

## CHAPTER 11

MISCELLANEOUS DUTIES AND OTHER MATTERS  
RELATING TO THE OFFICE OF THE TOWNSHIP TRUSTEE

**GENERAL INFORMATION**

**ADVERTISING**

IC 5-3-1-3 applies when another statute requires meetings or notices to be published. If the statute that requires the meeting does not mention IC 5-3-1-3, then you would follow the requirements of the open-door law (IC 5-14-1.5). Meetings that follow the requirements of the open-door law would require notice posted 48 hours in advance and it is not required to publish notice in the newspaper(s).

The dates and the medium of certain notices required by statute are outlined below:

1. Notice of meetings not specifically mentioned in statute – 48 hours (Notice by Township Office).
2. Elections – 10 days before the date of the election (Newspaper).
3. Sale of Bonds – 15 days before the sale and the second publication at least 3 days before the sale (Newspaper).
4. Receiving Bids – published twice, with at least 1 week apart and at least 7 days before bids are received (2 Newspapers).
5. Establishment of Cumulative or Sinking fund – published twice, with at least 1 week apart and at least 3 days before hearing (Newspaper).
6. Publication of Annual Report – within 4 weeks after the third Tuesday following the first Monday in February (1 Newspaper). IC 5-3-1-3(f)
7. Indebtedness of Township – first Monday of August (Notice by Township Office).
8. Budgets – Refer to the Budget and Tax Rate Calendar provided by the Department of Local Government Finance (DLGF).

If the Officer is charged with the duty of publishing any notice required by law and is unable to procure publication of the notice at either (1) the price fixed by law, (2) because newspapers qualified to publish refuse to publish, or (3) because newspapers qualified to publish refuse to post notice on their respective websites, it is sufficient for the officer to post printed notices in three prominent places in the Township.

IC 5-3-1-2.3 applies to notices containing errors or omissions. Notice is not required to be republished if (1) a reasonable person would not be misled by the error or omission and (2) the notice is in substantial compliance with the time and publication requirements.

**BREAK-INS, BURGLARIES OR OTHER CRIMES**

Break-Ins, burglaries or other crimes committed against the governmental unit must be documented by the filing of an official police report. Insurance companies must be contacted to request payment for any allowable coverage.

**BUDGETED LINE ITEMS**

Disbursements must be paid from properly authorized line items.

### COMPUTER OUTPUT

Public records, financial statement information and supporting information generated through a computer system must be printed out on paper, backed-up electronically or maintained on-line at the end of each reporting year and retained for audit. Information must be maintained in a manner that will allow access for audit and public inquiry on the equipment of the governmental unit.

### CRIME INSURANCE POLICIES

Crime insurance policies permitted by law must be recorded in the same manner as official bonds under IC 5-4.

### TRUSTS AND ENDOWMENTS

Each governmental unit is responsible for complying with any requirements of trust agreements or endowments received which are not contrary to state statute or constitutional provisions.

### VARIOUS ACCOUNTING GUIDES, MANUALS AND OTHER PUBLICATIONS

Compliance is required, as applicable, with generally accepted accounting principles, and standards issued by the Governmental Accounting Standards Board, Financial Accounting Standards Board, and other standards setting bodies and with various accounting guides, manuals and other publications.

### VENDING, CONCESSIONS OR OTHER SALES CONTROLS

Internal controls over vending operations, concessions or other sales should include, at a minimum, a regular reconciliation of the beginning inventory, purchases, distributions, items sold and ending inventory to the amount received. Any discrepancies noted should be immediately documented in writing to proper officials. The reconciliation should provide an accurate accounting.

Persons with access to vending should be properly designated and access should be limited to those designated.

## INTERNAL CONTROLS

### Standards

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making.

Indiana Code 5-11-1-27(e) provides that through the compliance guidelines authorized under IC 5-11-1-24 the state board of accounts shall define the acceptable minimum level of internal control standards for internal control systems of political subdivisions, including the following: (1) Control Environment. (2) Risk Assessment. (3) Control Activities. (4) Information and Communication. (5) Monitoring.

In response, the SBOA developed the [Uniform Internal Control Standards for Indiana Political Subdivisions manual](#), which contains the acceptable minimum level of internal control standards.

[Generally Accepted Government Auditing Standards](#) (the "Yellow Book") prohibits the SBOA from prescribing the actual internal control procedures to be used by a political subdivision. However, the manual provides examples and case studies to demonstrate implementation strategies.

