in part payment of his or her adjusted gross income tax for the taxpayer’s taxable year which begins in such calendar year, and the employer’s return will be accepted by the IDSR as evidence in favor of the employee of the amount deducted from his or her wages. See I.C. § 6-3-4-8(h).

15. Excess deductions.
   a. If the total amount deducted exceeds the amount of adjusted gross income tax and county adjusted gross income tax due from the employee, the IDSR is required, after examining the return or returns filed by the employee, to refund the amount of the excess deduction. See I.C. § 6-3-4-8(h).
   b. However, the excess or any part thereof may be applied to any taxes or other claim due from the taxpayer to the state of Indiana or any subdivision thereof. See I.C. § 6-3-4-8(h).
   c. No refund will be made to an employee who fails to file his or her adjusted gross income tax and county adjusted gross income tax returns as required within two years from the due date of the return or returns. See I.C. § 6-3-4-8(h).
   d. No refund will be made if excess tax deducted is less than $1. See I.C. § 6-3-4-8(h).

16. An employer’s withholding in no way relieves any taxpayer from his or her obligation of filing an adjusted gross income tax or county adjusted gross income tax return at the time required. If the amount withheld by the employer is insufficient to pay the taxpayer’s total tax, such unpaid tax is required to be paid at the time prescribed by I.C. § 6-3-4-5. See I.C. § 6-3-4-8(i).

17. Employers of domestic service employees.
   a. If the employer of a domestic service employee enters into an agreement with that employee to withhold federal income tax, the employer may also withhold Indiana income tax on the domestic service employee’s wages on the employer’s Indiana individual income tax return in the same manner as allowed by section 3510 of the Internal Revenue Code. See I.C. § 6-3-4-8(j).
   b. To the extent allowed by section 1137 of the Social Security Act, an employer of a domestic service employee may report and remit state unemployment insurance contributions on the employee’s wages on the employer’s Indiana individual income tax return in the same manner as allowed by section 3510 of the Internal Revenue Code. See I.C. § 6-3-4-8(k).

18. Penalty for failure to remit withheld funds. A person who knowingly fails to remit the amounts withheld as adjusted gross income tax commits a Class D felony. See I.C. § 6-3-4-8(m).

D. Withholding by partnership.
1. Every partnership is required to, at the time that the partnership pays or credits amounts to any of its nonresident partners on account of their distributive shares of partnership income, for a taxable year of the partnership, deduct and retain therefrom the amount prescribed in the withholding instructions referred to in I.C. § 6-3-4-8. See I.C. § 6-3-4-12(a).

2. The partnership in paying or crediting any nonresident partner is liable to the state of Indiana for the payment of the adjusted gross income tax required to be deducted and retained and is not liable to such partner for the amount deducted from such payment or credit and paid over in compliance or intended compliance with the statute. See I.C. § 6-3-4-12(a)(1).

3. Time for reporting and payment.
   a. The partnership is required to make return of and payment to the IDSR monthly whenever the amount of adjusted gross income tax and county adjusted gross income tax due exceeds an aggregate amount of $50 per month. The payment is due on the 30th day of the following month, unless an earlier date is specified by section I.C. § 6-3-4-8.1. See I.C. § 6-3-4-12(a)(2).
   b. If the partnership pays or credits amounts to its nonresident partners only one time each year, the IDSR may permit a partnership to file one return and payment each year. The return and payment are due not more than 30 days after the end of the year. See I.C. § 6-3-4-12(g).
   c. If the aggregate amount of adjusted gross income tax and county adjusted gross income tax due does not exceed $50 per month, then such partnership is required to make return and payment to the IDSR quarterly, on such dates and in such manner as the IDSR prescribes, of the amount of tax it is required to withhold. See I.C. § 6-3-4-12(a).
   d. Reporting requirements.
      i. At the time each payment of adjusted gross income tax is made to the IDSR, the partnership is required to deliver to the IDSR a return upon such form as is required to be prescribed by the IDSR showing the total amounts paid or credited to its nonresident partners, the amount deducted therefrom, and such other information as the IDSR may require. See I.C. § 6-3-4-12(b).
      ii. Every partnership making the deduction and retention of adjusted gross income tax is required to furnish to its nonresident partners annually, but not later than 30 days after the end of its taxable year, a record of the amount of tax deducted and retained from such partners on forms to be prescribed by the IDSR. See I.C. § 6-3-4-12(b).

4. All money deducted and retained by the partnership as adjusted gross income tax will be,
immediately upon such deduction, the money of the state of Indiana and every partnership which deduces and retains such amounts of money will hold the same in trust for the state of Indiana and for payment thereof to the IDSR in the manner and at the times provided by statute. See I.C. § 6-3-4-12(c).

5. Any partnership may be required to post a surety bond in such sum as the IDSR determines to be appropriate to protect the state of Indiana with respect to money deducted and retained. See I.C. § 6-3-4-12(c).

