

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1129

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-18.5-3, AS AMENDED BY P.L.197-2016, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 3. (a) A civil taxing unit may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in the last STEP of the following STEPS:

STEP ONE: Determine the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in the last STEP of section 2(b) of this chapter.

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient (rounded to the nearest ten-thousandth (0.0001)), of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

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STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount of an excessive levy appeal granted under section 13 of this chapter for the ensuing calendar year.

STEP SEVEN: Determine the greater of STEP FIVE or STEP SIX.

(b) This subsection applies only to a civil taxing unit that is located in a county that is covered by IC 6-3.6-11-1. **For purposes of subsection (a), revenue under IC 6-3.6-6 that is applied for purposes of a levy freeze shall not be included in the amount determined under STEP ONE of subsection (a) for the civil taxing unit.** Notwithstanding any provision in this section, any other section of this chapter, or IC 12-20-21-3.2, and except as provided in subsection (c), **if the adopting body has adopted a resolution specifying that any increase in the maximum levy is to be funded using local income tax revenue,** the maximum permissible ad valorem property tax levy calculated under this section for the ensuing calendar year for a the civil taxing unit ~~subject to this section~~ is equal to the civil taxing unit's maximum permissible ad valorem property tax levy for the current calendar year. **If the adopting body has adopted a resolution specifying that any increase in the maximum levy is not to be funded using local income tax revenue, the maximum permissible ad valorem property tax levy for the civil taxing unit is equal to the civil taxing unit's maximum permissible ad valorem property tax levy calculated under this section for the ensuing calendar year.**

(c) In the case of a civil taxing unit that:

(1) is partially located in a county that is covered by IC 6-3.6-11-1; and

(2) is partially located in a county that is not described in subdivision (1);

the department of local government finance shall, notwithstanding subsection (b), adjust the portion of the civil taxing unit's maximum permissible ad valorem property tax levy that is attributable (as determined by the department of local government finance) to the county or counties described in subdivision (2). The department of local government finance shall adjust this portion of the civil taxing unit's maximum permissible ad valorem property tax levy so that, notwithstanding subsection (b), this portion is allowed to increase as otherwise provided in this section. If the department of local



government finance increases the civil taxing unit's maximum permissible ad valorem property tax levy under this subsection, any additional property taxes imposed by the civil taxing unit under the adjustment shall be paid only by the taxpayers in the county or counties described in subdivision (2).

SECTION 2. IC 6-2.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana.

(b) The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. The retail merchant shall collect the tax as agent for the state.

(c) A retail merchant that does not have a physical presence in Indiana shall, as an agent for the state, collect the gross retail tax on a retail transaction made in Indiana, remit the gross retail tax as provided in this article, and comply with all applicable procedures and requirements of this article as if the retail merchant has a physical presence in Indiana, if the retail merchant meets either of the following conditions for the calendar year in which the retail transaction is made or for the calendar year preceding the calendar year in which the retail transaction is made:

(1) The retail merchant's gross revenue from any combination of:

- (A) the sale of tangible personal property that is delivered into Indiana;**
- (B) a product transferred electronically into Indiana; or**
- (C) a service delivered in Indiana;**

exceeds one hundred thousand dollars (\$100,000).

(2) The retail merchant sells any combination of:

- (A) tangible personal property that is delivered into Indiana;**
- (B) a product transferred electronically into Indiana; or**
- (C) a service delivered in Indiana;**

in two hundred (200) or more separate transactions.

SECTION 3. IC 6-2.5-9-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. **(a) Notwithstanding any other law and regardless of whether the department initiates an audit or any other collection or enforcement procedure, the department may bring a**



declaratory judgment action under IC 34-14-1 in any circuit court or superior court against a person that the department believes meets the criteria of IC 6-2.5-2-1(c) in order to establish that:

- (1) the person has an obligation to collect state gross retail tax as provided in IC 6-2.5-2-1(c); and
- (2) the person's obligation to collect state gross retail tax as provided in IC 6-2.5-2-1(c) is valid under state and federal law.

(b) A court in which an action for a declaratory judgment is brought under subsection (a) shall act on the declaratory judgment action as expeditiously as possible.

(c) IC 34-52-1-1(b) and all other provisions authorizing attorney's fees do not apply to a declaratory judgment action brought under subsection (a) or to any appeal from a judgment in a declaratory judgment action brought under subsection (a).

(d) The following apply if the department files a declaratory judgment action under this section:

- (1) The department and other state agencies and state entities may not, during the pendency of the declaratory judgment action (including any appeals from a judgment in the declaratory judgment action), enforce the obligation to collect state gross retail tax as provided in IC 6-2.5-2-1(c) against any person that does not affirmatively consent or otherwise remit the gross retail tax on a voluntary basis. However, this subdivision does not apply to a person if there is a previous judgment from a court establishing the validity of the obligation to collect state gross retail tax with respect to that person.

(2) The prohibition under subdivision (1) on the enforcement of the obligation to collect state gross retail tax as provided in IC 6-2.5-2-1(c) does not apply if:

- (A) a court enters a final judgment on the merits declaring that the obligation to collect state gross retail tax as provided in IC 6-2.5-2-1(c) is valid; and
- (B) the final judgment of the court is no longer subject to appeal.

(e) An obligation to remit the gross retail tax as required by IC 6-2.5-2-1(c) may not be applied retroactively before the effective date of that subsection on July 1, 2017.

SECTION 4. IC 6-2.5-9-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 10. (a)** A taxpayer complying with IC 6-2.5-2-1(c),



voluntarily or otherwise, may seek only a refund under IC 6-8.1-9 of taxes, interest, and penalties that have been paid to and collected by the department. However, a refund may not be granted on the basis that the taxpayer lacked a physical presence in Indiana and complied with IC 6-2.5-2-1(c) voluntarily.

(b) IC 6-2.5-2-1(c), section 9 of this chapter, and this section do not limit the ability of any taxpayer to obtain a refund for any other reason, including a mistake of fact or mathematical miscalculation of the applicable tax.

(c) A retail merchant that remits gross retail tax voluntarily or otherwise under IC 6-2.5-2-1(c) is not liable to a purchaser who claims that the sales tax has been overcollected if IC 6-2.5-2-1(c) is later found unlawful.

(d) IC 6-2.5-2-1(c) does not affect the obligation of any purchaser to remit use tax as required under IC 6-2.5-3.

