INFORMATION AND PROCEDURES

FOR

WHITLEY COUNTY TAX SALE

WHITLEY COUNTY GOVERNMENT CENTER COMMISSIONERS' ROOM

Tuesday, October 19, 2010
10:00 AM

WHITLEY COUNTY
2010 TAX SALE
INFORMATION AND PROCEDURES

Please review the entire contents of this Guide!

The statute governing tax sales in Indiana (I.C. 6-1.1-24) affords the County Auditor and County Treasurer options regarding the manner in which the Tax Sale may be conducted. Therefore, the exact procedures by which a county conducts a tax sale for properties with delinquent taxes and special assessments may differ from county to county.

This public auction or "Tax Sale" of real property is required by Indiana law. While some unfortunate circumstances may exist that result in some properties being offered for sale, it is nonetheless required that all properties with delinquent taxes, penalties, and special assessment liens, as specified by law, be auctioned at the Treasurer's Tax Sale.

The Tax Sale enables the Treasurer to collect the revenue that has been levied for the operation of all governmental units and school districts within the County. The County Treasurer and County Auditor appreciate the attention of prospective bidders and buyers to the procedures governing this Tax Sale.

This information is provided as a public service to the purchaser of Tax Sale Property, it is not to be considered a legal authority. The purchaser is responsible for compliance with applicable statutory requirements.

The Whitley County Tax Sale is being conducted with the assistance of Government Utilities Technology Service (GUTS).

Thank you for your participation.

Lisa A. Richmond
Whitley County Treasurer
260-248-3105

GENERAL Points of Interest

The Tax Sale in Whitley County is to begin as a public auction at 10:00 AM Whitley County Time, Tuesday, October 19, 2010. (Tax Sale instructions will begin at 9:30 AM at the WHITLEY COUNTY GOVERNMENT CENTER COMMISSIONERS' ROOM in the City of Columbia City). The sale will begin at 10:00 AM. After all parcels have been offered one time, the properties that remain unsold at the end of the sale will be offered one final time.

A complete list of Tax Sale items that are available for sale may be obtained from the following sources:

1) Newspaper: Properties available for sale have been advertised in the following publications on these dates:

   THE POST & MAIL - 09/08/2010, 09/15/2010, 09/22/2010

   CHURUBUSCO NEWS - 09/08/2010, 09/15/2010, 09/22/2010

2) Web site: For those counties in which GUTS is providing Tax Sale services, all parcels that are available for sale can be viewed on the GUTS web site: https://www.g-uts.com/tax-sale-information/. Select the list for Whitley County. The lists are updated in real time.

Prior to the sale, the Whitley County Auditor sent 2 letters via the U.S. Postal Service to property owners that were eligible for the 2010 Whitley County Tax Sale. The first letter was mailed via Certified Mail to the property owner (to whom tax statements have been mailed). The second letter was mailed via First Class Mail to the same name and address to which the Certified notice was mailed.

Prior to the day of the Tax Sale, owners may make part payments toward the minimum sale price. There is no minimum amount of part payment required. After payment of the $100.00 Tax Sale cost, any part payments made will reduce the minimum bid amount and will save total redemption costs to the owner if the property is sold. Property owners wanting to prevent their parcels from being sold in this Tax Sale must pay all delinquent taxes, penalties, and delinquent special assessments plus the $100.00 Tax Sale cost. Payment must be made by Cash, Cashier's Check, Certified Check, Official Check, or Money Order. No payments will be accepted by the Treasurer after 4:00 PM on Monday, October 18, 2010.

**Points of Interest (primarily) for PURCHASERS (BUYERS)
of property in this year's Sale**

Every Tax Sale bidder will be required to have a bidder number in order to bid on a parcel in the public auction. Prospective bidders will need to fill out the **Registration Form for Tax Sale Bidder** and return it to a member of the **GUTS** team. At that time your name will be entered into the computer and you will receive a bidder paddle with your unique bidder number. You must clearly display your bidder paddle to the auctioneer to be acknowledged as a bidder on every parcel on which you intend to bid.

A person is not eligible to bid in this sale if he/she owes taxes, penalties, special assessments, or Tax Sale costs (attributable to a prior tax sale), is a judgment defendant in a proceeding to enforce a building code or county ordinance, or received civil penalties imposed by a county health department. A business (or its agent) is not eligible to bid in this sale if it is not registered and in good standing with the Indiana Secretary of State. If the ineligible person or business is a successful bidder in this Tax Sale, the sale is subject to forfeiture and the bidder's bid amount will be applied to his/her delinquent taxes, building-code judgment, or civil penalties, as appropriate and a certificate will be issued to the County for the parcel.

The "Parcel Number" is the primary key that identifies a property. Even though the advertising list includes the owner name, the property location and/or legal description, the parcel number identifies the exact property offered for sale.

Parcels will be offered for sale with the Tax Sale Item Number. The numbers have been advertised as 'Axxxx'; the auctioneer may or may not announce the 'A'.

