

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Auditors and County Council Members

FROM: Brian Bailey, Interim Commissioner **BE B**

RE: Changes to Local Option Income Tax

DATE: April 16, 2010

House Enrolled Act (HEA) 1086-2010 made various changes to the law governing Local Option Income Tax (LOIT).

I. Adoption Deadlines

Effective in 2010, the LOIT ordinances deadline to adopt, rescind, increase, or decrease a LOIT rate is November 1st. This applies to all types of LOIT, both traditional CAGIT/COIT/CEDIT and the new LOITs passed in HEA 1478-2007. (Prior to the passage of this bill, the deadline was July 30th).

The legislation also established the effective dates of the rate change based on the adoption date as follows:

For new imposition of a rate or a rate increase

Ordinance is Adopted...	Change is Effective...
January 1 – September 30	October 1
October 1 – October 15	November 1
October 16 – October 31	December 1

For a rate reduction or a rate rescission

Ordinance is Adopted...	Change is Effective...
January 1 – September 30	Either (1) the first day of the month in which the last rate increase took effect or (2) October 1, whichever is later (see below)
October 1 – October 15	November 1
October 16 – October 31	December 1

In the event that the rate is being reduced or rescinded, if the tax rate was first effective on November 1 of a prior year, then the rate reduction or rescission is not effective until November 1. If the tax rate was first effective on December 1 of a prior year, then the rate reduction or rescission is not effective until December 1. Otherwise, the rate reduction or rescission is effective on October 1.

For example, County X adopted a LOIT for homestead credits on October 25, 2009. That rate would have been first effective on December 1, 2009 and the property tax relief would show up on Pay-2010 tax bills. Then, on June 15, 2010, the Council passes an ordinance rescinding the LOIT. The effective date of the rescission must be the later of October 1 or the original effective date (December 1). Therefore, County X's tax would not be rescinded until December 1, 2010 even though the ordinance was passed months before. Pay-2011 tax bills would not receive a credit.

If a change is made to a rate that funds property tax credits, the change in the credit percentages is first applied for property taxes due in the following calendar year. For example, if a county council passes an ordinance in 2010 to increase the LOIT rate for residential property tax credits, the credit percentage would be changed for Pay 2011 property taxes.

For the State to properly enforce these effective dates, copies of the ordinance should be sent to (1) the State Budget Agency (2) the Department of Revenue and (3) the Department of Local Government Finance within 10 days of passage.

II. Certified Distributions

Under the new legislation, the State Budget Agency is to complete the Certified Distribution by August 1st, but will adjust that Certified Distribution to reflect rate change ordinances passed between August 1st and November 1st. The adjusted Certified Distribution replaces the one certified on August 1st.

III. Other Changes

Finally, the legislation adds some technical corrections and clarifications about LOIT. HEA 1086-2010 requires the county auditor to calculate the credit rate if the county adopted LOIT for homestead credits, in addition to calculating the credit rate if a county adopted LOIT for residential credits or LOIT for all property credits. Additionally, the law specifies a course of action for a county that raises so much money for property tax credits that it cannot spend the entire sum of money, even with 100% credit percentages. In this situation, the excess is to be placed in a dedicated account and used to fund credits in subsequent years. This provision codifies the current practice.

If you have any questions or concerns, please contact Deputy Commissioner Sarah Ancel at 317.234.4376 or sancel@dlgf.in.gov.