SECTION 5. IC 6-2.5-9-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. The general assembly finds the following:

- (1) The inability to effectively collect the gross retail tax or use tax from remote sellers that deliver tangible personal property, products transferred electronically, or services directly into Indiana is seriously eroding the tax base of Indiana and causing revenue losses and imminent harm to Indiana through the loss of critical funding for state and local services.
- (2) Gross retail tax and use tax revenues are essential in funding state and local services.
- (3) Despite the fact that a use tax is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, many remote sellers actively market sales as "tax free" or as "no sales tax" transactions.
- (4) The structural advantages of remote sellers, including the absence of point-of-sale tax collection, and the general growth of the online retail industry make clear that further erosion of Indiana's gross retail tax base is likely in the near future.
- (5) Remote sellers that make a substantial number of deliveries into Indiana or have large gross revenues from Indiana benefit extensively from Indiana's market (including the economy generally) and from the infrastructure in Indiana.
- (6) In contrast with the expanding harms caused to Indiana



from this exemption of gross retail tax collection obligations for remote sellers, the costs of that collection have fallen. Given modern computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit gross retail taxes associated with sales into Indiana.

(7) The Supreme Court of the United States should reconsider its doctrine that prevents, under certain circumstances, states from requiring remote sellers to collect gross retail tax, and as the findings of this section make clear, this argument has grown stronger, and the cause more urgent, with time.

(8) Given the urgent need for the Supreme Court of the United States to reconsider this doctrine, it is necessary for the general assembly to enact IC 6-2.5-2-1(c), clarifying the state's immediate intent to require collection of gross retail taxes by remote sellers.

(9) Expeditious review is necessary and appropriate because, while it may be reasonable notwithstanding this law for remote sellers to continue to refuse to collect the gross retail tax in light of existing federal constitutional doctrine, such a refusal causes imminent harm to Indiana.

(10) It is the intent of the general assembly to apply Indiana's gross retail tax and use tax obligations to the limit of federal and state constitutional doctrines and to specify that Indiana law permits the state to immediately argue in any litigation that such a constitutional doctrine should be changed to permit the obligation to collect state gross retail tax as provided in IC 6-2.5-2-1(c).

SECTION 6. IC 6-3.6-2-4, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 4. "Attributed allocation amount" refers to an amount that qualifies as an attributed allocation amount under IC 6-3.6-6: equals the sum of the following:

- (1) The allocation amount of the civil taxing unit for that calendar year.
- (2) In the case of a county taxing unit, the welfare allocation amount.

SECTION 7. IC 6-3.6-2-14, AS AMENDED BY P.L.197-2016, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. "Public safety" refers to the following:

- (1) A police and law enforcement system to preserve public peace and order.



- (2) A firefighting and fire prevention system.
- (3) Emergency ambulance services (as defined in IC 16-18-2-107).
- (4) Emergency medical services (as defined in IC 16-18-2-110).
- (5) Emergency action (as defined in IC 13-11-2-65).
- (6) A probation department of a court.
- (7) Confinement, supervision, services under a community corrections program (as defined in IC 35-38-2.6-2), or other correctional services for a person who has been:
 - (A) diverted before a final hearing or trial under an agreement that is between the county prosecuting attorney and the person or the person's custodian, guardian, or parent and that provides for confinement, supervision, community corrections services, or other correctional services instead of a final action described in clause (B) or (C);
 - (B) convicted of a crime; or
 - (C) adjudicated as a delinquent child or a child in need of services.
- (8) A juvenile detention facility under IC 31-31-8.
- (9) A juvenile detention center under IC 31-31-9.
- (10) A county jail.
- (11) A communications system (as defined in IC 36-8-15-3), an enhanced emergency telephone system (as defined in IC 36-8-16-2, before its repeal on July 1, 2012), a PSAP (as defined in IC 36-8-16.7-20) that is part of the statewide 911 system (as defined in IC 36-8-16.7-22) and located within the county, or the statewide 911 system (as defined in IC 36-8-16.7-22).
- (12) Medical and health expenses for jailed inmates and other confined persons.
- (13) Pension payments for any of the following:
 - (A) A member of a fire department (as defined in IC 36-8-1-8) or any other employee of the fire department.
 - (B) A member of a police department (as defined in IC 36-8-1-9), a police chief hired under a waiver under IC 36-8-4-6.5, or any other employee hired by the police department.
 - (C) A county sheriff or any other member of the office of the county sheriff.
 - (D) Other personnel employed to provide a service described in this section.
- (14) Law enforcement training.**



SECTION 8. IC 6-3.6-3-2, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) An adopting body or, if authorized by this article, another governmental entity that is not an adopting body, may take an action under this article only by ordinance, unless this article permits the action to be taken by resolution.

(b) The department of local government finance, in consultation with the department of state revenue, ~~shall prescribe and may~~ make electronically available uniform notices, ordinances, and resolutions ~~for use by that~~ an adopting body or other governmental entity ~~may use~~ to take an action under this article. An adopting body or other governmental entity may submit a proposed notice, ordinance, or resolution to the department of local government finance for review. The department of local government finance shall provide to the submitting entity a determination of the appropriateness of the proposed notice, ordinance, or resolution, including recommended modifications, within thirty (30) days of receiving the proposed notice, ordinance, or resolution.

(c) ~~The department of local government finance shall prescribe An ordinance or resolution adopted under this article must comply with the notice and hearing requirements and procedures to be used for submitting a notice and vote results on ordinances and adopting and submitting an ordinance or a resolution under this article: set forth in IC 5-3-1.~~

(d) ~~The department of local government finance shall prescribe the procedures to be used by the adopting body or governmental entity for submitting to the department the notice, the adopting ordinance or resolution, and the vote results on an ordinance or resolution. The department of local government finance shall notify the submitting entity within thirty (30) days after submission whether the department has received the necessary information required by the department. An A final action taken by an adopting body or governmental entity under this article to impose a new tax or amend an existing tax is not effective and is void unless the adopting body satisfies all the requirements prescribed by until the department of local government finance notifies the adopting body or governmental entity that it has received the required information from the submitting entity.~~

SECTION 9. IC 6-3.6-3-3, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 3. (a) An ordinance adopted under this article takes effect as provided in this section.



(b) An ordinance that adopts, increases, decreases, or rescinds a tax or a tax rate takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before September 1 of the current year takes effect on October 1 of the current year.

(2) An ordinance adopted after August 31 and before November 1 of the current year takes effect on January 1 of the following year.

(3) An ordinance adopted after October 31 of the current year and before January 1 of the following year takes effect on October 1 of the following year.

(c) An ordinance that grants, increases, decreases, rescinds, or changes a credit against the property tax liability of a taxpayer takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before November 2 of the current year takes effect on January 1 of, and applies to property taxes first due and payable in, the year immediately following the year in which the ordinance is adopted.

(2) An ordinance adopted after November 1 of the current year and before January 1 of the immediately succeeding year takes effect on January 1 of, and applies to property taxes first due and payable in, the year that follows the current year by two (2) years.