### Internal Control Policy and Required Certifications

After June 30, 2016 IC 5-11-1-27(g) provides that the legislative body of each political subdivision must adopt the minimum internal control standards as defined by SBOA. Additionally, the legislative body must ensure that personnel receive training concerning the internal control standards and procedures adopted by the political subdivision.

At the time of submission of the Annual Financial Report (AFR) through Gateway, the fiscal officer must certify that the minimum internal control standards have been adopted and that personnel who are not otherwise on leave status have received training regarding these standards and procedures. Instructions for filing will be found as part of the AFR submission.

Apart from the required certification to be filed by the fiscal officer in Gateway during the submission of the Annual Financial Report (AFR) due March 1, 2017 a certification for each elected official, appointee, and employee that meets the definition of personnel in IC 5-11-1-27(c), should be signed as evidence for their individual training. A certification form is provided below and can also be found under the Appendix found in the Uniform Internal Control Standards for Indiana Political Subdivisions manual. These certifications are to be maintained by the political subdivision on-site.

### [Certification Form](#)

### INTERNAL CONTROL TRAINING

Indiana Code 5-11-1-27(f) provides that the SBOA develop or designate approved personnel training materials concerning internal controls. The SBOA has developed and is providing the following training materials on internal controls: [Webinar Link](#).

Uniform Internal Control Standards for Indiana Political Subdivisions manual by the SBOA  
Live presentations by the SBOA at the annual called meetings and conferences around the state.

## DEPOSITORIES

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Every public officer in this state, who receives or distributes public funds, shall keep a cash book wherein there shall be entered daily by item all receipts of public funds. The cash book shall be balanced daily, shall show funds on hand at the close of each day, and shall be a public record and open to public inspection. IC 5-13-5-1

All funds collected by the township trustee shall be deposited on or before the first and fifteenth day of each month and in the same form they are received. All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. IC 5-13-6-1

### Financial Institutions with Which the Township May Deposit Funds

Pursuant to IC 5-13-8-1(a), a political subdivision may deposit public funds in a financial institution only if the financial institution:

1. Is a depository eligible to receive state funds; and
2. Has a principal office or branch that is located within the territorial limits of the political subdivision, except as provided below:

**No Financial Institution Within the County or Political Subdivision.** If there is no principal office or branch of a financial institution located in the county or political subdivision or if no financial institution with a principal office or branch in the county or political subdivision will accept public funds, the board of finance of the county and the boards of finance of the political subdivisions in the county shall designate one or more financial institutions with a principal office or branch outside of the county or political subdivision, and in the State, as a depository or depositories. [IC 5-13-8-9(c)]

**Only One Financial Institution Located in the County or Political Subdivision.** IC 5-13-8-9(e) provides that if only one financial institution with a branch or principal office in a county or political subdivision is willing to accept public funds, the board of finance of the county or political subdivision may:

1. Treat the financial institution that is located within the county or political subdivision as if the financial institution were not located within the county or political subdivision; and
2. Designate one or more financial institution to receive public funds under the requirements of IC 5-13-8-9(c).

Political Subdivision District Crosses County Lines. If the political subdivision crosses one or more county lines, the local board of finance may limit its boundaries to that portion of the district within the county where its principal office is located. [IC 5-13-8-9(a)]

**Note, this subsection does not apply to a city, town or school corporation.**

The State Board of Finance shall make available information concerning financial institutions eligible to receive state funds as may be requested by a local board of finance. A local board of finance may rely on the certificate regarding the minimum capital ratio requirements in determining to deposit public funds or reinvest public funds in the financial institution. [IC 5-13-8-1(b)]

All township warrants shall be drawn by the township trustee directly against a township depository. All checks drawn upon depositories shall be signed by public officers authorized to sign the same in their official capacity. IC 5-13-5-2

## PURCHASES, EXPENSES, AND PAYMENTS

### DECEASED PERSON - PAYMENT OF FUNDS DUE

The State Board of Accounts is often asked the correct method of making payment of money due an official, employee, or other person who has died. If an executor, administrator or personal representative has been designated by the court, payment should be made to such executor, administrator or personal representative. Payment may be made to a person claiming to be entitled to payment or delivery of property of the decedent without awaiting the appointment of a personal representative or the probate of a will when an affidavit is presented stating (a) no petition for the appointment of a personal representative is pending or has been granted, and (b) forty-five (45) days have elapsed since the death of the decedent, and (c) the value of the gross probate estate less liens and encumbrances thereon does not exceed fifty thousand dollars (\$50,000), and (d) the claimant is entitled to payment or delivery of the property. IC29-1-8-1 A form of affidavit acceptable in fulfilling the intent of the above referenced law will be furnished upon request.

