
HOUSE BILL No. 1475

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-9; IC 6-8.1.

Synopsis: Local option sales tax for property tax replacement. Provides that a county council or city-county council may adopt and impose a local option sales tax of up to 0.5% on retail transactions in the county. Provides that the revenue from the tax shall be used for property tax replacement credits for civil taxing units in the county.

Effective: July 1, 2003.

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January 15, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1475



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 6-3.5-9 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]:

4 **Chapter 9. Local Option Sales Tax for Property Tax**
5 **Replacement**

6 **Sec. 1. Except as otherwise provided in this chapter, the**
7 **definitions contained in IC 6-2.5-1 apply throughout this chapter.**

8 **Sec. 2. As used in this chapter, "civil taxing unit" means an**
9 **entity having the power to impose ad valorem property taxes,**
10 **except a school corporation. The term does not include a solid**
11 **waste management district that is not entitled to a distribution**
12 **under IC 6-3.5-1.1-1.3. In the case of a consolidated city, the term**
13 **includes the consolidated city and all special taxing districts, all**
14 **special service districts, and all other entities of the consolidated**
15 **city with budgets and property tax levies that are subject to review**
16 **under IC 36-3-6-9.**

17 **Sec. 3. As used in this chapter, "county fiscal body" means a**



1 county council under IC 36-2-3 or a city-county council under
2 IC 36-3-4.

3 Sec. 4. As used in this chapter, "gross retail income" has the
4 meaning set forth in IC 6-2.5-1-5, except that the term does not
5 include taxes imposed under IC 6-2.5 or IC 6-9.

6 Sec. 5. (a) Using procedures described in this chapter, a county
7 fiscal body may, by majority vote, adopt an ordinance to impose or
8 rescind the local option sales tax for property tax replacement in
9 the county.

10 (b) Before a county fiscal body may adopt an ordinance to
11 impose or rescind a tax under this chapter, the county fiscal body
12 must hold a public hearing on the proposed ordinance. The county
13 fiscal body must provide notice to the public in accordance with
14 IC 5-3-1 of the time and place of the public hearing.

15 Sec. 6. (a) The county fiscal body may impose a local option
16 sales tax on the transactions described in section 7 of this chapter.
17 A county fiscal body adopting an ordinance under this chapter
18 must indicate in the ordinance the date the tax becomes effective.

19 (b) A tax imposed under this chapter may not take effect until
20 at least sixty (60) days after the date the ordinance imposing the
21 tax is adopted.

22 Sec. 7. (a) Except as provided in section 8 of this chapter, the tax
23 imposed under this chapter by a county fiscal body applies to retail
24 transactions that occur within the county.

25 (b) Retail transactions that are services described in
26 IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11 are considered as
27 having occurred within the county in which the billing address of
28 the person purchasing the services is located.

29 Sec. 8. A tax imposed under this chapter does not apply to a
30 transaction to the extent that the transaction is exempt from the
31 state gross retail tax under IC 6-2.5.

32 Sec. 9. A county fiscal body that has imposed a tax under this
33 chapter may adopt an ordinance to rescind the tax. The county
34 fiscal body must specify in the ordinance the date the rescission of
35 the tax takes effect.

36 Sec. 10. If a county fiscal body adopts an ordinance to impose or
37 rescind a tax under this chapter, the county fiscal body shall
38 immediately send a certified copy of the ordinance to the
39 department.

40 Sec. 11. (a) A tax imposed under this chapter may be imposed
41 only on the gross retail income derived from retail transactions. If
42 the tax imposed under this chapter for a particular transaction

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1 results in a fraction of one-half cent (\$0.005) or more, the amount
2 of the tax shall be rounded to the next additional cent.

3 (b) A county fiscal body may not adopt a tax under this chapter
4 that exceeds the rate of one-half percent (0.5%).

5 (c) A county fiscal body shall give notice of an action under this
6 chapter to the department of local government finance not more
7 than five (5) business days after adopting an ordinance under this
8 chapter.