(d) An ordinance that grants, increases, decreases, rescinds, or changes a distribution or allocation of taxes to a governmental entity other than the county takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before November 2 of the current year takes effect January 1 of the year immediately following the year in which the ordinance is adopted.

(2) An ordinance adopted after November 1 of the current year and before January 1 of the immediately succeeding year takes effect January 1 of the year that follows the current year by two (2) years.

(e) An ordinance not described in subsections (b) through (d) takes effect as provided under IC 36 for other ordinances of the governmental entity adopting the ordinance.

SECTION 10. IC 6-3.6-3-7, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 7. (a) This section applies to a county in which the county adopting body is a local income tax council.



(b) Before a member of the local income tax council may propose an ordinance or vote on a proposed ordinance, the member must hold a public hearing on the proposed ordinance and provide the public with notice of the time and place where the public hearing will be held.

(c) The notice required by subsection (b) must be given in accordance with IC 5-3-1 and include the proposed ordinance or resolution to propose an ordinance.

(d) In addition to the notice required by subsection (b), the adopting body shall also provide a copy of the notice to all taxing units in the county at least ten (10) days before the public hearing.

SECTION 11. IC 6-3.6-3-7.5, AS ADDED BY P.L.197-2016, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 7.5. (a) This section applies to a county in which the county adopting body is the county council.

(b) Before the county council may vote on a proposed ordinance under this article, the county council must hold a public hearing on the proposed ordinance and provide the public with notice of the date, time, and place ~~where of~~ the public hearing. ~~will be held.~~

(c) The notice required by subsection (b) must be given in accordance with IC 5-3-1 and include the proposed ordinance.

(d) In addition to the notice required by subsection (b), the adopting body shall also provide a copy of the notice to all taxing units in the county at least ten (10) days before the public hearing.

SECTION 12. IC 6-3.6-5-4, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 4. ~~(a)~~ A credit granted under this chapter shall be applied to reduce the property tax liability of a taxpayer before the application of a credit granted under IC 6-1.1-20.4 or IC 6-1.1-20.6.

~~(b) A reduction in property taxes granted under section 6 of this chapter shall be applied to reduce the property tax liability of a taxpayer in the order set forth in section 6 of this chapter.~~

SECTION 13. IC 6-3.6-5-6, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 6. (a) This section applies to all counties.

(b) The adopting body may impose a tax rate under this chapter that does not exceed one and twenty-five hundredths percent (1.25%) on the adjusted gross income of local taxpayers in the county served by the adopting body.

(c) Revenues from a tax under this section may be used only for the



purpose of funding a property tax credit applied on a percentage basis to reduce the property tax liability of taxpayers with tangible property located in the county as authorized under this section. Property taxes imposed due to a referendum in which a majority of the voters in the taxing unit imposing the property taxes approved the property taxes are not eligible for a credit under this section.

(d) The adopting body shall specify by ordinance how the revenue from the tax shall be applied **under subdivisions (1) through (4)** to provide property tax credits in subsequent years. **The allocation must be specified as a percentage of property tax relief revenue for taxpayers within each property category.** The ordinance must be adopted before July 1 and first applies in the following year and then as provided in IC 6-3.6-3 and takes effect and applies to property taxes as specified in IC 6-3.6-3-3. The ordinance continues to apply thereafter until it is rescinded or modified. The property tax credits may be allocated **to all property categories or** among any combination of the following categories:

- (1) For homesteads eligible for a credit under IC 6-1.1-20.6-7.5 that limits the taxpayer's property tax liability for the property to one percent (1%).
- (2) For residential property, long term care property, agricultural land, and other tangible property (if any) eligible for a credit under IC 6-1.1-20.6-7.5 that limits the taxpayer's property tax liability for the property to two percent (2%).
- (3) For the following types of property as a single category:
 - (A) residential property, as defined in IC 6-1.1-20.6-4.
 - (B) Real property, a mobile home, and industrialized housing that would qualify as a homestead if the taxpayer had filed for a homestead credit under IC 6-1.1-20.9 (repealed) or the standard deduction under IC 6-1.1-12-37.
 - (C) Real property consisting of units that are regularly used to rent or otherwise furnish residential accommodations for periods of at least thirty (30) days; regardless of whether the tangible property is subject to assessment under rules of the department of local government finance that apply to:
 - (i) residential property; or
 - (ii) commercial property.
- (4) For nonresidential real property, personal property, and other tangible property (if any) eligible for a credit under IC 6-1.1-20.6-7.5 that limits the taxpayer's property tax liability for the property to three percent (3%). However, IC 6-3.6-11-2 applies in Jasper County.



(e) Within a category described in subsection (d) for which an ordinance grants property tax credits, the property tax credit rate must be a uniform percentage for all qualifying taxpayers with property in that category in the county. The credit percentage may be, but does not have to be, uniform for all categories of property listed in subsection (d). The total of all tax credits granted under this section for a year may not exceed the amount of revenue raised by the tax imposed under this section. If the amount available in a year for property tax credits under this section is less than the amount necessary to provide all the property tax credits authorized by the adopting body, the county auditor shall reduce the property tax credits granted to eliminate the excess. The county auditor shall reduce credits within the categories described in subsection (d)(1) through (d)(4) as follows:

(1) First, against property taxes imposed on property described in subsection (d)(4):

(2) Second, if an excess remains after applying the reduction as described in subdivision (1), against property taxes imposed on property described in subsection (d)(3):

(3) Third, if an excess remains after applying the reduction as described in subdivisions (1) and (2), against property taxes imposed on property described in subsection (d)(2):

(4) Fourth, if an excess remains after applying the reduction as described in subdivisions (1) through (3), against property taxes imposed on property described in subsection (d)(1):

(f) The total of all tax credits granted under this section for a year may not exceed the amount authorized by the adopting body. If the amount available in a year for property tax credits under this section is greater than the amount necessary to provide all the property tax credits authorized by the adopting body, the county auditor shall retain and apply the excess as necessary to provide the property tax credits authorized by the adopting body for the following year. The adopting body may adopt an ordinance that directs to which categories described in subsection (d) the excess is to be uniformly applied:

(g) (f) The county auditor shall allocate the amount of revenue applied as tax credits under this section to the taxing units that imposed the eligible property taxes against which the credits are applied.

SECTION 14. IC 6-3.6-6-3, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 3. (a) Revenue raised from a tax imposed under this chapter shall be treated as follows:

(1) *If an ordinance described in section 2.5 of this chapter is in*



effect in a county, to make a distribution to the county equal to the amount of revenue generated by the rate imposed under section 2.5 of this chapter.