At the sale, parcels will be offered in groups that will be announced by the auctioneer. Any bidder may call out an item.
A call for a specific item number such as A17 is considered a minimum bid for that item. Once the minimum bid is made, that item is auctioned to the highest bidder. If the item called for is no longer in the sale, that fact will be announced, and a call for another item within that current group will be accepted. This procedure will continue until there are no more calls for item numbers within the group being considered. At that time the next group of item numbers will be offered.

After all items have been offered once, the GUTS Tax Sale team will open up the auction for all available items to be offered on a first-asked, first-offered basis. A call for a specific item is considered a minimum bid for that item. Once the minimum bid is made, that item is auctioned to the highest bidder.

Any payment made to the Whitley County Treasurer by an owner to withdraw a parcel from the sale or by a successful bidder at the sale must be paid by Cash, Cashier's Check, Certified Check, Official Check, or Money Order. NO PERSONAL CHECKS OR BUSINESS CHECKS WILL BE ACCEPTED.
The minimum bid that will be accepted on any property includes all taxes, penalties, and special assessments presently due on the parcel – including the fall property tax installment – plus the $100.00 Tax Sale Cost.

If there are multiple bidders after a minimum bid has been received for a particular item number, the auctioneer will announce the increment by which the bids will be increased.

No one should bid in this Tax Sale who does not have the correct type of payment (Cash, Cashier's Check, Certified Check, Official Check, or Money Order). Qualified checks must be for the exact amount of purchase and made payable to the Whitley County Treasurer. A high bidder who fails to pay the bid price in acceptable funds by the end of the tax sale day must pay a penalty of 25% of the amount of the bid (subject to prosecution – I.C. 6-1.1-24-8).

All sales are final! There will be no refunds or exchanges. Prospective buyers are urged to research available properties thoroughly to aid in identifying the exact piece of property identified by the parcel number. Research may include, but not necessarily be limited to, a review of:

- ***** Liens recorded with the Whitley County Recorder;
- ***** Plat maps in the Whitley County Real Estate Office;
- ***** Liens filed with the Whitley County Clerk.

The IRS may claim redemption rights in properties sold that are subject to Federal tax liens pursuant to a right of redemption established under 26 U.S.C. §7425, which is different than that provided under Indiana Statute. The Whitley County Auditor has filed the required Blanket Consent with the IRS and will make a copy available to tax sale purchasers (on request).

If a successful bidder buys a "pig in a poke", the buyer will get just that. *(Make sure you know the parcel on which you are bidding. The Whitley County Treasurer and Auditor will not invalidate a sale simply because you thought you were buying something else!)*

After you have finished bidding and you are ready to pay for your purchases, you will need to proceed to the Treasurer's office, Annex Building. The Treasurer's office will have a list of your purchases based on your bidder number. Prospective purchasers will be informed during the pre-sale instructions about the county's policy for issuing the Tax Sale certificate.

Tax Sale Certificates will be issued by the Whitley County Auditor to the purchaser after payment is made at the Treasurer's Office.

Please note that the Tax Sale Certificate does not confer ownership of the property, and the purchaser does not receive title to the property until a Tax Deed is issued. Tax Sale Certificates are assignable by filling out the back of the certificate and registering the assignment with the Auditor. Purchasers are expected to familiarize themselves with the requirements to obtain a tax deed.

There is a one-year period following the sale of each item during which the delinquent owner, occupant, or person with a substantial property interest of public record may "redeem the property", a term meaning to retain possession by paying all moneys owed to the purchaser, plus required fees.

Any person may redeem the property at any time before the redemption period expires. A person who wants to redeem a property should contact the Whitley County Auditor's Office, Attn: Jennifer R. McGuire; 220 W Van Buren St Ste 207; Columbia City, IN 46725; phone number 260-248-3176, to obtain an exact calculation of the redemption cost. (Note: The redemption amount must be paid to the Whitley County Auditor within one year of the date of sale. The payment must be Cash, Cashier's Check, Certified Check, Official Check, or Money Order). Qualified checks must be for the exact amount of redemption and made payable to the Whitley County Treasurer.

A Tax Sale purchaser may pay any taxes, penalties, and/or special assessments that become due on the parcel subsequent to the Tax Sale but before the redemption period expires. Such payments can be made by requesting a bill in person from the Whitley County Treasurer. It is the Tax Sale purchaser's responsibility to file in the Whitley County Auditor's office a Form 137B with any such payment if the purchaser expects to be reimbursed when the property is redeemed. The Form 137B cannot be filed with the County Auditor within the first 30 days after the sale per I.C. 6-1.1-25-2(e). The Treasurer's validated paid receipt must accompany the Form 137B. Pursuant to I.C. 6-1.1-25-2.5, Whitley County Circuit Court has established a schedule of reasonable and customary fees that apply to purchasers at the tax sale who submit a claim for reimbursement of certain expenses upon the redemption by the property owner. The Auditor may require proof of payment (e.g. receipts) for any costs reported on the Form 137B. Costs incurred by the purchaser or the purchaser's assignee include:

Attorney's fees and costs of giving notice under Section 4.5 of this Chapter – ***Not to exceed $350.00***

The costs of a title search or examining and updating the abstract of title for the tract or item of real property – ***Not to exceed $150.00***

Tax Sale purchasers run a risk of trespassing if they make a purchase and attempt to enter the premises or exercise any ownership rights during the redemption period, which is prior to the time a Tax Deed is issued in the purchaser's name. The Tax Sale purchaser's interest in the property is limited to a lien on the purchased property until:

1) the property is redeemed; or

2) a Tax Deed is issued.