6. The provisions of I.C. § 6-8.1 relating to additions to tax in case of delinquency and penalties apply to partnerships and for these purposes any amount deducted, or required to be deducted and remitted to the IDSR as adjusted gross income tax, is considered to be the tax of the partnership, and with respect to such amount it is to be considered the taxpayer. See I.C. § 6-3-4-12(d).

7. Amounts deducted from payments or credits to a nonresident partner during any taxable year of the partnership as adjusted gross income tax will be considered to be in part payment of the tax imposed on such nonresident partner for his or her taxable year within or with which the partnership’s taxable year ends. A return made by the partnership under I.C. § 6-3-4-12(b) is required to be accepted by the IDSR as evidence in favor of the nonresident partner of the amount so deducted for his or her distributive share. See I.C. § 6-3-4-12(e).

8. Remittance by the partnership of a nonresident’s adjusted gross income tax in no way relieves the nonresident partner from his or her obligations of filing an adjusted gross income tax or county adjusted gross income tax return, and any unpaid tax is required to be paid at the time prescribed by I.C. § 6-3-4-5. See I.C. § 6-3-4-12(f).

E. Withholding by subchapter S corporation.

1. Every subchapter S corporation is required to, at the time that it pays or credits amounts to any of its nonresident shareholders as dividends or as their share of the corporation’s undistributed taxable income, withhold the amount of adjusted gross income tax prescribed by the IDSR. See I.C. § 6-3-4-13(a).

2. The corporation is liable to the state of Indiana for the payment of the adjusted gross income tax required to be withheld and is not liable to such shareholder for the amount withheld and paid over. See I.C. § 6-3-4-13(a)(1).

3. Time for reporting and payment.
   a. When the aggregate amount of adjusted gross income tax and county adjusted gross income tax due exceeds $150 per quarter, then such corporation is required to make return and
payment to the IDSR quarterly, on such dates and in such manner as the IDSR is to prescribe, of the amount of adjusted gross income and county adjusted gross income tax it is required to withhold. See I.C. § 6-3-4-13(a)(2).

b. If the corporation pays or credits amounts to its nonresident shareholders only one time each year the IDSR may permit it to file one return and payment each year. The withholding return and payment are due on or before the fifteenth day of the third month after the end of the taxable year of the corporation. See I.C. § 6-3-4-13(g).

c. Reporting requirements.

i. At the time each payment is made to the IDSR, the corporation is required to deliver to the IDSR a return, upon such form as prescribed by the IDSR, showing the total amounts paid or credited to its nonresident shareholders, the amount of adjusted gross income tax withheld, and such other information as the IDSR may require. See I.C. § 6-3-4-13(b).

ii. The corporation is required to furnish to its nonresident shareholders annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax withheld on behalf of such shareholders on forms to be prescribed by the IDSR. See I.C. § 6-3-4-13(b).

4. All money withheld by a corporation as adjusted gross income tax is immediately upon being withheld the money of the state of Indiana and every corporation which withholds any amount of money under the provisions of this section is required to hold the same in trust for the state of Indiana and for payment thereof to the IDSR in the manner and at the times provided in the statute. See I.C. § 6-3-4-13(c).

5. The IDSR may require any corporation to post a surety bond in such sum as the IDSR determines to be appropriate to protect the state of Indiana with respect to money withheld as adjusted gross income tax. See I.C. § 6-3-4-13(c).

6. The provisions of I.C. § 6-8.1 relating to additions to tax in case of delinquency and penalties apply to corporations required to withhold adjusted gross income tax. See I.C. § 6-3-4-13(d).

7. Any amount withheld, or required to be withheld and remitted to the IDSR as adjusted gross income tax is considered to be the tax of the corporation, and with respect to such amount it is considered to be the taxpayer. See I.C. § 6-3-4-13(d).

8. Amounts withheld from payments or credits to a nonresident shareholder during any taxable year of the corporation for payment of adjusted gross income tax is considered to be a part payment of the
tax imposed on such nonresident shareholder for his or her taxable year within or with which the corporation’s taxable year ends. A return made by the corporation will be accepted by the IDSR as evidence in favor of the nonresident shareholder of the amount so withheld from the shareholder’s distributive share. See I.C. § 6-3-4-13(e).

9. The corporation’s withholding of adjusted gross income tax in no way relieves any nonresident shareholder from the shareholder’s obligation of filing an adjusted gross income tax or county adjusted gross income tax return and any unpaid tax is required to be paid at the time prescribed by I.C. § 6-3-4-5. See I.C. § 6-3-4-13(f).

10. Distributions made with property other than money and gains realized without the payment of money. If a distribution will be made with property other than money or a gain is realized without the payment of money, the corporation is required to not release the property or credit the gain until it has funds sufficient to enable it to pay the adjusted gross income tax. If necessary, the corporation is required to obtain such funds from the shareholders. See I.C. § 6-3-4-13(h).