~~(1)~~ (2) *After making the distribution described in subdivision (1), if any, to make distributions to school corporations and civil taxing units in counties that formerly imposed a tax under IC 6-3.5-1.1 (repealed). The revenue categorized from the first next twenty-five hundredths percent (0.25%) of the rate for a former tax adopted under IC 6-3.5-1.1 (repealed) shall be allocated to school corporations and civil taxing units. The amount of the allocation to a school corporation or civil taxing unit shall be determined using the allocation amounts for civil taxing units and school corporations in the ~~determination~~ county.*

~~(2)~~ (3) *After making the distributions described in subdivisions (1) and (2), the remaining revenue shall be treated as additional revenue (referred to as "additional revenue" in this chapter). Additional revenue may not be considered by the department of local government finance in determining:*

(A) any taxing unit's maximum permissible property tax levy limit under IC 6-1.1-18.5; or

(B) the approved property tax rate for any fund.

(b) *In the case of a civil taxing unit that has pledged the tax from additional revenue for the payment of bonds, leases, or other obligations as reported by the civil taxing unit under IC 5-1-18, the adopting body may not, under section 4 of this chapter, reduce the proportional allocation of the additional revenue that was allocated in the preceding year if the reduction for that year would result in an amount less than the amount necessary for the payment of bonds, leases, or other obligations payable or required to be deposited in a sinking fund or other reserve in that year for the bonds, leases, or other obligations for which the tax from additional revenue has been pledged. To inform an adopting body with regard to allocations that affect the payment of bonds, leases, or other obligations, a taxing unit may provide the adopting body with information regarding any outstanding bonds, leases, or other obligations that are secured by additional revenue. The information must be provided before the date of the public hearing at which the adopting body may change the allocation of additional revenue under section 4 of this chapter.*

SECTION 15. IC 6-3.6-6-4, AS AMENDED BY P.L.197-2016, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 4. The adopting body



shall, by ordinance, determine how the additional revenue from a tax under this chapter must be allocated in subsequent years. The allocations are subject to IC 6-3.6-11. The ordinance must be adopted **before July 1 and first applies in the following year and then as provided in IC 6-3.6-3 and takes effect and applies as specified in IC 6-3.6-3-3. The ordinance continues to apply** thereafter until it is rescinded or modified. The revenue must be allocated among one (1) or more of the following uses as provided in this chapter:

- (1) Public safety.
- (2) Economic development projects.
- (3) Certified shares.

The ordinance must describe the allocation of additional revenue by use of percentages.

SECTION 16. IC 6-3.6-6-8, AS AMENDED BY P.L.197-2016, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 8. (a) This section applies to the allocation of additional revenue from a tax under this chapter to public safety purposes. **Funding dedicated for a PSAP under a former tax continues to apply under this chapter until it is rescinded or modified. If funding was not dedicated for a PSAP under a former tax, the adopting body may adopt a resolution providing that all or part of the additional revenue allocated to public safety is to be dedicated for a PSAP. The resolution first applies in the following year and then thereafter until it is rescinded or modified. Funding dedicated for a PSAP shall be allocated and distributed as provided in IC 6-3.6-11-4.**

(b) Except as provided in subsection (c), the amount of the certified distribution that is allocated to public safety purposes, and after making allocations under IC 6-3.6-11, shall be allocated to the county and to each municipality in the county that is carrying out or providing at least one (1) public safety purpose. For purposes of this subsection, in the case of a consolidated city, the total property taxes imposed by the consolidated city include the property taxes imposed by the consolidated city and all special taxing districts (except for a public library district, a public transportation corporation, and a health and hospital corporation), and all special service districts. The amount allocated under this subsection to a county or municipality is equal to the result of:

- (1) the amount of the remaining certified distribution that is allocated to public safety purposes; multiplied by
- (2) a fraction equal to:
 - (A) in the case of a county that initially imposed a rate for



public safety under IC 6-3.5-6 (repealed), the result of the total property taxes imposed in the county by the county or municipality for the calendar year **preceding the distribution year**, divided by the sum of the total property taxes imposed in the county by the county and each municipality in the county that is entitled to a distribution under this section for ~~the that~~ calendar year; or

(B) in the case of a county that initially imposed a rate for public safety under IC 6-3.5-1.1 (repealed) or a county that did not impose a rate for public safety under either IC 6-3.5-1.1 (repealed) or IC 6-3.5-6 (repealed), the result of the attributed allocation amount of the county or municipality for the calendar year **preceding the distribution year**, divided by the sum of the attributed allocation amounts of the county and each municipality in the county that is entitled to a distribution under this section for ~~the that~~ calendar year.

(c) A fire department, volunteer fire department, or emergency medical services provider that:

(1) provides fire protection or emergency medical services within the county; and

(2) is operated by or serves a political subdivision that is not otherwise entitled to receive a distribution of tax revenue under this section;

may, before July 1 of a year, apply to the adopting body for a distribution of tax revenue under this section during the following calendar year. The adopting body shall review an application submitted under this subsection and may, before September 1 of a year, adopt a resolution requiring that one (1) or more of the applicants shall receive a specified amount of the tax revenue to be distributed under this section during the following calendar year. **The adopting body shall provide a copy of the resolution to the county auditor and the department of local government finance not more than fifteen (15) days after the resolution is adopted.** A resolution ~~approved~~ **adopted** under this subsection ~~providing for a distribution to one (1) or more fire departments, volunteer fire departments, or emergency medical services providers and provided in a timely manner to the county auditor and the department~~ applies only to distributions in the following calendar year. Any amount of tax revenue distributed under this subsection to a fire department, volunteer fire department, or emergency medical services provider shall be distributed before the remainder of the tax revenue is allocated under subsection (b).

SECTION 17. IC 6-3.6-6-8.5, AS ADDED BY P.L.243-2015,



SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 8.5. (a) This section applies only to Marion County.

(b) The adopting body may allocate additional revenue to fund the operation of a public library in a county containing a consolidated city as provided in an election, if any, made by the county fiscal body under IC 36-3-7-6. An allocation under this section shall be made from the part of the additional revenue that would otherwise be allocated as certified shares.

(c) The adopting body may allocate additional revenue to fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42. An allocation under this section shall be made from the part of the additional revenue that would otherwise be allocated as certified shares.

(d) The adopting body may allocate additional revenue to fund the operation of a public communications systems and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b). The additional revenue shall be allocated and distributed before the allocation and distribution of the remaining tax revenue under this chapter.

SECTION 18. IC 6-3.6-6-9, AS AMENDED BY P.L.197-2016, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 9. (a) This section applies to the allocation of additional revenue from a tax under this chapter for economic development purposes.