### EXPENSE REIMBURSEMENT ITEMIZATION

All claims, invoices, receipts, accounts payable vouchers, including those presented to the governing body for approval in accordance with IC 5-11-10, must contain adequate detailed documentation. All claims, invoices, receipts, and accounts payable vouchers regarding reimbursement for meals and expenses for individuals must have specific detailed information of the names of all individuals for which amounts are claimed, including the nature, name, and purpose of the business meeting, to enable the governing body to authorize payment. Payments which do not have proper itemization showing the business nature of the claim may be the personal obligation of the responsible official, employee or another person for whom the claim is made.

### REPAYMENTS AND REFUNDS

Persons, companies, or governmental units that have overpaid amounts to a governmental unit are entitled to a repayment or refund by check or warrant.

Payments or transfers which are not authorized by law, ordinance, resolution, or court order must be reimbursed or transferred to the appropriate fund.

### USE OF FUNDS APPROPRIATED FOR COMMUNITY SERVICES

IC 36-6-4-8(a) allows the township trustee to use the township's share of state, county, and township tax revenues and federal revenue sharing funds for all categories of community services, if these funds are appropriated for these services by the township legislative body.

The trustee may use the funds for both operating and capital expenditures.

IC 36-6-4-8(b) states "...with the consent of the township legislative body, the township may contract with corporations for health and community services **not specifically provided by another governmental entity.**"

Our audit position is that there needs to be a contract in place which would show that the township will give an organization a fixed dollar amount and in return the organization will provide a certain community service to the citizens of the Township.

PRE-SIGNING DOCUMENTS

Checks and receipts must be prepared timely and not signed in advance of the event or transaction.

SPECIAL PURCHASES

The State Board of Accounts encourages the bidding and quote procedures whenever applicable to help ensure receiving competitive pricing for governmental units. However, IC 5-22-10-1 provides "Notwithstanding any other provision of this article, a purchasing agent may make a purchase under this chapter without soliciting bids or proposals."

Supply purchases are a possibility for consideration of the special purchase provisions of IC 5-22-10-1 et seq. However, we are of the audit position, townships should obtain the written position of the township attorney as to which section of IC 5-22-10 might be applicable to any particular situation. An example might be the township attorney advises IC 5-22-10-15 is applicable. IC 5-22-10-15 states "(a) A purchasing agent may purchase supplies if the purchase is made from a person who has a contract with a federal agency and the person's contract with the federal agency requires the person to make the supplies available to the state or political subdivisions. (b) A purchasing agent for a political subdivision may purchase supplies if the purchase is made from a person who has a contract with a state agency and the person's contract with the state requires the person to make the supplies or services available to political subdivisions, as provided in IC 4-13-1.6 or IC 5-22-17-9."

The written position of the township attorney should then be attached to the completed Special Purchase Contract File List Form (sample in the appendix) and retained and for audit as a public record.

TRANSFERSTRANSFER OF FUNDS

Whenever the purposes of a tax levy have been fulfilled, the township board shall have authority to order the trustee to transfer any unused and unencumbered balance in the fund resulting from such general or special levy to the township fund or rainy day fund. Funds for redemption of township assistance obligations are transferred to the Township Assistance Fund. IC 36-1-8-5

TEMPORARY TRANSFER BETWEEN FUNDS

The fiscal body of a political subdivision may, by resolution, permit the transfer of a prescribed amount, for a prescribed period, to a depleted fund from another fund of the political subdivision if it must be necessary to borrow money to enhance the depleted fund; there must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred; the prescribed period must end during the budget year of the year in which the transfer occurs, except as authorized by IC 36-1-8-4(b); the amount transferred must be returned to the other fund at the end of the prescribed period; and, only revenues derived from the levying and collection of property taxes or special taxes or from operation of the political subdivision may be included in the amount transferred. If the fiscal body of a political subdivision determines that an emergency exists that requires an extension of the prescribed period of a transfer under this section, the prescribed period may be extended for not more than six (6) months beyond the budget year of the year in which the transfer occurs if the fiscal body does the following: (1) Passes a resolution that contains the following: (A) A statement that the fiscal body has determined that an emergency exists. (B) A brief description of the grounds for the emergency. (C) The date the loan will be repaid that is not more than six (6) months beyond the budget year in which the transfer occurs. (2) Immediately forwards the resolution to the State Board of Accounts and the Department of Local Government Finance. IC 36-1-8-4

