

HOUSE BILL No. 1499

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5.

Synopsis: County income taxes. Provides that a county's certified distribution of county adjusted gross income tax, county option income tax, or county economic development income tax is based on the amount of county tax received by the state from county taxpayers of that county, regardless of whether the amount received has been reported on a return or amended return processed by the department of state revenue.

Effective: July 1, 2013.

Wesco, Ober

January 22, 2013, read first time and referred to Committee on Ways and Means.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1499



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.5-1.1-9, AS AMENDED BY P.L.137-2012,
2 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 9. (a) Revenue derived from the imposition of the
4 county adjusted gross income tax shall, in the manner prescribed by
5 this section, be distributed to the county that imposed it. The amount
6 to be distributed to a county during an ensuing calendar year equals the
7 amount of county adjusted gross income tax revenue that the budget
8 agency determines has been
9 (†) received from **county taxpayers of** that county for a taxable
10 year ending before the calendar year in which the determination
11 is made (**regardless of whether the amount received has been**
12 **reported on a return or amended return processed by the**
13 **department), and**
14 (2) reported on an annual return or amended return processed by
15 the department in the state fiscal year ending before July † of the
16 calendar year in which the determination is made;
17 as adjusted for refunds of county adjusted gross income tax made in the



1 state fiscal year.

2 (b) Before August 2 of each calendar year, the budget agency shall
 3 certify to the county auditor of each adopting county the amount
 4 determined under subsection (a) plus the amount of interest in the
 5 county's account that has accrued and has not been included in a
 6 certification made in a preceding year. The amount certified is the
 7 county's "certified distribution" for the immediately succeeding
 8 calendar year. The amount certified shall be adjusted under subsections
 9 (c), (d), (e), (f), and (g). The budget agency shall provide the county
 10 council with an informative summary of the calculations used to
 11 determine the certified distribution. The summary of calculations must
 12 include:

13 **(1) the amount of tax received from county taxpayers of the**
 14 **county for the taxable year ending before the calendar year in**
 15 **which the determination is made;**

16 ~~(+)~~ **(2)** the amount reported on individual income tax returns
 17 processed by the department during the previous fiscal year;

18 ~~(-)~~ **(3)** adjustments for over distributions in prior years;

19 ~~(-)~~ **(4)** adjustments for clerical or mathematical errors in prior
 20 years;

21 ~~(+)~~ **(5)** adjustments for tax rate changes; and

22 ~~(-)~~ **(6)** the amount of excess account balances to be distributed
 23 under IC 6-3.5-1.1-21.1.

24 The budget agency shall also certify information concerning the part of
 25 the certified distribution that is attributable to a tax rate under section
 26 24, 25, or 26 of this chapter. This information must be certified to the
 27 county auditor, the department, and the department of local government
 28 finance not later than September 1 of each calendar year. The part of
 29 the certified distribution that is attributable to a tax rate under section
 30 24, 25, or 26 of this chapter may be used only as specified in those
 31 provisions.

32 (c) The budget agency shall certify an amount less than the amount
 33 determined under subsection (b) if the budget agency determines that
 34 the reduced distribution is necessary to offset overpayments made in a
 35 calendar year before the calendar year of the distribution. The budget
 36 agency may reduce the amount of the certified distribution over several
 37 calendar years so that any overpayments are offset over several years
 38 rather than in one (1) lump sum.

39 (d) The budget agency shall adjust the certified distribution of a
 40 county to correct for any clerical or mathematical errors made in any
 41 previous certification under this section. The budget agency may
 42 reduce the amount of the certified distribution over several calendar

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1 years so that any adjustment under this subsection is offset over several
2 years rather than in one (1) lump sum.

3 (e) This subsection applies to a county that initially imposes,
4 increases, decreases, or rescinds a tax or tax rate under this chapter
5 before November 1 in the same calendar year in which the budget
6 agency makes a certification under this section. The budget agency
7 shall adjust the certified distribution of a county to provide for a
8 distribution in the immediately following calendar year and in each
9 calendar year thereafter. The budget agency shall provide for a full
10 transition to certification of distributions as provided in subsection
11 ~~(a)(1) through (a)(2)~~ (a) in the manner provided in subsection (c). If the
12 county imposes, increases, decreases, or rescinds a tax or tax rate under
13 this chapter after the date for which a certification under subsection (b)
14 is based, the budget agency shall adjust the certified distribution of the
15 county after August 1 of the calendar year. The adjustment shall reflect
16 any other adjustment required under subsections (c), (d), (f), and (g).
17 The adjusted certification shall be treated as the county's "certified
18 distribution" for the immediately succeeding calendar year. The budget
19 agency shall certify the adjusted certified distribution to the county
20 auditor for the county and provide the county council with an
21 informative summary of the calculations that revises the informative
22 summary provided in subsection (b) and reflects the changes made in
23 the adjustment.