(b) Money designated for economic development purposes shall be allocated to the county, cities, and towns for use by the taxing unit's fiscal body for any of the purposes described in IC 6-3.6-10. Except as provided in subsections (c) and (d) and IC 6-3.6-11, and subject to adjustment as provided in IC 36-8-19-7.5, the amount of the certified distribution allocated to economic development purposes that the county and each city or town in a county is entitled to receive each month of each year equals the amount determined using the following formula:

STEP ONE: Determine the sum of:

(A) the total property taxes being imposed by the county, city, or town during the calendar year **of preceding** the distribution **year**; plus

(B) for a county, the welfare allocation amount.

STEP TWO: Determine the quotient of:

(A) The STEP ONE amount; divided by



(B) the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year ~~in which the month falls~~, **preceding the distribution year** plus the welfare allocation amount.

STEP THREE: Determine the product of:

(A) the amount of the certified distribution allocated to economic development purposes for that month; multiplied by
(B) the STEP TWO amount.

(c) The body imposing the tax may adopt an ordinance before August 2 of a year to provide for a distribution of the amount allocated to economic development purposes based on population instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

(1) The ordinance is effective January 1 of the following year.
(2) The amount of the certified distribution allocated to economic development purposes that the county and each city and town in the county are entitled to receive during each month of each year equals the product of:

(A) the amount of the certified distribution that is allocated to economic development purposes for the month; multiplied by

(B) the quotient of:

(i) for a city or town, the population of the city or the town that is located in the county and for a county, the population of the part of the county that is not located in a city or town; divided by

(ii) the population of the entire county.

(3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.

(d) In a county having a consolidated city, only the consolidated city is entitled to the amount of the certified distribution that is allocated to economic development purposes.

SECTION 19. IC 6-3.6-6-11, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 11. (a) Except as provided in this chapter and IC 6-3.6-11, this section applies to an allocation of certified shares in all counties.

(b) ~~Subject to this chapter~~, Any civil taxing unit that ~~imposes~~ **imposed** an ad valorem property tax ~~levy~~ in the county ~~that has a tax rate in effect under this chapter for the calendar year preceding the distribution year~~ is eligible for an allocation **for the distribution year** under this chapter.



(c) A school corporation is not a civil taxing unit for the purpose of receiving an allocation of certified shares under this chapter. The distributions to school corporations and civil taxing units in counties that formerly imposed a tax under IC 6-3.5-1.1 (*repealed*) as provided in section ~~3(1)~~ ~~3(2)~~ **3(a)(2)** of this chapter is not considered an allocation of certified shares. A school corporation's allocation amount for purposes of section ~~3(1)~~ ~~3(2)~~ **3(a)(2)** of this chapter shall be determined under section 12 of this chapter.

(d) A county solid waste management district (as defined in IC 13-11-2-47) or a joint solid waste management district (as defined in IC 13-11-2-113) is not a civil taxing unit for the purpose of receiving an allocation of certified shares under this chapter unless a majority of the members of each of the county fiscal bodies of the counties within the district passes a resolution approving the distribution.

(e) A resolution passed by a county fiscal body under subsection (d) may:

- (1) expire on a date specified in the resolution; or
- (2) remain in effect until the county fiscal body revokes or rescinds the resolution.

SECTION 20. IC 6-3.6-6-12, AS AMENDED BY P.L.180-2016, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 12. (a) Except as provided in this chapter and IC 6-3.6-11, this section applies to an allocation of certified shares in all counties.

(b) The allocation amount of a civil taxing unit during a calendar year **must be based on the amounts for the calendar year preceding the distribution year and** is equal to the amount determined using the following formula:

STEP ONE: Determine the sum of the total property taxes being imposed by the civil taxing unit. ~~during the calendar year of the distribution.~~

STEP TWO: Determine the sum of the following:

(A) Amounts appropriated from property taxes to pay the principal of or interest on any debenture or other debt obligation issued after June 30, 2005, other than an obligation described in subsection (c).

(B) Amounts appropriated from property taxes to make payments on any lease entered into after June 30, 2005, other than a lease described in subsection (d).

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the sum of:



- (A) the STEP THREE amount; plus
- (B) the civil taxing unit's certified shares plus the amount distributed under section ~~3(2)~~ **3(a)(2)** of this chapter for the previous calendar year.

The allocation amount is subject to adjustment as provided in IC 36-8-19-7.5.

(c) Except as provided in this subsection, an appropriation **for the calendar year preceding the distribution year** from property taxes to repay interest and principal of a debt obligation is not deducted from the allocation amount for a civil taxing unit if:

- (1) the debt obligation was issued; and
- (2) the proceeds were appropriated from property taxes;

to refund or otherwise refinance a debt obligation or a lease issued before July 1, 2005. However, an appropriation from property taxes related to a debt obligation issued after June 30, 2005, is deducted if the debt extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if the debt or lease had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

(d) Except as provided in this subsection, an appropriation **for the calendar year preceding the distribution year** from property taxes to make payments on a lease is not deducted from the allocation amount for a civil taxing unit if:

- (1) the lease was issued; and
- (2) the proceeds were appropriated from property taxes;

to refinance a debt obligation or lease issued before July 1, 2005. However, an appropriation from property taxes related to a lease entered into after June 30, 2005, is deducted if the lease extends payments on a debt or lease beyond the time in which the debt or lease would have been payable if the debt or lease had not been refinanced or increases the total amount that must be paid on a debt or lease in excess of the amount that would have been paid if the debt or lease had not been refinanced. The amount of the deduction is the annual amount for each year of the extension period or the annual amount of the increase over the amount that would have been paid.

SECTION 21. IC 6-3.6-6-13 IS REPEALED [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]. ~~Sec. 13. (a) This section applies to an allocation of certified shares in all counties other than Marion County.~~



(b) The attributed allocation amount of a civil taxing unit during a calendar year is equal to the sum of:

(1) the allocation amount of the civil taxing unit for that calendar year; plus

(2) in the case of a county; the welfare allocation amount.