Such temporary transfer should be affected by issuing a warrant and receipt for the amount of the transfer. The warrant should be endorsed and deposited in the depository account designated for the depleted fund. No appropriation is required either for the transfer or the repayment. No interest should be charged on any such temporary transfer.

RAINY DAY FUND

Pursuant to IC 36-1-8-5.1, a Township can establish a Rainy Day Fund (RDF) through the adoption of a resolution. The resolution must state the following: (1) the purposes of the RDF and (2) the sources of funding for the RDF. The sources of funding can include dormant funds (IC 36-1-8-5), or any other funding source specified in the resolution and not otherwise prohibited by law.

In addition, a Township can transfer an amount from a fund as long as it is authorized by the resolution, does not exceed 10% of the total annual budget for the current and prior fiscal years, and is not from a debt service fund.

Our position is that a unit can transfer money from an appropriated fund to the RDF as long as the purpose of the levy has been fulfilled (and the Township Board has stated such) and the transfer does not exceed 10% of the total annual budget. Also, any fund that has been declared dormant (by the Township Board) under IC 36-1-8-5 can be transferred to the RDF. Please note that Debt Service Funds are explicitly prohibited from being transferred to the RDF.

Township funds that **cannot** be transferred to the RDF:

Township Assistance	IC 12-20-21-3 states: "The funds are continuing funds and do NOT revert to any other fund at the end of the year."
Fire Protection Territories	C 36-8-19-8 states in part: "...money in this fund cannot be used for any other expenses."
Park & Recreation	C 36-10-7-7 states in part: "to be used...for the maintenance and improvement of the park and for no other purpose."

Township funds that **can** be transferred to the RDF:

Township (General)	Can be transferred to RDF, subject to max of 10% total annual budget
Cumulative Fire	Can be transferred to RDF, subject to max of 10% total annual budget [IC 36-8-14] - NOTE: If money is transferred from a Cum fund, the DLGF will probably question if you still need that tax levy.
Fire	Can be transferred to RDF, subject to max of 10% total annual budget

Township funds that **could** be in the Township General fund, depending on other information:

Donations	If it is a nonrestricted donation, it would go to the Township General fund. If it is a restricted donation, we would audit to agreement.
Cemetery	If a cemetery is conveyed to a township, all the assets, funds, cash, etc. may only be used in connection with that cemetery [IC 23-14-64-3], and therefore could not be transferred to the RDF. However, if the township has established a cemetery, the expenses shall be paid out of the Township General fund [IC 23-14-69-9].

**MISCELLANEOUS DUTIES****YEAR END REPORTING****Report of Names, Addresses, Duties and Compensation of Public Employees (Annual Personnel Report - Form 100R)**

Every township shall, during the month of January of each year, prepare, make, and sign a certified report, correctly and completely, showing the names and business addresses of each and all officers, employees, and agents in their respective offices, and the respective duties and compensation of each with the state board of accounts. The report must indicate whether the township offers a health plan, a pension, and other benefits to fulltime and part-time employees. The report must be filed electronically through the State Gateway. The Department of Local Government Finance may not approve the budget of a township or a supplemental appropriation for a township until the township files the report for the preceding calendar year. IC 5-11-13-1

