

# HOUSE BILL No. 1588

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## 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.

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## Ober, Wesco, Niemeyer, GiaQuinta

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January 23, 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. 1588



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 ~~(1)~~ **(2) the amount reported on individual income tax returns**  
 17 **processed by the department during the previous fiscal year;**  
 18 ~~(2)~~ **(3) adjustments for over distributions in prior years;**  
 19 ~~(3)~~ **(4) adjustments for clerical or mathematical errors in prior**  
 20 **years;**  
 21 ~~(4)~~ **(5) adjustments for tax rate changes; and**  
 22 ~~(5)~~ **(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 6-3.5-6-27, AS AMENDED BY P.L.182-2009(ss),  
10 SECTION 223, IS AMENDED TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2013]: Sec. 27. (a) This section applies only to  
12 Miami County. Miami County possesses unique economic  
13 development challenges due to:

- 14 (1) underemployment in relation to similarly situated counties;  
15 and  
16 (2) the presence of a United States government military base or  
17 other military installation that is completely or partially inactive  
18 or closed.

19 Maintaining low property tax rates is essential to economic  
20 development, and the use of county option income tax revenues as  
21 provided in this chapter to pay any bonds issued or leases entered into  
22 to finance the construction, acquisition, improvement, renovation, and  
23 equipping described under subsection (c), rather than use of property  
24 taxes, promotes that purpose.

25 (b) In addition to the rates permitted by sections 8 and 9 of this  
26 chapter, the county council may impose the county option income tax  
27 at a rate of twenty-five hundredths percent (0.25%) on the adjusted  
28 gross income of resident county taxpayers if the county council makes  
29 the finding and determination set forth in subsection (c). Section 8(e)  
30 of this chapter applies to the application of the additional rate to  
31 nonresident taxpayers.

32 (c) In order to impose the county option income tax as provided in  
33 this section, the county council must adopt an ordinance finding and  
34 determining that revenues from the county option income tax are  
35 needed to pay the costs of financing, constructing, acquiring,  
36 renovating, and equipping a county jail, including the repayment of  
37 bonds issued, or leases entered into, for financing, constructing,  
38 acquiring, renovating, and equipping a county jail.

39 (d) If the county council makes a determination under subsection  
40 (c), the county council may adopt a tax rate under subsection (b). The  
41 tax rate may not be imposed at a rate or for a time greater than is  
42 necessary to pay the costs of financing, constructing, acquiring,

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1 renovating, and equipping a county jail.

2 (e) The county treasurer shall establish a county jail revenue fund  
3 to be used only for the purposes described in this section. County  
4 option income tax revenues derived from the tax rate imposed under  
5 this section shall be deposited in the county jail revenue fund before  
6 making a certified distribution under section 18 of this chapter.

7 (f) County option income tax revenues derived from the tax rate  
8 imposed under this section:

9 (1) may only be used for the purposes described in this section;

10 (2) may not be considered by the department of local government  
11 finance in determining the county's maximum permissible  
12 property tax levy limit under IC 6-1.1-18.5; and

13 (3) may be pledged to the repayment of bonds issued, or leases  
14 entered into, for the purposes described in subsection (c).

15 (g) The budget agency shall adjust the certified distribution of a  
16 county to provide for an increased distribution of taxes in the  
17 immediately following calendar year after the county adopts an  
18 increased tax rate under this section and in each calendar year  
19 thereafter. The budget agency shall provide for a full transition to  
20 certification of distributions as provided in section ~~17(a)(1) through~~  
21 ~~17(a)(2)~~ **17(a)** of this chapter in the manner provided in section 17(c)  
22 of this chapter.

23 SECTION 4. IC 6-3.5-7-11, AS AMENDED BY P.L.137-2012,  
24 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2013]: Sec. 11. (a) Revenue derived from the imposition of  
26 the county economic development income tax shall, in the manner  
27 prescribed by this section, be distributed to the county that imposed it.

28 (b) Before August 2 of each calendar year, the budget agency shall  
29 certify to the county auditor of each adopting county the sum of the  
30 amount of county economic development income tax revenue that the  
31 budget agency determines has been

32 ~~(1)~~ received from **county taxpayers of** that county for a taxable  
33 year ending before the calendar year in which the determination  
34 is made **(regardless of whether the amount received has been**  
35 **reported on a return or amended return processed by the**  
36 **department), and**

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

40 as adjusted for refunds of county economic development income tax  
41 made in the state fiscal year plus the amount of interest in the county's  
42 account that has been accrued and has not been included in a

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1 certification made in a preceding year. The amount certified is the  
 2 county's certified distribution, which shall be distributed on the dates  
 3 specified in section 16 of this chapter for the following calendar year.

4 (c) The amount certified under subsection (b) shall be adjusted  
 5 under subsections (d), (e), (f), and (g). The budget agency shall provide  
 6 the county council with an informative summary of the calculations  
 7 used to determine the certified distribution. The summary of  
 8 calculations must include:

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

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

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

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

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

18 ~~(-)~~ **(6)** the amount of excess account balances to be distributed  
 19 under IC 6-3.5-7-17.3.

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

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

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

37 (g) This subsection applies to a county that imposes, increases,  
 38 decreases, or rescinds a tax or tax rate under this chapter before  
 39 November 1 in the same calendar year in which the budget agency  
 40 makes a certification under this section. The budget agency shall adjust  
 41 the certified distribution of a county to provide for a distribution in the  
 42 immediately following calendar year and in each calendar year

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

16 (h) The budget agency shall before May 1 of every odd-numbered  
 17 year publish an estimate of the statewide total amount of certified  
 18 distributions to be made under this chapter during the following two (2)  
 19 calendar years.

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

24 (j) The estimates under subsections (h) and (i) must specify the  
 25 amount of the estimated certified distributions that are attributable to  
 26 any additional rates authorized under this chapter.

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