11. If a corporation fails to withhold and pay any amount of adjusted gross income tax and thereafter the tax is paid by the shareholders, such amount of tax as paid by the shareholders is not to be collected from the corporation but the corporation will not be relieved from liability for any interest or penalty otherwise due in respect to such failure to withhold. See I.C. § 6-3-4-13(i).

12. An S corporation may file a composite adjusted gross income tax return on behalf of some or all nonresident shareholders if it complies with the requirements prescribed by the IDSR for filing a composite return. See I.C. § 6-3-4-13(j).

F. Withholding by trust or estate.

1. At the time a trust or estate distributes income to a nonresident beneficiary (except income attributable to interest or dividends), it is required to deduct and retain therefrom the amount of adjusted gross income tax prescribed in the withholding instructions referred to in I.C. § 6-3-4-8. See I.C. § 6-3-4-15(a).

2. The trust or estate is liable to the state for the adjusted gross income tax it is required to deduct and is not liable to the beneficiary for the amount of the adjusted gross income tax deducted from the distribution and paid to the IDSR. See I.C. § 6-3-4-15(a)(1).

3. Time for payment.
   a. The trust or estate is required to pay the amount deducted to the IDSR before the 30th day of the month following the distribution, unless an earlier date is specified by I.C. § 6-3-4-8.1. See I.C. § 6-3-4-15(a)(2).
b. Reporting requirements:
   i. At the time that it makes a payment of adjusted gross income tax to the IDSR, the trust or estate is required to deliver to the IDSR a return which shows the total amounts distributed to the trust’s or estate’s nonresident beneficiaries, the amount of adjusted gross income tax deducted from the distributions, and any other information required by the IDSR. The trust or estate is required to file the return on the form prescribed by the IDSR. See I.C. § 6-3-4-15(b).
   ii. A trust or estate which makes the deduction and retention of adjusted gross income tax is required to furnish to its nonresident beneficiaries annually, but not later than 30 days after the end of the trust’s or estate’s taxable year, a record of the amount of tax deducted and retained from the beneficiaries. The trust or estate is required to furnish the information on the form prescribed by the IDSR. See I.C. § 6-3-4-15(b).

4. The money deducted and retained by a trust or estate as adjusted gross income tax is money of the state of Indiana and every trust or estate which deducts and retains such tax is required to hold the money in trust for this state until it pays the money to the IDSR in the manner and at the time provided in the statute. See I.C. § 6-3-4-15(c).

5. The IDSR may require a trust or estate to post a surety bond to protect this state with respect to adjusted gross income tax deducted and retained by the trust or estate. The IDSR will determine the amount of the surety bond. See I.C. § 6-3-4-15(c).

6. Penalties. The provisions of I.C. § 6-8.1 relating to penalties or to additions to tax in case of a delinquency apply to trusts and estates required to withhold adjusted gross income tax. See I.C. § 6-3-4-15(d).

7. Any amount deducted, or required to be deducted and remitted to the IDSR, is considered the tax of the trust or estate, and with respect to that amount, it is considered the taxpayer. See I.C. § 6-3-4-15(d).

8. Amounts deducted as adjusted gross income from distributions to nonresident beneficiaries during a taxable year of the trust or estate are considered a partial payment of the tax imposed on the nonresident beneficiary for his or her taxable year within or with which the trust’s or estate’s taxable year ends. The IDSR will accept a return made by the trust or estate as evidence of the amount of tax deducted from the income distributed to a nonresident beneficiary. See I.C. § 6-3-4-15(e).

9. The reporting and payment requirements on the trust or estate do not relieve a nonresident beneficiary
of his or her duty to file a return at the time required under I.C. § 6-3 and the nonresident beneficiary is required to pay any unpaid tax at the time prescribed by I.C. § 6-3-4-5. See I.C. § 6-3-4-15(f).

G. Withholding from certain payments made to Indiana residents.

1. The payor of a periodic or nonperiodic distribution under an annuity, a pension, a retirement, or other deferred compensation plan, as described in section 3405 of the Internal Revenue Code, that is paid to a resident of Indiana is required to, upon receipt from the payee of a written request for state income tax withholding, withhold the requested amount from each payment. See I.C. § 6-3-4-15.7(a).

2. The request must be dated and signed by the payee and specify the flat whole dollar amount to be withheld from each payment. The request must also specify the payee’s name, current address, taxpayer identification number, and the contract, policy, or account number to which the request applies. See I.C. § 6-3-4-15.7(a).

3. The request remains in effect until the payor receives a written change in or revocation of the request from the payee. See I.C. § 6-3-4-15.7(a).