The report must include a statement by the trustee regarding whether the township has implemented a Nepotism policy under IC 36-1-20.2 and a contracting policy. IC 36-1-21 If a township does not implement a nepotism and a contracting policy, the Department of Local Government Finance may not approve the unit's budget or any additional appropriations for the township for the ensuing calendar year. For the report due January 2015, each Township will be required to upload their policies if they indicate they have passed them. This report is a public record which shall be open to public inspection and examination. A trustee who fails to file this report commits a Class C infraction and is subject to removal for neglect of duty. IC 5-11-13-2 IC 5-11-13-3 The total compensation paid to all employees of the township for the previous year should be reported. This includes part time, temporary, and seasonal employees. If a W2 was required to be issued, that person should be listed on the report. IRS Publication 15 has guidelines for determining if someone is an employee or a contractor. Elected officials, including board members, should be included. The trustee must print and sign an Attestation Statement that certifies that the data is accurate to the best of their knowledge and belief. This must be mailed to our office within five days of submitting your report via Gateway. If you resubmit your report, you must print, sign and mail a new attestation form. Correspondence regarding the report will be sent to the email address on file in the State Gateway. If there has been a change in trustee or email address please send an email to [annualreports@sboa.in.gov](mailto:annualreports@sboa.in.gov) requesting an update of the township's contact information.

**Annual Financial Report (AFR)**

The state examiner shall require from every local governmental unit a financial report covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the State Gateway. The Department of Local Government Finance may not approve the budget of a township or a supplemental appropriation for a township until the township files an annual report for the preceding calendar year. (IC 5-11-1-4) A trustee who fails to file this report commits a Class B infraction and forfeits office. IC 5-11-1-10 Beginning in 2013, IC 5-11-20 required that governmental entities include pension information on their employee retirement plans as part of the Annual Financial Report. If your township offers only the Public Employees Retirement Fund (PERF) pension you will not need to provide any additional information on the Annual Financial Report. If your township has any other pension plans where the township makes contributions to the plan or funds any part of the benefits, you will need to provide additional information on the Annual Financial Report. The trustee must print and sign an Attestation Statement that certifies that the data is accurate to the best of their knowledge and belief. This must be mailed to our office within five days of submitting your report via Gateway. If you resubmit your report, you must print, sign and mail a new attestation form. Correspondence regarding the report will be sent to the email address on file in the State Gateway. If there has been a change in trustee or email address please send an email to [annualreports@sboa.in.gov](mailto:annualreports@sboa.in.gov) requesting an update of the township's contact information.



## NEPOTISM POLICY

Each township board shall adopt a nepotism policy that includes, at a minimum, the requirements set forth in IC 36-1-20.2. The policy may include requirements that are more stringent or detailed. These policies should be retained locally. There is no requirement that a new policy be adopted annually.

When completing the Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form 100R), the trustee must indicate if a nepotism policy has been implemented. If a policy has not been implemented, the Department of Local Government Finance may not approve the township's budget or any additional appropriations for the township. If the township board implements a nepotism policy after the trustee has completed the Form 100R, the trustee should send an email to [annualreports@sboa.in.gov](mailto:annualreports@sboa.in.gov) and ask for the report to be unlocked. After the report is unlocked, the trustee should go back into the report and indicate that a policy has been adopted. The trustee must submit the report again in order for this change to be effective.

IC 36-1-20.2-9 states: "(a) This chapter establishes minimum requirements regarding employment of relatives. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may: (1) include requirements that are more stringent or detailed than any provision in this chapter; and (2) apply to individuals who are exempted or excluded from the application of this chapter. The unit may prohibit the employment of a relative that is not otherwise prohibited by this chapter. (b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter."

IC 36-1-20.2-18 states: "If a unit has not implemented a policy under this chapter, the department of local government finance may not approve: (1) the unit's budget; or (2) any additional appropriations for the unit; for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with this chapter."

## CONTRACTING POLICY

Each township board shall adopt a Contracting policy that includes, at a minimum, the requirements set forth in IC 36-1-21. The policy may include requirements that are more stringent or detailed. These policies should be retained locally. There is no requirement to adopt a policy annually.

When completing the Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form 100R), the trustee must indicate if a contracting policy has been implemented. If a policy has not been implemented, the Department of Local Government Finance may not approve the township's budget or any additional appropriations for the township. If the township board implements a contracting policy after the trustee has completed the Form 100R, the trustee should send an email to [annualreports@sboa.in.gov](mailto:annualreports@sboa.in.gov) and ask for the report to be unlocked. After the report is unlocked, the trustee should go back into the report and indicate that a policy has been adopted. The trustee must submit the report again in order for this change to be effective.

IC 36-1-21-4 states: "(a) This chapter establishes minimum requirements regarding contracting with a unit. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may: (1) include requirements that are more stringent or detailed than any provision in this chapter; and (2) apply to individuals who are exempted or excluded from the application of this chapter. The unit may prohibit the employment of a relative that is not otherwise prohibited by this chapter. (b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter."

