

OFFICIAL OPINION NO. 47

October 25, 1956

Honorable Joseph Klein
Lake County State Representative
6607 Marshall Avenue
Hammond, Indiana

Dear Representative Klein:

This is in reply to your request for my Official Opinion in answer to the following questions:

"1. Pursuant to the provisions of Burns' Indiana Statutes 64-1029 and 64-1007, whose duty is it to bind the personal property assessment sheets for permanent preservation, the Township Assessor or the County Auditor?

"2. Pursuant to the provisions of Burns' Indiana Statutes 64-1002 and whatever law prompted Form #18—prescribed by State Board of Tax Commissioners, is it the duty of the County Auditor to appoint and/or administer the oath to Deputy Township Assessor?"

In answer to your first question, it is my belief that neither of the statutory provisions cited by you affords a specific answer to your question. The Acts of 1919, Ch. 59, Sec. 158, as found in Burns' Indiana Statutes (1951 Repl.), Section 64-1029, being the first statutory provision cited by you, provides as follows:

"Each assessor shall, at the time he makes returns of taxable property to the county auditor, also deliver to him all the statements of property which he shall have received from persons required to list the same, arranged in alphabetical order, corresponding with his list or lists, and also all the plats used in assessing real estate; and the auditor shall carefully preserve the same in his office."

The above proviso definitely imposes upon the county auditor the duty of preserving the various instruments transferred to him by the township assessor relating to taxable property. Said Section requires the assessor to deliver to the county

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auditor “* * * all the statements of property which he shall have received from persons required to list the same * * *.” This Section does not impose upon either official the duty of binding the personal property assessment sheets for permanent preservation as stated in your question.

Referring to the Acts of 1919, Ch. 59, Sec. 139, as amended, as found in Burns' Indiana Statutes (1951 Repl.), Section 64-1007, the second statutory provision to which you refer, you will note that the same has reference exclusively to matters relating to the listing and assessment of *real* property, whereas your question relates to the *personal* property assessment sheets. For that reason, it appears that said Section is not relevant to your question.

I do not find any statutory provision which affords a complete and specific answer to your first question. However, reference is made to the provisions as contained in the Acts of 1919, Ch. 59, Sec. 66, as found in Burns' Indiana Statutes (1951 Repl.), Section 64-606, which provides in substance that the county auditor shall have in readiness for delivery to the assessor on or before the first day of March of each year, the proper assessment books and the necessary blanks for the assessment of all property, real and personal, including the schedule with necessary interrogatories and affidavits attached thereto. Since our basic personal property tax structure and procedure is as contained in the Acts of 1919, Ch. 59, as amended, *supra*, it would appear that throughout a period of many years your question has not been considered of sufficient significance by our Legislature for it to have made specific proviso with respect thereto. Irrespective as to whether the duty of binding the personal property assessment sheets be that of the township assessor or the county auditor, whatever expense may be attached to such binding would be borne by the appropriate county fund. To me, your question would probably best be answered on the local level since it is possible that conditions in various counties may differ to such an extent as to render different methods most advisable depending upon the county involved. In view of the fact that there does not appear to be any specific statutory provision on this question, in answer to your first question, I wish only to suggest that since the county auditor has the duty of furnishing supplies for the reporting of taxable property as well as the duty of

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preserving the tax records transferred to him by the assessor, it would seem from the above, as well as for the reason of attaining uniformity in the binding of such sheets, that it would be appropriate for the county auditor to perform this duty.

Your second question is answered by reference to the provisions of the Acts of 1919, Ch. 59, Sec. 135, as amended, as found in Burns' Indiana Statutes (1951 Repl.), Section 64-1002 and the Acts of 1919, Ch. 59, Sec. 134, as amended, as found in Burns' Indiana Statutes (1951 Repl.), Section 64-1001, the first of which Sections reads as follows:

“Whenever a township assessor shall be unable to complete the duties required of him, he is hereby authorized to employ such assistance as may be necessary to carry out the provisions of this act: Provided, however, That the total number of deputies shall not exceed the number for which appropriation was made for that year by the county council at its annual or special meeting.”

From the above statutory provision it is clear that the township assessor, rather than the county auditor, is authorized to appoint deputies as may be necessary to assist such assessor in the completion of the duties required of him. Although the power of appointment is in the township assessor, nevertheless, the provisions of the Acts of 1919, Ch. 59, Sec. 134, as amended, as found in Burns' Indiana Statutes (1951 Repl.), Section 64-1001, make it clear that all deputy assessors are to be administered their oath of office by the county auditor.

Therefore, in answer to your second question, it is my opinion that the power to appoint deputy township assessors is vested in the township assessor and that the oath of office should be administered to said deputies by the county auditor, as indicated by Form #18 prescribed by the State Board of Tax Commissioners, said Form being that as found in the Indiana Tax Laws Annotated, issued by the State Board of Tax Commissioners, with the approval of the Governor, and found at pages 748 and 749 thereof.