QUESTIONS AND ANSWERS FROM THE CLERK-TREASURER'S SUMMER 2012 CONFERENCE AND THE SUMMER 2012 MEETING OF THE ASSOCIATION OF COUNTY COUNCILS

1. **Question:** What is a 1782 Notice and when should we expect to receive it?

   Answer: A "1782 Notice" is a notice to units issued by the DLGF indicating what actions the DLGF has taken with respect to the units' budgets, tax rates, and tax levies. These notices are issued by the DLGF usually in mid-December through January. Each unit has 10 days from receipt of the notice to respond electronically to the notice. See is IC 6-1.1-17-16(d).

2. **Question:** Regarding the 1782 Notice, are we supposed to have the notice signed and then mailed? Can we personally give these to our DLGF field representative? What is the deadline to do this?

   Answer: The 1782 Notice will be sent via e-mail to the appropriate fiscal officer for him or her to review the actions of the DLGF as they affect the unit's 2013 budget, rates, and levies. The fiscal officer or designee is to sign the 1782 and indicate the requested changes and return to the DLGF Indianapolis office via e-mail. The fiscal officer has 10 calendar days to respond to the 1782 notice. If the DLGF receives no response, it is assumed the unit has no objections. The DLGF requests the 1782 responses be returned promptly as this can expedite the processing of the budget order.

3. **Question:** For our 2013 budget, if our checking account balances differ from our software records, do we need to account for that somehow in the 2013 budget? If so, how? I'm new and the exact amount has been off since I first came into office. I will let the auditor know of the discrepancy when we are audited.

   Answer: Those balances need to be reconciled. For budget purposes, provide the June 30 cash and investment balances on deposit with your financial institutions to the DLGF field representative during the budget workshop. The field representative will also need your records of any encumbrances of fund balances and vouchers payable as of June 30.

4. **Question:** Our town has a branch bank but our town does not receive Financial Institutions Taxes. Why not?

   Answer: There are two reasons your unit may not receive the Financial Institutions Tax (FIT). The FIT is a guaranteed amount of tax a unit received in 1989 from banks. If the unit did not have a bank in 1989, there is no guaranteed amount. Or, if the unit is now receiving more property tax from banks and financial institutions than it did in 1989, it is exceeding the guaranteed amount and thus receives no FIT distribution.

5. **Question:** When you say debt and leases must be filed with the DLGF, what falls under leases? Do you mean big leases or do copier leases fall under this also?

Answer: This is referring to capital leases which are leases for real property. This is according to IC 5-1-18-3 which defines a lease as:

IC 5-1-18-3
"Lease"

Sec. 3. As used in this chapter, "lease" means a lease of real property that is entered into by a political subdivision for a term of at least twelve (12) months, whether payable from property taxes, other taxes, revenues, or any other source.
As added by P.L.199-2005, SEC.2.

6. **Question:** We are part of a newly formed fire territory. Will this change the amount of COIT revenue for the town?

   Answer: According to IC 36-8-19-7.5, the amount of income taxes and excise taxes allocated for a unit participating in a fire territory are in the same proportion for fire as the unit received before becoming a participating unit. So, the amounts will change but the proportion attributed to fire protection services will remain the same.

7. **Question:** What is TIF and how do we know if we're in a TIF district?

   Answer: TIF stands for Tax Increment Financing and is a mechanism for funding economic development or redevelopment. Basically, this is a process where increased tax revenue from the development or redevelopment are captured and used to pay for financing the government's costs of the development. To find out if you are in a TIF district, contact your county auditor.

8. **Question:** Do TIF proceeds need to be appropriated and if so, which body is responsible for approving the appropriation?

   Answer: TIF dollars and their purpose are appropriated with adoption of the original bond resolutions. Those resolutions are approved by the appropriate fiscal body of the unit that established the redevelopment commission. Providing that the appropriations were included in the original bond resolution, they do not need to be included in the annual budget since appropriations of bond proceeds do not lapse at year end.

9. **Question:** Does the new law on approval of additional appropriations where a library must get approval by a city or town council also apply to other political subdivisions budgets?