IC 36-1-21-8 states: "If a unit has not implemented a policy under this chapter, the department of local government finance may not approve: (1) the unit's budget; or (2) any additional appropriations for the unit; for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with this chapter."

## NEPOTISM AND CONTRACTING CERTIFICATIONS

Each township board member and the trustee are required to certify in writing under penalties of perjury before December 31 of each year that they have not violated the requirements of IC 36-1-20.2 (Nepotism) and IC 36-1-21 (Contracting). These certifications shall be submitted to the trustee and retained locally.

IC 36-1-20.2-16, concerning the annual certification on nepotism, states: "Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year."

IC 36-1-21-6, concerning the annual certification on contracting, states: "Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer is in compliance with this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year."

## OTHER STATE AND FEDERAL REQUIREMENTS

### WORKER'S COMPENSATION INSURANCE

The provision of the Worker's Compensation Act (IC 22-3-2) apply to township employees. A township trustee shall carry worker's compensation insurance. IC 22-3-2-2; IC 22-3-6-1(a)(b)

Official Opinion of the Indiana Attorney General Number 134 of 1945, established guidelines to be observed in paying school teachers in instances where an absence from work was because of circumstances under which the teacher received compensation benefits through the provisions of the Workmen's Compensation Act (Worker's Compensation Act). Clarification was made in the Opinion, that a teacher who received benefits under the Workmen's Compensation Act (Worker's Compensation Act) while absent from work, would be entitled to receive from a school corporation only the difference between the amount received from Workmen's Compensation Act (Worker's Compensation Act) and the full benefits provided by law allowing teachers to be absent without loss of pay for a stated number of days; the laws considered in the Opinion do not authorize double payment for the same injury.

Official Opinion Number 17 of 1975 supports the prior Opinion in that while a teacher is entitled to each earned sick leave day for actual sickness or injury, in the event a teacher also receives Workmen's Compensation (Worker's Compensation) payments during the same time frame as receiving sick leave, an adjustment must be made so that the combined earned sick leave days and Workmen's Compensation (Worker's Compensation) payments do not exceed that teacher's normal salary for the same time frame.

Applying the aforementioned to townships, we are of the audit position that if an employee is off work and receiving payments from a township for sick days, the employee should either sign the Worker's Compensation payment over to a township or receive from a township the difference between the employee's daily rate and the amount received from Worker's Compensation.

If you have any questions regarding a Township's requirements as they pertain to worker's compensation, please contact the Worker's Compensation Board. <http://www.in.gov/wcb/>

## STATE AND FEDERAL TAXES

### Tax Refunds

In some instances, governmental units may have erroneously paid the excise taxes from which they are exempt. In such instances, the unit has three years from the date tax been paid to the federal government in which to file for a refund.

To obtain a refund, the governmental unit should submit to the seller an exemption certificate for each item on which excise tax was paid accompanied with documentary evidence that the exemption had not been claimed or received. Such evidence may be copies of invoices, affidavits, records, etc.

The Internal Revenue Service will provide forms on which the original taxpayer may claim reimbursement for excise tax erroneously paid by a governmental unit.

### Sales Tax

Governmental units are eligible for an exemption from the state sales tax on purchases. To obtain the exemption for a Sales Tax Exemption Certificate, application should be made to the Sales Tax Division of the Department of Revenue. This certificate must be presented at the time a purchase is made to avoid paying sales tax. If sales tax is paid erroneously, a refund application may be obtained from the Sales Tax Division

Lodging for individuals in hotels and motels is not exempt from state sales tax. Therefore, reimbursements for lodging in approved travel status may include state sales tax. However, it should be kept in mind that claims for all such reimbursements must be supported by a fully itemized receipt showing date(s) of lodging, the name(s) of the person(s) occupying the room and the amount paid.