4. The payor is not required to withhold state income tax from a payment if the amount to be withheld is less than $10 or if the amount to be withheld would reduce the affected payment to less than $10. See I.C. § 6-3-4-15.7(b).

5. Report and remittance. The payor is responsible for custody of withheld funds, for reporting withheld funds to the state and to the payee, and for remitting withheld funds to the state in the same manner as is done for wage withholding, including utilization of federal forms and participation by Indiana in the combined Federal/State Filing Program on magnetic media. See I.C. § 6-3-4-15.7(c).

H. Circumstances requiring twenty day time limit for remittance of withholding and special requirements for large tax liability.

1. An employer, partnership, corporation or fiduciary required to file a monthly return and to make monthly remittances of adjusted gross income tax will be required to file those returns and make those remittances 20 days (rather than 30) after the end of the each month for which those returns and remittances are filed if:

   a. that entity’s average monthly remittance for the immediately preceding calendar year exceeds $1,000, see I.C. § 6-3-4-8.1(a);

   b. the IDSР estimates that the entity’s average monthly payment for the current calendar year will exceed $1,000, see I.C. § 6-3-4-8.1(b); or,

   c. the person files a combined sales and withholding tax report and he or she is required to file
either the sales or withholding report within 20 days after the end of each month. See I.C. § 6-3-4-8.1(d).

2. If the IDSR determines that an entity’s estimated monthly withholding tax remittance for the current year or average monthly withholding tax for the preceding year exceeds $10,000, the entity must remit to the IDSR the monthly withholding taxes due by electronic fund transfer or by delivering in person or by overnight courier a payment by cashier’s check, certified check, or money order. The transfer or payment must be made on or before the date the remittance is due. See I.C. § 6-3-4-8.1(e).

If an entity’s withholding tax remittance is made by electronic fund transfer, the entity is not required to file a monthly withholding tax return. However, the entity is required to file a quarterly withholding tax return before the 20th day following the end of each calendar quarter. See I.C. § 6-3-4-8.1(f).

3. If the IDSR determines that a withholding agent is not withholding, reporting, or remitting an amount of tax in accordance with I.C. § 6-3-4, the IDSR may require the withholding agent to make periodic deposits during the reporting period and to file an informational return with each periodic deposit. See I.C. § 6-3-4-8.1(c).

I. Distribution of collected taxes. Revenues derived from the imposition and collection of the adjusted gross income tax is to be allocated between and deposited in the Indiana general fund and the property tax replacement fund as follows:

1. Corporations.
   a. All revenues derived from collection of the adjusted gross income tax imposed on corporations must be deposited in the state general fund. See I.C. § 6-3-7-3(a).

2. Persons. All revenues derived from the collection of adjusted gross income tax imposed on persons is required to be deposited as follows:
   a. 86% in the state general fund; and,
   b. 14% in the property tax replacement fund.

   See I.C. § 6-3-7-3(b).

J. Penalties related to the collection of adjusted gross income tax.

1. A taxpayer who makes false entries in his or her books or keeps more than one set of books with the intent to defraud the state or to evade the payment of the tax or any part thereof, commits a Class D felony. See I.C. § 6-3-6-10(b).

2. Failure to make a required return or to make a false return or false statement in any return with the intent to defraud the state or to evade the payment of the tax or any part thereof commits a Class D
felony. See I.C. § 6-3-6-11(a).

XI. Indiana gross income tax (Repealed effective January 1, 2003).

XII. Sales and use taxes.

A. State gross retail tax.

1. Transactions subject to tax. The state gross retail tax is an excise tax imposed on retail transactions made in Indiana. See I.C. § 6-2.5-2-1(a). Three general categories are designated as retail transactions for purposes of the statute:
   a. transactions of a retail merchant that constitute selling at retail as described in I.C. § 6-2.5-4-1;
   b. transactions of a retail merchant that constitute making a wholesale sale as described in I.C. § 6-2.5-4-2; and
   c. transactions described in any other section of I.C. § 6-2.5-4 (“Retail Transactions of Retail Merchant”).

2. Liability for tax. The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, is required to pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. See I.C. § 6-2.5-2-1(b).

3. Responsibility for collection of tax. The retail merchant is required to collect the tax as agent for the state. See I.C. § 6-2.5-2-1(b).

4. The state gross retail tax rate is 6% of gross retail income. See I.C. § 6-2.5-2-2(a).

B. Use Tax.

1. Transactions subject to tax. The use tax is an excise tax imposed on:
   a. The storage, use or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making the transaction. See I.C. § 6-2.5-3-2(a).
      i. Retail transactions made from outside Indiana to a destination in Indiana by a person who does not maintain a place of business in Indiana and who engages in the regular or systematic soliciting of retail transactions from potential customers in Indiana are subject to use tax. A person is rebuttably presumed to be engaging in the regular or systematic solicitation of retail transactions from potential customers in Indiana if he or she does any of the following:
         (a) Distributes catalogs, periodicals, advertising flyers, or other written solicitations of business to potential customers in Indiana, regardless of
whether the distribution is by mail or otherwise and without regard to the
place from which the distribution originated or in which the materials were
prepared.