Redemption of property purchased in a Tax Sale results in the parcel remaining in the current owner's name.

The redemption amount will be equal to the minimum bid required by the Treasurer, ***plus*** a redemption fee calculated on the minimum bid paid by the successful bidder (percentages listed below), ***plus*** 5% per annum interest calculated on the difference between the minimum bid and amount paid by the successful bidder (referred to as Tax Sale Overbid), ***plus*** any taxes, penalties, and special assessments paid by the purchaser subsequent to the date of sale, ***plus*** 5% per annum interest on those subsequent payments. (NOTE: The redeeming party does not have to repay the overbid amount, but they are required to pay the 5% per annum interest on the overbid amount.) The redemption fee will be calculated in two parts (three parts if additional charges are paid and properly reported to the Auditor on Form 137B subsequent to the Tax Sale):

1) On the Minimum bid -
   - 110% of the minimum bid if redeemed not more than 6 months after the date of sale; or
   - 115% of the minimum bid if redeemed more than 6 months but not more than one year after the date of sale.
2) On the difference between the successful bid price and the minimum bid *(referred to as Tax Sale Overbid)*
   - 5% per annum interest from the date of payment to the date of redemption.
3) On any taxes, special assessments, and/or other eligible charges that are paid by the Tax Sale purchaser subsequent to the Tax Sale and properly reported to the Auditor on Form 137B –
   - 5% per annum interest from the date of payment to the date of redemption.

All purchasers who are to receive payments as a result of redemption of property they have purchased will be required to complete and submit Form W9 to the Whitley County Auditor who will issue a Form 1099-INT for the amount of interest and redemption fee received.

If the parcel is ***not*** redeemed and the Tax Sale purchaser surrenders the Tax Sale Certificate to receive a Tax Deed, all delinquent taxes, penalties, and/or special assessments that became due subsequent to the Tax Sale must be paid before the Tax Sale purchaser can petition the court to issue a Tax Deed.

While the minimum time to exchange a Tax Sale Certificate for a Tax Deed to an unredeemed property is one year, the maximum time for such action is three (3) months after the expiration of the redemption period.

The Tax Sale purchaser can petition the court for the Tax Deed:

1) after the expiration of the redemption period, which is one year from the date of sale; and
2) after submitting the Tax Sale Certificate to the Whitley County Auditor.

The court will issue an order if the court finds that the following conditions exist:

1) The time for redemption has expired;
2) The tract or real property has not been redeemed;
3) All taxes and special assessments, penalties, and costs have been paid;
4) The notices required by law have been given; and
5) All the provisions of law entitling the purchaser or the purchaser's assignee to a Tax Deed have been satisfied.

To receive a Tax Deed, the purchaser must present the Tax Sale Certificate to the Whitley County Auditor's Office, being sure that the Auditor has the purchaser's and/or assignee's correct phone number, post office address, and federal I.D. number or social security number. If tax statements are to be sent to a different address and/or person, that information must also be listed on the Tax Sale Certificate.

A Tax Deed grants the purchaser fee-simple title, free and clear of all liens and encumbrances, except those liens granted priority under federal law and the lien of the State or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the title is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. In addition, the purchaser may initiate an action to quiet title to the property. Any appeal from the order to issue the Tax Deed must be filed in the Whitley County Circuit Court not later than sixty (60) days after the date of the court's order to issue the Tax Deed.

If, before redemption or the execution of a Tax Deed, it is found that the sale is invalid, the Tax Sale purchaser is not entitled to a Tax Deed, but shall be entitled to a refund of the purchase price plus interest at 5% per annum.

If, after the execution of a Tax Deed, it is found the deed is invalid pursuant to I.C. 6-1.1-25-12, the Tax Sale purchaser is entitled to a lien on the property in the amount of the purchase price, any taxes or special assessments paid subsequent to sale, and any amount due to the Tax Sale purchaser as an occupying claimant plus interest at 5% per annum.

Failure to give notification and/or petition the court as required by I.C. 6-1.1-25-7 –

The Tax Sale purchaser's lien is terminated if:

1) the purchaser fails to give notice within six (6) months after the date of sale to inform the owner and persons with a substantial property interest of public record about the tax sale and date of expiration of the redemption period (required by I.C. 6-1.1-25-4.5); and
2) the purchaser fails to petition the court for a deed within three (3) months after the expiration of the redemption period (required by I.C. 6-1.1-25.4.6).