24 (f) The budget agency shall adjust the certified distribution of a
25 county to provide the county with the distribution required under
26 section 3.3 of this chapter beginning not later than the tenth month after
27 the month in which additional revenue from the tax authorized under
28 section 3.3 of this chapter is initially collected.

29 (g) This subsection applies in the year in which a county initially
30 imposes a tax rate under section 24 of this chapter. Notwithstanding
31 any other provision, the budget agency shall adjust the part of the
32 county's certified distribution that is attributable to the tax rate under
33 section 24 of this chapter to provide for a distribution in the
34 immediately following calendar year equal to the result of:

35 (1) the sum of the amounts determined under STEP ONE through
36 STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county
37 initially imposes a tax rate under section 24 of this chapter;
38 multiplied by

39 (2) two (2).

40 (h) The budget agency shall before May 1 of every odd-numbered
41 year publish an estimate of the statewide total amount of certified
42 distributions to be made under this chapter during the following two (2)

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1 calendar years.

2 (i) The budget agency shall before May 1 of every even-numbered
3 year publish an estimate of the statewide total amount of certified
4 distributions to be made under this chapter during the following
5 calendar year.

6 (j) The estimates under subsections (h) and (i) must specify the
7 amount of the estimated certified distributions that are attributable to
8 the additional rate authorized under section 24 of this chapter, the
9 additional rate authorized under section 25 of this chapter, the
10 additional rate authorized under section 26 of this chapter, and any
11 other additional rates authorized under this chapter.

12 SECTION 2. IC 6-3.5-6-17, AS AMENDED BY P.L.137-2012,
13 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2013]: Sec. 17. (a) Revenue derived from the imposition of
15 the county option income tax shall, in the manner prescribed by this
16 section, be distributed to the county that imposed it. The amount that
17 is to be distributed to a county during an ensuing calendar year equals
18 the amount of county option income tax revenue that the budget agency
19 determines has been

20 ~~(1)~~ received from **county taxpayers of** that county for a taxable
21 year ending in a calendar year preceding the calendar year in
22 which the determination is made **(regardless of whether the**
23 **amount received has been reported on a return or amended**
24 **return processed by the department), and**

25 ~~(2)~~ reported on an annual return or amended return processed by
26 the department in the state fiscal year ending before July 1 of the
27 calendar year in which the determination is made;

28 as adjusted (as determined after review of the recommendation of the
29 budget agency) for refunds of county option income tax made in the
30 state fiscal year.

31 (b) Before August 2 of each calendar year, the budget agency shall
32 certify to the county auditor of each adopting county the amount
33 determined under subsection (a) plus the amount of interest in the
34 county's account that has accrued and has not been included in a
35 certification made in a preceding year. The amount certified is the
36 county's "certified distribution" for the immediately succeeding
37 calendar year. The amount certified shall be adjusted, as necessary,
38 under subsections (c), (d), (e), and (f). The budget agency shall provide
39 the county council with an informative summary of the calculations
40 used to determine the certified distribution. The summary of
41 calculations must include:

42 **(1) the amount of tax received from county taxpayers of the**



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1 **county for the taxable year ending before the calendar year in**
 2 **which the determination is made;**

3 ~~(1)~~ **(2)** the amount reported on individual income tax returns
 4 processed by the department during the previous fiscal year;

5 ~~(2)~~ **(3)** adjustments for over distributions in prior years;

6 ~~(3)~~ **(4)** adjustments for clerical or mathematical errors in prior
 7 years;

8 ~~(4)~~ **(5)** adjustments for tax rate changes; and

9 ~~(5)~~ **(6)** the amount of excess account balances to be distributed
 10 under IC 6-3.5-6-17.3.

11 The budget agency shall also certify information concerning the part of
 12 the certified distribution that is attributable to a tax rate under section
 13 30, 31, or 32 of this chapter. This information must be certified to the
 14 county auditor and to the department of local government finance not
 15 later than September 1 of each calendar year. The part of the certified
 16 distribution that is attributable to a tax rate under section 30, 31, or 32
 17 of this chapter may be used only as specified in those provisions.