(b) Displays advertisements on billboards or displays other outdoor
advertisements in Indiana.

(c) Advertises in newspapers published in Indiana.

(d) Advertises in trade journals or other periodicals that circulate primarily in
Indiana.

(e) Advertises in Indiana editions of a national or regional publication or a
limited regional edition in which Indiana is included as part of a broader
regional or national publication if the advertisements are not placed in other
geographically defined editions of the same issue of the same publication.

(f) Advertises in editions of regional or national publications that are not by the
contents of the editions geographically targeted to Indiana but that are sold
over the counter in Indiana or by subscription to Indiana residents.

(g) Broadcasts on a radio or television station located in Indiana.

(h) Makes any other solicitation by telegraphy, telephone, computer data base,
cable, optic, microwave, or other communication system.

ii. A person not maintaining a place of business in Indiana is considered to be engaged
in the regular or systematic soliciting of retail transactions from potential customers
in Indiana if the person engages in any of the activities described above and:

(a) makes at least 100 retail transactions from outside Indiana to destinations
in Indiana during a period of 12 consecutive months; or,

(b) makes at least 10 retail transactions totaling more than $100,000 from
outside Indiana to destinations in Indiana during a period of 12 consecutive
months.

See I.C. § 6-2.5-8-10(c).

iii. The location in or outside Indiana of vendors that:

(a) are independent of a person that is soliciting customers in Indiana; and

(b) provide products or services to the person in connection with the person’s
solicitation of customers in Indiana, including products and services such
as creation of copy, printing, distribution, and recording; is not to be taken
into account in the determination of whether the person is required to collect use tax. See I.C. § 6-2.5-8-10(d).

b. The storage, use, or consumption of a vehicle, an aircraft or a watercraft, if the vehicle, aircraft, or watercraft is acquired in a transaction that is an isolated or occasional sale and is required to be titled, licensed, or registered by the state of Indiana for use in Indiana. See I.C. § 6-2.5-3-2(b).

c. The addition of tangible personal property to a structure or facility, if, after its addition, the property becomes part of the real estate on which the structure or facility is located, unless:

i. the state gross retail or use tax has already been imposed on the sale or use of that property; or

ii. the ultimate purchaser or recipient of the property would have been exempt from the tax if he or she had purchased the property directly from the supplier for addition to the structure or facility.

See I.C. § 6-2.5-3-2(c).

d. A person who:

i. manufactures, fabricates, or assembles tangible personal property from materials either within or outside Indiana; and uses, stores, distributes, or consumes tangible personal property in Indiana. See I.C. § 6-2.5-3-2(d).

e. There are a number of exemptions from use tax that can be found at I.C. § 6-2.5-3-2(e), I.C. § 6-2.5-3-4(a) and I.C. § 6-2.5-5-1, et seq.

2. Liability for tax. The person who uses, stores, or consumes tangible personal property acquired in a retail transaction is personally liable for the use tax. See I.C. § 6-2.5-3-6(b).


a. If the retail merchant is engaged in business in Indiana or if it has IDSR permission to collect the tax, the person liable for the use tax is required to pay the tax to the retail merchant. In all other cases, the person liable for the use tax is required to pay it to the IDSR. See I.C. § 6-2.5-3-6(c).

b. A person liable for use tax imposed in respect to a vehicle or watercraft is required to pay the tax to the titling agency when he or she applies for a title to the vehicle or watercraft. See I.C. § 6-2.5-3-6(d)(1).

c. A person liable for tax imposed in respect to an aircraft is required to pay the tax to the registering agency when he or she registers the aircraft. See I.C. § 6-2.5-3-6(d)(2).
d. If tangible property is accepted by a purchaser outside the state of Indiana but is stored, used, or otherwise consumed in Indiana, the purchase is subject to the tax and the Indiana purchaser is required to pay the tax directly to the IDSR. See 45 I.A.C. 2.2-3-21.

e. Receipt for tax. When a retail merchant collects use tax from a person, he or she is required to, upon request, issue a receipt to the person evidencing collection of the tax. See I.C. § 6-2.5-3-8(a).

4. Use tax rate. The use tax is imposed at the same rate as the state gross retail tax under I.C. § 6-2.5-2-2, currently 6%. See I.C. § 6-2.5-3-3.

5. Use tax credit. A person is allowed a credit against the use tax imposed on a particular item for any other similar tax already paid to another state, territory, or possession of the United States. See I.C. § 6-2.5-3-5.