SECTION 22. IC 6-3.6-6-20, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 20. (a) *This section does not apply to distributions of revenue under section 9 of this chapter.*

~~(a)~~ (b) *This section applies only to the following:*

(1) *Any allocation or distribution of revenue under section ~~3(1)~~ 3(a)(2) of this chapter that is made on the basis of property tax levies in counties that formerly imposed a tax under IC 6-3.5-1.1 (before its repeal January 1, 2017).*

(2) *Any allocation or distribution of revenue under section ~~3(2) or 3(3)~~ 3(a)(3) of this chapter that is made on the basis of property tax levies in counties that formerly imposed a tax under IC 6-3.5-6 (before its repeal January 1, 2017).*

(c) *Subject to subsection (b), if a school corporation or civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a the calendar year **preceding the year** in which revenue under section ~~3(2)~~ 3(a)(2) or ~~3(3)~~ 3(a)(3) of this chapter is being allocated or distributed, that school corporation or civil taxing unit is entitled to receive a part of the revenue under section ~~3(1)~~ or ~~3(2)~~ 3(a)(2) or ~~3(3)~~ 3(a)(3) of this chapter (as appropriate) to be distributed within the county. The fractional amount that such a school corporation or civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:*

(1) *The amount of revenue under section ~~3(2)~~ 3(a)(2) or ~~3(3)~~ 3(a)(3) of this chapter to be distributed on the basis of property tax levies during that month; multiplied by*

(2) *A fraction. The numerator of the fraction equals the budget of that school corporation or civil taxing unit for **that calendar the distribution** year. The denominator of the fraction equals the aggregate budgets of all school corporations or civil taxing units of that county for **that calendar the distribution** year.*

~~(b)~~ (d) *Subject to subsection (b), if for a calendar year a school corporation or civil taxing unit is allocated a part of a county's revenue under section ~~3(2)~~ 3(a)(2) or ~~3(3)~~ 3(a)(3) of this chapter by subsection ~~(a)~~; (c), the calculations used to determine the shares of revenue of all other school corporations and civil taxing units under*



section ~~3(2)~~ **(3)(a)(2)** or ~~3 3(3)~~ **3(a)(3)** of this chapter (as appropriate) shall be changed each month for that same year by reducing the amount of revenue to be distributed by the amount of revenue under section ~~3(2)~~ **3(a)(2)** or ~~3 3(3)~~ **3(a)(3)** of this chapter allocated under subsection ~~(a)~~ (c) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

SECTION 23. IC 6-3.6-10-2, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 2. A county, **city, or town** may use revenue allocated for economic development purposes under IC 6-3.6-6-9 for any combination of the following purposes:

- (1) To pay all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project.
- (2) For the retirement of bonds for economic development projects.
- (3) For leases or for leases or bonds entered into or issued before the date the county economic development income tax (IC 6-3.5-7 repealed) was imposed if the purpose of the lease or bonds would have qualified as a purpose under this article at the time the lease was entered into or the bonds were issued.
- (4) The construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8.
- (5) The retirement of bonds issued under any provision of Indiana law for a capital project.
- (6) The payment of lease rentals under any statute for a capital project.
- (7) Contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects.
- (8) Operating expenses of a governmental entity that plans or implements economic development projects.
- (9) Funding of a revolving fund established under IC 5-1-14-14.
- (10) For a regional venture capital fund or a local venture capital fund.
- (11) ~~By a county, city, or town~~ For any lawful purpose for which money in any of its other funds may be used.

SECTION 24. IC 6-3.6-11-1, AS AMENDED BY P.L.197-2016,



SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 1. (a) This section applies to any county that imposed a former tax to provide for a levy freeze.

(b) ~~The revenue tax rate used to offset the~~ **provide for a** levy freeze shall be part of the tax rate under IC 6-3.6-6. **The maximum tax rate that may be applied for a levy freeze is one percent (1%). The levy freeze tax rate may be increased but not decreased or rescinded unless an adopting body adopts a resolution to request approval from the department of local government finance to lower the levy freeze tax rate. The department shall approve a lower levy freeze tax rate if it finds that the lower rate would fund the levy freeze dollar amount (the total amount of foregone maximum levy increases for all taxing units for all years). If the department approves a lower levy freeze tax rate, the adopting body must adopt an ordinance to lower the levy freeze tax rate before the lower rate may take effect.**

(c) The levy freeze amount prescribed by the adopting body ~~revenue from the tax rate~~ shall continue to be applied under this article as it was applied under the former tax, ~~until an adopting body adopts an ordinance that fixes the levy freeze amount as of a certain date as permitted under the former tax. A levy freeze amount may be fixed as of a certain date, but may not be rescinded. including the use of a stabilization fund.~~

(d) The levy freeze, levy amounts, and income tax distributions shall be administered in the same manner as under the former tax. The distributions of income tax ~~revenue attributable to a levy freeze tax rate~~ shall be made before allocating or distributing ~~the remaining~~ revenue under IC 6-3.6-6 or applying the property tax credits funded by a tax rate under IC 6-3.6-5.

(e) ~~Notwithstanding IC 6-1.1-18.5-3, for purposes of calculating the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for an ensuing calendar year beginning after December 31, 2016, revenue under IC 6-3.6-6 that is applied under this section for purposes of a levy freeze shall not be included in the amount determined under STEP ONE of IC 6-1.1-18.5-3 for the civil taxing unit.~~

(f) This subsection applies for ensuing calendar years beginning after December 31, 2016. This subsection applies in a county that:

- (1) imposed a tax rate for a levy freeze under IC 6-3.5-1.1-24 (before its repeal January 1, 2017) or IC 6-3.5-6-30 (before its repeal January 1, 2017); and



(2) has not adopted an ordinance specifying that the levy freeze will not apply to future increases in maximum permissible ad valorem property tax levies.

The maximum permissible ad valorem property tax levy calculated under IC 6-1.1-18.5 for the ensuing calendar year for a civil taxing unit in a county subject to this section is equal to the civil taxing unit's maximum permissible ad valorem property tax levy for the current calendar year.

SECTION 25. IC 6-3.6-11-4, AS AMENDED BY P.L.197-2016, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 4. (a) This section applies to the allocation of the tax revenue under IC 6-3.6-6 that is dedicated to public safety and funding for

(+) a PSAP (as defined in IC 36-8-16.7-20) that is part of the statewide 911 system (as defined in IC 36-8-16.7-22) and located within the county or

(2) the operation of a public communications system and computer facilities district as provided in subsection (b): **as provided in IC 6-3.6-6-8.**

This tax revenue shall be allocated and distributed to the PSAP or Marion County before the allocation and distribution to any taxing units of the remaining tax revenue allocated to public safety as provided in IC 6-3.6-6.

(b) In Marion County, the adopting body may allocate part or all of the certified distribution that is allocated to public safety purposes to fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b).

SECTION 26. IC 6-8.1-5-2, AS AMENDED BY P.L.198-2016, SECTION 58, AND AS AMENDED BY P.L.197-2016, SECTION 76, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as otherwise provided in this section, the department may not issue a proposed assessment under section 1 of this chapter more than three (3) years after the latest of the date the return is filed, or either of the following:

(1) The due date of the return.

(2) In the case of a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax, the end of the calendar year which contains the taxable period for which the return is filed.