18 (c) The budget agency shall certify an amount less than the amount
 19 determined under subsection (b) if the budget agency determines that
 20 the reduced distribution is necessary to offset overpayments made in a
 21 calendar year before the calendar year of the distribution. The budget
 22 agency may reduce the amount of the certified distribution over several
 23 calendar years so that any overpayments are offset over several years
 24 rather than in one (1) lump sum.

25 (d) The budget agency shall adjust the certified distribution of a
 26 county to correct for any clerical or mathematical errors made in any
 27 previous certification under this section. The budget agency may
 28 reduce the amount of the certified distribution over several calendar
 29 years so that any adjustment under this subsection is offset over several
 30 years rather than in one (1) lump sum.

31 (e) This subsection applies to a county that imposes, increases,
 32 decreases, or rescinds a tax or tax rate under this chapter before
 33 November 1 in the same calendar year in which the budget agency
 34 makes a certification under this section. The budget agency shall adjust
 35 the certified distribution of a county to provide for a distribution in the
 36 immediately following calendar year and in each calendar year
 37 thereafter. The budget agency shall provide for a full transition to
 38 certification of distributions as provided in subsection ~~(a)(1)~~ through
 39 ~~(a)(2)~~ **(a)** in the manner provided in subsection (c). If the county
 40 imposes, increases, decreases, or rescinds a tax or tax rate under this
 41 chapter after the date for which a certification under subsection (b) is
 42 based, the budget agency shall adjust the certified distribution of the

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1 county after August 1 of the calendar year. The adjustment shall reflect
 2 any other adjustment required under subsections (c), (d), and (f). The
 3 adjusted certification shall be treated as the county's "certified
 4 distribution" for the immediately succeeding calendar year. The budget
 5 agency shall certify the adjusted certified distribution to the county
 6 auditor for the county and provide the county council with an
 7 informative summary of the calculations that revises the informative
 8 summary provided in subsection (b) and reflects the changes made in
 9 the adjustment.

10 (f) This subsection applies in the year a county initially imposes a
 11 tax rate under section 30 of this chapter. Notwithstanding any other
 12 provision, the budget agency shall adjust the part of the county's
 13 certified distribution that is attributable to the tax rate under section 30
 14 of this chapter to provide for a distribution in the immediately
 15 following calendar year equal to the result of:

16 (1) the sum of the amounts determined under STEP ONE through
 17 STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county
 18 initially imposes a tax rate under section 30 of this chapter;
 19 multiplied by

20 (2) the following:

21 (A) In a county containing a consolidated city, one and
 22 five-tenths (1.5).

23 (B) In a county other than a county containing a consolidated
 24 city, two (2).

25 (g) One-twelfth (1/12) of each adopting county's certified
 26 distribution for a calendar year shall be distributed from its account
 27 established under section 16 of this chapter to the appropriate county
 28 treasurer on the first regular business day of each month of that
 29 calendar year.

30 (h) Upon receipt, each monthly payment of a county's certified
 31 distribution shall be allocated among, distributed to, and used by the
 32 civil taxing units of the county as provided in sections 18 and 19 of this
 33 chapter.

34 (i) All distributions from an account established under section 16 of
 35 this chapter shall be made by warrants issued by the auditor of state to
 36 the treasurer of state ordering the appropriate payments.

37 (j) The budget agency shall before May 1 of every odd-numbered
 38 year publish an estimate of the statewide total amount of certified
 39 distributions to be made under this chapter during the following two (2)
 40 calendar years.

41 (k) The budget agency shall before May 1 of every even-numbered
 42 year publish an estimate of the statewide total amount of certified

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1 distributions to be made under this chapter during the following
2 calendar year.

3 (l) The estimates under subsections (j) and (k) must specify the
4 amount of the estimated certified distributions that are attributable to
5 the additional rate authorized under section 30 of this chapter, the
6 additional rate authorized under section 31 of this chapter, the
7 additional rate authorized under section 32 of this chapter, and any
8 other additional rates authorized under this chapter.

9 SECTION 3. IC 6-3.5-7-11, AS AMENDED BY P.L.137-2012,
10 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2013]: Sec. 11. (a) Revenue derived from the imposition of
12 the county economic development income tax shall, in the manner
13 prescribed by this section, be distributed to the county that imposed it.