C. Procedure for collection of sales and use taxes.

1. Returns.

  a. Frequency of filing.

     i. Each person liable for collecting the gross retail or use taxes must file monthly returns with the IDSR and remit the taxes collected during that month to the IDSR. Generally, returns must be filed each month. See I.C. § 6-2.5-6-1(a).

     ii. A person who has voluntarily registered as a seller under the Streamlined Sales and Use Tax Agreement; who is not a Model 1, 2, or 3 seller as defined in that Agreement; and whose liability for collections of state gross retail and use taxes under this section for the preceding calendar year did not exceed $1000 is not required to file a monthly gross retail and use tax return. See I.C. § 6-2.5-6-1(i).

     iii. Instead of monthly reporting periods, the IDSR may permit a person to divide a year into periods covering:

         (a) A calendar year, if the retail merchant’s average monthly gross retail and use tax liability in the previous calendar year did not exceed $10;

         (b) A calendar half-year, if the retail merchant’s average monthly gross retail and use tax liability in the previous calendar year did not exceed $25; or,

         (c) A calendar quarter, if the retail merchant’s average monthly gross retail and use tax liability in the previous calendar year did not exceed $75.

If the taxpayer uses any of these reporting periods, it is required to report and pay the tax for a period no later than the last day of the month immediately following the
close of that reporting period. See I.C. § 6-2.5-6-1(d).

iv. The IDSR may also allow a taxpayer to divide the year into a different number of reporting periods. See I.C. § 6-2.5-6-1(c).

v. If the merchant uses a fiscal year or fiscal quarter for purposes of reporting his or her Indiana gross income tax or other like tax, the merchant may report and pay his or her gross retail and use taxes over his or her fiscal period that corresponds to the calendar year period the merchant is permitted to use under the above section. See I.C. § 6-2.5-6-1(e).

vi. If the retail merchant files combined sales and withholding tax reports, the reporting period for the combined report is the shortest period under I.C. § 6-2.5-6-1, I.C. § 6-3-4-8 or I.C. § 6-3-4-8.1. See I.C. § 6-2.5-6-1(f).

b. Time for filing.

i. If the person’s average monthly gross retail and use tax liability during the preceding calendar year did not exceed $1,000, the return is required to be filed and the payment made not more than 30 days after the end of that month. See I.C. § 6-2.5-6-1(a).

ii. If the person’s average monthly gross retail and use tax liability during the preceding calendar year exceeded $1,000, the return is required to be filed and the payment made not more than 20 days after the end of that month. See I.C. § 6-2.5-6-1(a).

iii. If the person files a combined sales and withholding tax report and he or she is required by statute to file tax reports within 20 days after the end of each month, then he or she is required to file the combined report and submit the sales and withholding taxes due within 20 days after the end of each month. See I.C. § 6-2.5-6-1(b).

c. Special procedures for retail merchants with large tax liability. If the retail merchant’s estimated monthly gross retail and use tax liability for the current year or average monthly gross retail and use tax liability for the preceding year (as determined by the IDSR) exceeds $10,000, the merchant is required to pay his or her monthly gross retail and use taxes by electronic fund transfer or by delivering a cashier’s check, certified check or money order to the IDSR in person or by overnight courier. See I.C. § 6-2.5-6-1(g).

d. Accounting method. If a retail merchant uses the accrual basis to pay and report his or her
Indiana adjusted gross income tax or other like tax, he or she may, without prior IDSR approval, report and pay his or her gross retail and use taxes on an accrual basis. The IDSR has the power to require the merchant to stop using the accrual basis at any time. See I.C. § 6-2.5-6-2.

e. Consolidated returns. If a retail merchant, wholesaler, or manufacturer holds multiple certificates under I.C. § 6-2.5-8 in order to make retail transactions at more than one store or location, the retail merchant may apply for IDSR permission to file a consolidated state gross retail and use tax return for all those stores and locations. If the IDSR allows the consolidated filing, the retail merchant, wholesaler, or manufacturer must keep sufficient records to allow the IDSR to determine the separate state gross retail and use tax liability for each store or location and to show any information that the IDSR requires on the consolidated return. See I.C. § 6-2.5-6-3.

f. When periodic payments required. A retail merchant may be required to make periodic deposits of his or her collections and to file informational returns during his or her reporting period if the IDSR feels that the merchant is not properly collecting, reporting, or paying the state gross retail and use taxes. See I.C. § 6-2.5-6-4.

2. Cessation of responsibility. If a retail merchants stops doing the kind of business which would require him or her to file returns and make payments with respect to gross retail and use tax, he or she is required to file a final return with the IDSR no later than one month after the date the business stops. See I.C. § 6-2.5-6-5.

3. Coordination with Indiana gross income tax. When possible the IDSR is required to coordinate the reporting and payment of gross retail and use taxes with the reporting and payment of the Indiana gross income tax. See I.C. § 6-2.5-6-6.