Following are some general comments pertaining to the State Board of Accounts audit position regarding local governmental unit's exemption from sales tax:

1. Items should be purchased through the issuance of purchase orders and paid for by township checks to avoid the problem of reimbursing employees for sales tax paid on materials purchased for the township when the township is exempt from sales tax.
2. Sales tax paid on lodging and meals by officials and employees while in travel status on township business of the township may be reimbursed in accordance with an official travel expense reimbursement policy adopted by resolution of the township.
3. We have often noted that out-of-state vendors not assessing sales tax on materials purchased out-of-state by a governmental unit for delivery in Indiana.
4. The Indiana Department of Revenue has consistently taken a position that the furnishing of food, fuel, drugs, etc., by the township to needy persons (Township Assistance Laws) are exempt from sales tax because the commodities are predominantly for use in the performance of governmental functions. The township would not be exempt, however, from paying sales tax on utility bills because the utility bills of Township Assistance recipients are billed in the name of each individual and not in the name of the township and individuals are not exempt from the payment of sales tax. Therefore, all purchase orders issued directly to a vendor, except for utility bills, are normally, exempt from sales tax.

Should you desire additional information concerning State taxation matters, we suggest you contact the Indiana Department of Revenue <https://www.in.gov/dor/>.

## PUBLIC RECORDS

### Public Records Retention

IC 5-15-6-3(f) concerning destruction of public records, states in part: "Original records may be disposed of only with the approval of the commission according to guidelines established by the commission."

The Indiana Archives and Records Administration is the authority that dictates record retention. Please visit their website to obtain the record retention schedules for local governmental units (<http://www.in.gov/iara/2766.htm>).

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee.

### How to Submit a Request to Destroy Public Records

If an official has identified public records that are no longer needed or required to be retained, and no retention schedule exists that covers the record or records involved, that official should:

- a) obtain a blank PR-1 form ("Request to Destroy/Transfer Public Records") from the Clerk of the Circuit Court of the county. The Clerk is the ex-officio Secretary of the county Commission of Public Records;
- b) fill out the form, listing the records to be disposed of;
- c) submit the completed form to the Clerk of the Circuit Court (ie., Secretary of the Commission);
- d) the Clerk will either call a meeting of the county Commission of Public Records or add the request to the agenda of the scheduled meeting. At the meeting, the Commission will vote to authorize the disposal of the records;
- e) if the Commission grants authority to dispose of the records, the requests are reviewed by the Indiana State Archives and the designated historical or genealogical society of the county during the 60 day review period. If either the State Archives or the society wishes to obtain any of the records, those records should be set aside to be picked up by the requestor.  
**NOTE: HISTORICAL AND GENEALOGICAL SOCIETIES MAY NOT OBTAIN CONFIDENTIAL PUBLIC RECORDS;**
- f) if no request is made to obtain the public records within the review period, the records may be destroyed or otherwise disposed of. **NOTE: CONFIDENTIAL RECORDS MUST BE DESTROYED IN A MANNER THAT PRESERVES THE CONFIDENTIALITY OF THE INFORMATION (IE., SHREDDING, BURNING, E**

### Public Records Go with the Office

Sometimes it is reported that when an official is replaced by reason of death, resignation, appointment, or election, the records are being withheld from the successor until they are audited.

When an official assumes custody of an office many of the forms and records are continuous. Each official's acts are a matter of record. An official is not responsible for the acts of his successor and a successor is not responsible for the acts of his predecessor.

Regardless of the capacity served by an official, upon completion of his service, all records and forms are to be surrendered to his successor.

The bank accounts should be in the name of the township, for example, "Clay Township, St. Joseph County", not in the name of the trustee. Therefore, if the account is properly in the name of the township, the change can be made at the bank by simply registering the authorized signature of the incoming trustee.

Township business is a continuing one; a change of office need not interrupt that business.

We suggest the outgoing trustee prepare in duplicate an itemized inventory of equipment and other assets owned by the township at the end of the year, to be signed by the successor and outgoing trustee. One copy is for the outgoing trustee and one copy is to be kept by the incoming trustee as a township record.

Sometimes difficulty exists for a person in office to convey to their successor all the knowledge gained during a term or terms of office. However, you may be able to give valuable assistance and you are urged to provide information to your successor.

### Public Nature of Records and Meetings

Questions concerning access to public records or public meetings should be directed to the Indiana Public Access Counselor, who may be contacted at 1-800-228-6013 or 317-234-0906. The Public Access Counselor's website is <https://www.in.gov/pac/>.

IC 5-14-1.5-3 states in part "Except as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them."

IC 5-14-3-3 states in part (a) "Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must: (1) identify with reasonable particularity the record being requested; and (2) be, at the discretion of the agency, in writing on or in a form provided by the agency. No request may be denied because the person making the request refuses to state the purpose of the request unless such condition is required by other applicable statute."