14 (b) Before August 2 of each calendar year, the budget agency, shall
15 certify to the county auditor of each adopting county the sum of the
16 amount of county economic development income tax revenue that the
17 budget agency determines has been

18 ~~(1)~~ received from **county taxpayers of** that county for a taxable
19 year ending before the calendar year in which the determination
20 is made **(regardless of whether the amount received has been**
21 **reported on a return or amended return processed by the**
22 **department), and**

23 ~~(2)~~ reported on an annual return or amended return processed by
24 the department in the state fiscal year ending before July 1 of the
25 calendar year in which the determination is made;

26 as adjusted for refunds of county economic development income tax
27 made in the state fiscal year plus the amount of interest in the county's
28 account that has been accrued and has not been included in a
29 certification made in a preceding year. The amount certified is the
30 county's certified distribution, which shall be distributed on the dates
31 specified in section 16 of this chapter for the following calendar year.

32 (c) The amount certified under subsection (b) shall be adjusted
33 under subsections (d), (e), (f), and (g). The budget agency shall provide
34 the county council with an informative summary of the calculations
35 used to determine the certified distribution. The summary of
36 calculations must include:

37 **(1) the amount of tax received from county taxpayers of the**
38 **county for the taxable year ending before the calendar year in**
39 **which the determination is made;**

40 ~~(1)~~ **(2) the amount reported on individual income tax returns**
41 **processed by the department during the previous fiscal year;**

42 ~~(2)~~ **(3) adjustments for over distributions in prior years;**

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1 ~~(3)~~ **(4)** adjustments for clerical or mathematical errors in prior
 2 years;
 3 ~~(4)~~ **(5)** adjustments for tax rate changes; and
 4 ~~(5)~~ **(6)** the amount of excess account balances to be distributed
 5 under IC 6-3.5-7-17.3.

6 (d) The budget agency shall certify an amount less than the amount
 7 determined under subsection (b) if the budget agency determines that
 8 the reduced distribution is necessary to offset overpayments made in a
 9 calendar year before the calendar year of the distribution. The budget
 10 agency may reduce the amount of the certified distribution over several
 11 calendar years so that any overpayments are offset over several years
 12 rather than in one (1) lump sum.

13 (e) The budget agency shall adjust the certified distribution of a
 14 county to correct for any clerical or mathematical errors made in any
 15 previous certification under this section. The budget agency may
 16 reduce the amount of the certified distribution over several calendar
 17 years so that any adjustment under this subsection is offset over several
 18 years rather than in one (1) lump sum.

19 (f) The budget agency shall adjust the certified distribution of a
 20 county to provide the county with the amount of any tax increase
 21 imposed under section 26 of this chapter to provide additional
 22 homestead credits as provided in those provisions.

23 (g) This subsection applies to a county that imposes, increases,
 24 decreases, or rescinds a tax or tax rate under this chapter before
 25 November 1 in the same calendar year in which the budget agency
 26 makes a certification under this section. The budget agency shall adjust
 27 the certified distribution of a county to provide for a distribution in the
 28 immediately following calendar year and in each calendar year
 29 thereafter. The budget agency shall provide for a full transition to
 30 certification of distributions as provided in subsection ~~(b)(1)~~ through
 31 ~~(b)(2)~~ **(b)** in the manner provided in subsection (d). If the county
 32 imposes, increases, decreases, or rescinds a tax or tax rate under this
 33 chapter after the date for which a certification under subsection (b) is
 34 based, the budget agency shall adjust the certified distribution of the
 35 county after August 1 of the calendar year. The adjustment shall reflect
 36 any other adjustment authorized under subsections (c), (d), (e), and (f).
 37 The adjusted certification shall be treated as the county's certified
 38 distribution for the immediately succeeding calendar year. The budget
 39 agency shall certify the adjusted certified distribution to the county
 40 auditor for the county and provide the county council with an
 41 informative summary of the calculations that revises the informative
 42 summary provided in subsection (c) and reflects the changes made in

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1 the adjustment.
2 (h) The budget agency shall before May 1 of every odd-numbered
3 year publish an estimate of the statewide total amount of certified
4 distributions to be made under this chapter during the following two (2)
5 calendar years.
6 (i) The budget agency shall before May 1 of every even-numbered
7 year publish an estimate of the statewide total amount of certified
8 distributions to be made under this chapter during the following
9 calendar year.
10 (j) The estimates under subsections (h) and (i) must specify the
11 amount of the estimated certified distributions that are attributable to
12 any additional rates authorized under this chapter.

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