4. Collection allowance. To compensate retail merchants for collecting and timely remitting state gross retail and use tax, the merchant is allowed to deduct and retain from his or her tax liability an allowance equal to 0.83% of his or her gross retail and use tax liability during the reporting period. Power subsidies, public utilities, telephone utilities, and telegraph utilities are not entitled to the collection allowance. See I.C. § 6-2.5-6-10.

5. Deduction for extending assistance. A retail merchant who extends assistance under a home energy assistance program (see I.C. § 12-14-11) may deduct from his or her gross retail and use tax payment an amount equal to all or part of the aggregate assistance extended. See I.C. § 6-2.5-6-11.

6. Requirement to post security. If the IDSR feels it necessary to insure the payment of state gross retail
or use taxes, it may require a retail merchant to post security for the payment in an amount not to exceed twice the IDSR’s estimate of the merchant’s quarterly gross retail and use tax liability. See I.C. § 6-2.5-6-12.

7. Direct payment permit. A retail merchant, manufacturer or wholesaler who is registered to collect gross retail and use taxes may apply to the IDSR and be issued a direct payment permit. The holder of a direct payment permit may issue a direct payment certificate to the retail merchant in lieu of paying the tax. The tax must then be paid directly to the IDSR. The certificate relieves the retail merchant from the responsibility of collecting or remitting the tax on that transaction. The IDSR may revoke a direct payment certificate, without cause, at any time. See I.C. § 6-2.5-8-9.

D. Penalties.

1. A retail merchant responsible for reporting and remitting gross retail and use taxes holds those taxes in trust for the state and is personally liable to the state for the payment of those taxes plus any penalties and interest attributable to the taxes. An individual who knowingly fails to collect or remit the taxes to the state commits a Class D felony. See I.C. § 6-2.5-9-3.

2. A retail merchant who offers to assume or absorb part of a customer’s state gross retail or use tax on a sale or to refund part of a customer’s state gross retail or use tax as part of a sale commits a Class B infraction. See I.C. § 6-2.5-9-4.

3. A person who fails to remit all or part of the gross retail or use tax due as the result of the purchase of a vehicle, aircraft or watercraft commits a Class A misdemeanor. See I.C. § 6-2.5-9-6.

4. Failure to keep tax records open for inspection by the IDSR is a Class D felony. See I.C. § 6-2.5-9-8(a).

5. A person who makes false entries in a tax record or keeps more than one set of tax records with the intent to defraud the state or evade remittance of the tax commits a Class D felony. See I.C. § 6-2.5-9-8(b).

E. Distribution of collected taxes.

1. The IDSR is required to account for all gross retail and use taxes it collects. See I.C. § 6-2.5-10-1(a).

2. The taxes collected are to be deposited and paid as follows:
   a. 50% to the property tax replacement fund;
   b. 49.192% to the Indiana general fund;
   c. 0.635% to the public mass transportation fund;
   d. 0.033% to the industrial rail service fund; and,
   e. 0.14% to the commuter rail service fund.
F. Application of Indiana adjusted gross income tax law to the collection of sales and use tax law.

1. The provisions of the Indiana adjusted gross income tax law (see I.C. § 6-3) which do not conflict with I.C. § 6-2.5 and which deal with the notification, assessment, collection and remittance of tax liability apply for purposes of collecting the state gross retail and use taxes. See I.C. § 6-2.5-10-2.

G. Simplified Sales and Use Tax Administration Act.

1. Indiana has taken steps toward simplifying the sales and use tax system currently in place by authorizing participation in an initiative which was originally titled Streamlined Sales Tax Project, and which initiative has since been shortened its title to Streamlined Sales Tax (SST). Member states of SST have enacted legislation in order to comply with the Streamlined Sales And Use Tax Agreement (SSUTA). SST was created by and is comprised of participating governments of the 50 United States and the District of Columbia for the purpose of developing measures to design, test and implement a simplified sales and use tax system. For more information about SST on a national level, see Streamlined Sales Tax Project Executive Summary, which can be found at: http://www.streamlinedsaletax.org/execsum0105.pdf.

2. The Simplified Sales and Use Tax Administration Act (see I.C. § 6-2.5-11-5) is evidence of the state of Indiana’s commitment to participate in the project as shown by its findings:
   a. The General Assembly has found that a simplified sales and use tax system would reduce and eventually eliminate the burden and cost for all vendors to collect the state’s sales and use tax. See I.C. § 6-2.5-11-3.
   b. The legislature has recommended that the state participate in multi-state discussions to review, amend, or review and amend the terms of the current proposed Agreement to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and all types of commerce. See I.C. § 6-2.5-11-3.
   c. For purposes of those discussions, four delegates are to be appointed as follows:
      i. one member of the house of representatives, appointed by the speaker of the house of representatives;
      ii. one member of the senate, appointed by the president pro tempore of the senate;
      iii. one individual appointed by the Governor; and,
      iv. the commissioner of the IDSR.
   d. Each delegate, with the exception of the commissioner of the IDSR (who is an ex officio member) serves at the pleasure of the officer who appointed that particular delegate.
e. Each delegate who is not a state employee is entitled to the minimum salary per diem provided by I.C. § 4-10-11-2.1(b). The delegate is also entitled to reimbursement for traveling expenses as provided under I.C. § 4-13-1-4 and other expenses actually incurred in connection with the delegate's duties as provided in the state policies and procedures established by the Indiana Department of Administration and approved by the budget agency. Expenses incurred are paid out of the funds appropriated to the IDSR.