(b) If a person files a *return for the utility receipts tax return*



(IC 6-2.3), ~~an~~ adjusted gross income tax (IC 6-3), supplemental net income tax (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1) (repealed), county option income tax (IC 6-3.5-6) (repealed), local income tax (IC 6-3.6), or financial institutions tax (IC 6-5.5) ~~return~~ that understates the person's income, as that term is defined in the particular income tax law, by at least twenty-five percent (25%), the proposed assessment limitation is six (6) years instead of the three (3) years provided in subsection (a).

(c) In the case of the motor vehicle excise tax (IC 6-6-5), the tax shall be assessed as provided in IC 6-6-5-5 and IC 6-6-5-6 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a vehicle as required by IC 9-18 (before its expiration) or IC 9-18.1 and pay the tax due under IC 6-6-5 is considered to have failed to file a return for purposes of this article.

(d) In the case of the commercial vehicle excise tax imposed under IC 6-6-5.5, the tax shall be assessed as provided in IC 6-6-5.5 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a commercial vehicle as required by IC 9-18 (before its expiration) or IC 9-18.1 and pay the tax due under IC 6-6-5.5 is considered to have failed to file a return for purposes of this article.

(e) In the case of the excise tax imposed on recreational vehicles and truck campers under IC 6-6-5.1, the tax shall be assessed as provided in IC 6-6-5.1 and must include the penalties and interest due on all listed taxes not paid by the due date. A person ~~who~~ that fails to properly register a recreational vehicle as required by IC 9-18 (before its expiration) or IC 9-18.1 and pay the tax due under IC 6-6-5.1 is considered to have failed to file a return for purposes of this article. A person ~~who~~ that fails to pay the tax due under IC 6-6-5.1 on a truck camper is considered to have failed to file a return for purposes of this article.

(f) If a person files a fraudulent, unsigned, or substantially blank return, or if a person does not file a return, there is no time limit within which the department must issue its proposed assessment.

(g) If any part of a listed tax has been erroneously refunded by the department, the erroneous refund may be recovered through the assessment procedures established in this chapter. An assessment issued for an erroneous refund must be issued:

- (1) within two (2) years after making the refund; or
- (2) within five (5) years after making the refund if the refund was induced by fraud or misrepresentation.



(h) If, before the end of the time within which the department may make an assessment, the department and the person agree to extend that assessment ~~time~~ period, the period may be extended according to the terms of a written agreement signed by both the department and the person. The agreement must contain:

- (1) the date to which the extension is made; and
- (2) a statement that the person agrees to preserve the person's records until the extension terminates.

The department and a person may agree to more than one (1) extension under this subsection.

(i) If a taxpayer's federal taxable income, federal adjusted gross income, or federal income tax liability for a taxable year is modified due to a modification as provided under IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted gross income tax), or a modification or alteration as provided under IC 6-5.5-6-6(c) and IC 6-5.5-6-6(e) (for the financial institutions tax), then the date by which the department must issue a proposed assessment under section 1 of this chapter for tax imposed under IC 6-3 is extended to six (6) months after the date on which the notice of modification is filed with the department by the taxpayer.

SECTION 27. IC 8-25-1-4, AS ADDED BY P.L.153-2014, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. "Eligible county" means one (1) or more of the following counties:

- (1) Delaware County.
- (2) Hamilton County.
- (3) Hancock County.
- (4) Hendricks County.**
- ~~(4)~~ **(5) Johnson County.**
- ~~(5)~~ **(6) Madison County.**
- ~~(6)~~ **(7) Marion County.**

SECTION 28. IC 8-25-2-1, AS ADDED BY P.L.153-2014, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. **This section does not apply to Hendricks County.** Except as provided in IC 8-25-4-6, the fiscal body of an eligible county may adopt an ordinance to place on the ballot a local public question granting the fiscal body of the eligible county the authority to fund and carry out a public transportation project. The fiscal body shall include in the ordinance:

- (1) a description of the public transportation services that will be provided through the proposed public transportation project; and
- (2) an estimate of each tax necessary to annually fund the public



transportation project.

SECTION 29. IC 8-25-5-6, AS AMENDED BY P.L.197-2016, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) Except as provided in subsection (b), the county fiscal body may pledge revenues for the payment of principal and interest on the bonds and for other purposes under the ordinance as provided by IC 5-1-14-4, including revenues from the local income tax in Delaware County, Hamilton County, Hancock County, **Hendricks County**, Johnson County, Madison County, or Marion County.

(b) The county fiscal body may not pledge to levy ad valorem property taxes for these purposes.

(c) If the county fiscal body has pledged revenues from the local income tax as set forth in subsection (a), the county fiscal body may covenant that the county fiscal body will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The county fiscal body may make the covenant by adopting an ordinance.

SECTION 30. IC 8-25-6-2, AS AMENDED BY P.L.203-2016, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) **This subsection does not apply to townships located in Hendricks County.** If:

(1) the fiscal body of the county in which a township is located does not adopt an ordinance under IC 8-25-2-1; and

(2) the township is adjacent to:

(A) an eligible county in which:

(i) a public transportation project has been approved under IC 8-25-2; or

(ii) an ordinance described in IC 8-25-2 has been adopted; or

(B) another township in which:

(i) a public transportation project has been approved under this chapter; or

(ii) a resolution described in this section has already been passed;

the fiscal body of the township may pass a resolution to place on the ballot a local public question on whether the fiscal body of the eligible county should be required to fund and carry out a public transportation project in the township.

(b) This subsection applies to Guilford Township in Hendricks County. The township fiscal body may pass a resolution to place on the ballot a local public question on whether the township fiscal



body should be required to fund and carry out a public transportation project in the township.

~~(b)~~ (c) The fiscal body of the township shall include in the resolution passed under subsection (a) **or (b)**:

- (1) a description of the public transportation services that will be provided in the township through the proposed public transportation project; and
- (2) an estimate of each tax necessary to annually fund the public transportation project in the township.

SECTION 31. IC 8-25-6-10, AS AMENDED BY P.L.203-2016, SECTION 23, AND AS AMENDED BY P.L.197-2016, SECTION 98, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 10. (a) If the voters of a township ~~located~~ *described in an eligible county* section 2(a)(2)(A)(i) or 2(a)(2)(B)(i) of this chapter approve a local public question under this chapter, the fiscal body of the eligible county *in which the township is located* shall adopt an ordinance under ~~IC 6-3.5-1.1-24(s), IC 6-3.5-6-30(t), or IC 6-3.5-7-26(m), whichever is applicable to the eligible county, IC 6-3.6-6~~ to impose an additional *county adjusted gross local income tax rate, county option income tax rate, or county economic development income tax rate as permitted by IC 6-3.6-7-27*, upon the **county local** taxpayers ~~(as defined in IC 8-24-1-10)~~ residing in the township for the public transportation project in the township.