   Answer: Yes, it extends to other political subdivisions but ***only to units*** that are ***required*** to have their annual budgets and tax levies adopted by a city, town, or county fiscal or legislative body. A library with an elected board is exempt from this requirement unless the additional appropriation increases its budget over the previous year's budget by a percentage greater than the assessed value growth quotient percent. Otherwise, this requirement ***does not apply to units that were not required to have their annual budgets and tax levies approved by a city, town, or county fiscal body.***

10. **Question:** If the effective date is July 1, 2012 for the "protected" and "unprotected taxes" in HEA 1072 but it will apply to funds in calendar year 2013, when will the provision repealing the transfer of funds to debt service funds be enforced? The effective date of the legislation is also July 1, 2012.

    Answer: No transfers of cash to a debt service fund are allowed after June 30, 2012. Debt service funds that are affected by circuit breaker credits will need to appropriate any unfunded expense from other funds, such as the general fund or rainy day fund.

11. **Question**: Do appropriations of non-tax supported funds need to be approved by an elected fiscal body?

    Answer: *The appropriate fiscal body* is defined by statute and may be either an elected or an appointed body. The *appropriate fiscal body* is charged with approving the appropriations of the municipal units. Most civil taxing units have funds that do not receive tax dollars and therefore have fewer requirements for approval. However, there are very few exceptions in the Indiana Code that allow for use of funds without appropriation. Unless you have a fund that is specifically exempted from appropriation controls, assume it must be appropriated and approved by the *appropriate fiscal body*.

12. **Question:** Do the budget advertisements still need to be made at 10 days before the public hearing and does the three day notice still apply?

    Answer: The deadlines for advertising the public notice of the budget hearing and adoption are prescribed by IC 6-1.1-17-3, which states "The political subdivision or appropriate fiscal body shall also state the time and place at which the political subdivision or appropriate fiscal body will hold a public hearing on these items. The political subdivision or appropriate fiscal body shall ***publish the notice twice*** in accordance with IC 5-3-1 with the first publication ***at least ten (10) days before the date fixed for the public hearing***. The first publication must be ***before September 14, and the second publication must be before September 21*** of the year. The political subdivision shall pay for the publishing of the notice."

    Pursuant to IC 5-3-1(j), "notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the event."

    In summary, the public notice of the budget must be published twice with the first publication at least 10 days before the public hearing and the second publication must be at least three days before the hearing. Also, the first publication must occur before September 14 and second must occur before September 21.

13. **Question:** What is LOIT?

    Answer: LOIT stands for Local Option Income Tax. LOIT may refer to the County Option Income Tax (COIT), County Adjusted Gross Income Tax (CAGIT), or County Economic Development Income Tax (CEDIT). Also, there are three supplemental LOITs that may be adopted in addition to the other three LOITs. Those supplemental LOITs are a Levy Freeze LOIT, Property Tax Replacement LOIT, and a Public Safety LOIT.

14. **Question:** The deadline for the county council to make its budget recommendations is October 1. Can our council adopt our budget before the county council issues the recommendation?

    Answer: A unit's fiscal body may adopt the unit's budget (setting the tax rates and levy) after the county council has made its recommendation or after October 1, whichever is sooner. See IC 6-1.1-17-3.5. The unit may proceed with adoption after October 1 absent a recommendation from the county council.

15. **Question:** Why is the cumulative fund rate reduced each year and what is the effect of HEA 1072, Section 30, on the formula for the maximum rate calculation?

    Answer: The DLGF must adjust the cumulative fund rates each year according to IC 6-1.1-18-12 to account for the change in assessed value of real property that results from an annual adjustment, also known as "trending," or a general reassessment. Section 30 of HEA 1072 added language that will not allow average change of assessed value to fall below zero.

16. **Question:** What are the conditions that can qualify a unit for an excessive levy appeal?

    Answer: A unit may appeal to the DLGF under five conditions to adjust its maximum permissible levy:

    a. Annexation, consolidation, or extension of services.
    b. Three year growth of assessed value that exceeds the state-wide three year average plus 2%.
    c. Emergency, which is defined as a natural disaster, accident, or other unanticipated emergency.
    d. Correction of advertising, mathematical, or data error or.
    e. Property tax shortfall due to erroneous assessed values certified by the county auditor.

17. **Question:** Do units need to include the State Revolving Loan amounts on the debt report to the DLGF?

    Answer: Yes, units are to include the amount of the outstanding principle of the loans.

18. **Question:** Can current debt issues now be reported to the DLGF through Debt Management or is it still under construction?

    Answer: Debt Management is now available to use for reporting new debt issues.