f. Each delegate who is a state employee but who is not a member of the General Assembly is entitled to reimbursement for traveling expenses as provided under I.C. § 4-13-1-4 and other expenses actually incurred in connection with the delegate's duties as provided in the state policies and procedures established by the Indiana Department of Administration and approved by the budget agency.

g. Each delegate who is a member of the General Assembly is entitled to receive the per diem, mileage, and travel allowances paid to members of the General Assembly under travel policies established by the legislative council. Per diem, mileage, and travel allowances for such individuals are to be paid from appropriations made to the legislative council or the legislative services agency.

See I.C. § 6-2.5-11-4.

h. The General Assembly has authorized the IDSR to:
   i. enter into such an Agreement with one or more states;
   ii. act jointly with other states that are members of the Agreement to establish standards for certification of certified service providers and certified automated systems and to establish performance standards for multistate sellers;
   iii. to take other actions reasonably required to implement such an Agreement;
   iv. to adopt rules and to procure jointly with other states goods and services in furtherance of the cooperative Agreement; and,
   v. to represent the state of Indiana before the other states that have signed the Agreement.

See I.C. § 6-2.5-11-5.

3. No provision of the Agreement in whole or in part invalidates or amends any provision of the law of Indiana. Adoption of the Agreement by the state of Indiana does not amend or modify any Indiana law. Implementation of any condition of the Agreement in Indiana, whether adopted before, at, or after membership in the Agreement must be by the action of the state of Indiana. See I.C. § 6-2.5-11-
6. Requirements in the Agreement. The IDSR is not permitted to enter into the Agreement unless the Agreement requires each state to abide by the following requirements:

a. Simplified State Rate. The Agreement must set restrictions to limit over time the number of state rates.

b. Uniform Standards. The Agreement must establish uniform standards for the following:
   i. The sourcing of transactions to taxing jurisdictions;
   ii. The administration of exempt sales; and,
   iii. Sales and use tax returns and remittances.

c. Central Registration. The Agreement must provide a central electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

d. No Nexus Attribution. The Agreement must provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.

e. Local Sales and Use Taxes. The Agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:
   i. Restricting variances between the state and local tax bases
   ii. Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;
   iii. Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and,
   iv. Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

f. Monetary Allowances. The Agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The Agreement must allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity to be completed on or before July 1, 2002.

g. State Compliance. The Agreement must require each state to certify compliance with the
terms of the Agreement before joining and to maintain compliance, under the laws of the member state, with all provisions of the Agreement while the state is a member.

h. Consumer Privacy. The Agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

i. Advisory Councils. The Agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult in the administration of the Agreement.

See I.C. § 6-2.5-11-7.

5. Provisions In The Agreement. The authorized Agreement is an accord among individual cooperating sovereign states in furtherance of their governmental functions. The Agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state. See I.C. § 6-2.5-11-8.

6. The state of Indiana is only intended beneficiary of Agreement and permits no individual causes of action. The Agreement authorized by the General Assembly binds and inures only to the benefit of the state of Indiana and the other member states. No person, other than a member state, is an intended beneficiary of the Agreement. Any benefit to a person other than a state is established by the law of the state of Indiana and the other member states and not by the terms of the Agreement.

a. Consistently, no person is allowed any cause of action or defense under the Agreement or by virtue of the state of Indiana's approval of the Agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the state of Indiana, or any political subdivision of the state of Indiana on the grounds that the action or inaction is inconsistent with the Agreement.

7. No law of Indiana, or the application thereof, may be declared invalid as to any person or circumstance on the grounds that the provision or application is inconsistent with the Agreement.

See I.C. § 6-2.5-11-9.

8. Certified Services Providers. A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section.

a. A seller that contracts with a certified service provider is not liable to the state for sales or
use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider.

b. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

9. A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

10. A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an Agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

11. The IDSR is to allow any monetary allowances that are provided by the member states to sellers or certified service providers in exchange for collecting the sales and use taxes as provided in article VI of the Agreement.

See I.C. § 6-2.5-11-10.

12. A copy of the SSUTA, along with a list of participating states, an update on the project’s status, a timeline for the project and many other details can be viewed by visiting SST’s web site at http://www.streamlinesalestax.org.