(b) *This subsection applies if the voters of a township described in section 2(a)(2)(A)(ii) or 2(a)(2)(B)(ii) of this chapter approve a local public question under this chapter and the voters in:*

- (1) *the eligible county described in section 2(a)(2)(A) of this chapter approve a local public question under IC 8-25-2; or*
- (2) *the township described in section 2(a)(2)(B) of this chapter approve a local public question under this chapter.*

*The fiscal body of the eligible county in which the township is located shall adopt an ordinance under ~~IC 6-3.5-1.1-24(s) (before its repeal on January 1, 2017), IC 6-3.5-6-30(t) (before its repeal on January 1, 2017), IC 6-3.5-7-26(m) (before its repeal on January 1, 2017), or IC 6-3.6-4 (after December 31, 2016), whichever is applicable to the eligible county, IC 6-3.6-6~~ to impose an additional **county adjusted gross income tax rate, county option income tax rate, county economic development income tax rate, or local income tax rate, as permitted by IC 6-3.6-7-27**, upon the **county local** taxpayers residing in the township for the public transportation project in the township.*

(c) This subsection applies to Guilford Township in Hendricks



County. If the voters of the township approve a local public question under this chapter, the township fiscal body shall adopt a resolution to impose an additional local income tax rate upon the local taxpayers residing in the township for the public transportation project in the township. A resolution adopted under this subsection must comply with the requirements of the department of local government finance and specify an additional tax rate to be imposed in the township of at least one-tenth percent (0.1%), but not more than twenty-five hundredths percent (0.25%). If a resolution is adopted under this subsection, the amount of the certified distribution attributable to the additional tax rate imposed under this subsection must be:

- (1) retained by the county auditor;**
- (2) deposited in the county public transportation project fund established under IC 8-25-3-7; and**
- (3) used for the purpose provided in this subsection instead of as a property tax replacement distribution.**

The tax rate under this subsection plus the tax rate under IC 6-3.6-6 may not exceed the tax rate specified in IC 6-3.6-6-2. Notwithstanding IC 6-3.6-7-27, the Hendricks County fiscal body is not required under this section to adopt an ordinance under IC 6-3.6-7-27.

SECTION 32. IC 12-29-2-2, AS AMENDED BY P.L.184-2016, SECTION 27, AND AS AMENDED BY P.L.197-2016, SECTION 114, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 2. (a) A county shall fund the operation of community mental health centers in the amount determined under subsection (b), unless a lower tax levy amount will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

- (1) If the total population of the county is served by one (1) center.
- (2) If the total population of the county is served by more than one (1) center.
- (3) If the partial population of the county is served by one (1) center.
- (4) If the partial population of the county is served by more than one (1) center.

(b) The amount of funding under subsection (a) for taxes first due and payable in a calendar year is *the result* equal to:

- (1) the *maximum* amount that *could have been* ~~was~~ levied in the county to comply with this section from property taxes first due



and payable in the calendar year immediately preceding the ensuing calendar year, *as previously determined under this section by using the amount calculated under this section in 2004 as the base amount*; multiplied by

(2) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

(c) This subsection applies only to a county that provides a levy freeze in the county as provided in IC 6-3.6-11-1. ~~property taxes first due and payable after December 31, 2007. This subsection applies only to a county for which:~~

~~(1) a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24; or~~

~~(2) a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30;~~

~~to provide property tax relief in the county.~~ Notwithstanding any provision in this section or any other section of this chapter, for a county subject to this subsection, the county's maximum property tax levy under this section to fund the operation of community mental health centers for the ensuing calendar year is equal to the county's maximum property tax levy to fund the operation of community mental health centers for the current calendar year.

(d) Except as provided in subsection (h), the county shall pay to the division of mental health and addiction the part of the funding determined under subsection (b) that is appropriated solely for funding the operations of a community health center. The funding required under this section for operations of a community health center shall be paid by the county to the division of mental health and addiction. These funds shall be used solely for satisfying the ~~non-federal~~ nonfederal share of medical assistance payments to community mental health centers serving the county for:

(1) allowable administrative services; and

(2) community mental health rehabilitation services.

All other funding appropriated for the purposes allowed under section 1.2(b)(1) of this chapter shall be paid by the county directly to the community mental health center semiannually at the times that the payments are made under subsection (e).

(e) The county shall appropriate and disburse the funds for operations semiannually not later than December 1 and June 1 in an amount equal to the amount determined under subsection (b) and requested in writing by the division of mental health and addiction. The total funding amount paid to the division of mental health and addiction for a county for each calendar year may not exceed the



amount that is calculated in subsection (b) and set forth in writing by the division of mental health and addiction for the county. Funds paid to the division of mental health and addiction by the county shall be submitted by the county in a timely manner after receiving the written request from the division of mental health and addiction, to ensure current year compliance with the community mental health rehabilitation program and any administrative requirements of the program.

(f) The division of mental health and addiction shall ensure that the ~~non-federal~~ *nonfederal* share of funding received from a county under this program is applied only for matching federal funds for the designated community mental health centers to the extent a center is eligible to receive county funding under IC 12-21-2-3(5)(D).

(g) The division of mental health and addiction:

- (1) shall first apply state funding to a community mental health center's ~~non-federal~~ *nonfederal* share of funding under this program; and
- (2) may next apply county funding received under this section to any remaining ~~non-federal~~ *nonfederal* share of funding for the community mental health center.

The division shall distribute any excess state funds that exceed the community mental health rehabilitation services ~~non-federal~~ *nonfederal* share applied to a community mental health center that is entitled to the excess state funds.

(h) The health and hospital corporation of Marion County created by IC 16-22-8-6 may make payments to the division for the operation of a community mental health center as described in this chapter.

SECTION 33. IC 36-8-19-7.5, AS AMENDED BY P.L.197-2016, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 7.5. (a) This section applies to:

- (1) local income tax distributions; and
- (2) excise tax distributions;

made after December 31, 2009.

(b) For purposes of allocating ~~any~~ local income tax distributions **that are based on a taxing unit's allocation amount or that an adopting body allocates under IC 6-3.6-6 to economic development** or excise tax distributions that are distributed based on the amount of a taxing unit's property tax levies, each participating unit in a territory is considered to have imposed a part of the property tax levy imposed for the territory. The part of the property tax levy imposed for the territory for a particular year that shall be attributed to a participating



unit is equal to the amount determined in the following STEPS:

STEP ONE: Determine the total amount of all property taxes imposed by the participating unit in the year before the year in which a property tax levy was first imposed for the territory.

STEP TWO: Determine the sum of the STEP ONE amounts for all participating units.

STEP THREE: Divide the STEP ONE result by the STEP TWO result.

STEP FOUR: Multiply the STEP THREE result by the property tax levy imposed for the territory for the particular year.

SECTION 34. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