9 **Sec. 12.** A person who receives goods or services in a retail
10 transaction that is taxed under this chapter is liable for the tax.
11 The person shall pay the tax to the retail merchant as a separate
12 amount added to the consideration for the goods or services. The
13 retail merchant shall collect the tax as an agent for the state and
14 the county. The tax imposed under this chapter shall be imposed,
15 paid, and collected in the same manner in which the state gross
16 retail tax is imposed, paid, and collected under IC 6-2.5.

17 **Sec. 13. (a)** A special account within the state general fund shall
18 be established for each county adopting the property tax
19 replacement sales tax. Revenue collected under this chapter within
20 a county shall be deposited in that county's account in the state
21 general fund.

22 (b) Income earned on money held in an account under
23 subsection (a) becomes a part of that account.

24 (c) Revenue remaining in an account established under
25 subsection (a) at the end of a fiscal year does not revert to the state
26 general fund.

27 **Sec. 14. (a)** Revenue derived from the imposition of the property
28 tax replacement sales tax shall, in the manner prescribed by this
29 section, be distributed to the county that imposed it. The amount
30 to be distributed to a county during a calendar year equals the
31 amount of property tax replacement sales tax revenue that the
32 department, after reviewing the recommendation of the budget
33 agency, estimates will be received from that county during the
34 twelve (12) month period beginning July 1 of the immediately
35 preceding year and ending June 30 of the following year.

36 (b) Before July 2 of each year, the department, after reviewing
37 the recommendation of the budget agency, shall estimate and
38 certify to the county auditor of each adopting county the amount
39 of property tax replacement sales tax revenue that will be collected
40 from that county during the twelve (12) month period beginning
41 July 1 of that year and ending June 30 of the immediately following
42 year. The amount certified is the county's certified distribution for



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1 the immediately following year. The amount certified may be
2 adjusted under subsection (c) or (d).

3 (c) The department may certify to an adopting county an
4 amount that is more than the estimated twelve (12) month revenue
5 collection if the department, after reviewing the recommendation
6 of the budget agency, determines that there will be more revenue
7 available for distribution from the county's account established
8 under section 13 of this chapter.

9 (d) The department may certify an amount less than the
10 estimated twelve (12) month revenue collection if the department,
11 after reviewing the recommendation of the budget agency,
12 determines that a part of those collections must be distributed
13 during the current year to enable the county to receive its full
14 certified distribution for the current year.

15 **Sec. 15. (a) One-half (1/2) of each county's certified distribution**
16 **for a year shall be distributed from its account established under**
17 **section 13 of this chapter to the county treasurer on May 1 and the**
18 **other one-half (1/2) on November 1 of that year.**

19 (b) Distributions made to a county treasurer under subsection
20 (a) shall be treated as though they were property taxes that were
21 due and payable during that same year.

22 (c) All distributions from an account established under section
23 13 of this chapter must be made by warrants issued by the auditor
24 of state to the treasurer of state ordering the appropriate
25 payments.

26 **Sec. 16. The certified distribution received by a county treasurer**
27 **under this chapter shall be allocated, distributed, and used by the**
28 **civil taxing units of the county as property tax replacement credits**
29 **as provided under sections 17, 18, and 19 of this chapter.**

30 **Sec. 17. (a) The county's certified distribution for a calendar**
31 **year that is to be used as property tax replacement credits shall be**
32 **allocated by the county auditor among the civil taxing units of the**
33 **county.**

34 (b) Except as provided in section 18 of this chapter, the amount
35 of property tax replacement credits that each civil taxing unit in a
36 county is entitled to receive during a calendar year is the result
37 determined under STEP FIVE of the following formula:

38 **STEP ONE: Determine that part of the county's certified**
39 **distribution that is dedicated to providing property tax**
40 **replacement credits for that same calendar year.**

41 **STEP TWO: Determine the sum of the following:**

42 (A) The total property taxes collected by each civil taxing

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1 unit during the calendar year immediately preceding the
2 calendar year in which the distribution is to be made.

3 (B) The amount of federal revenue sharing funds and
4 certified shares received under IC 6-3.5-1.1 or homestead
5 credits received under IC 6-3.5-6, IC 6-3.5-7-25, or
6 IC 6-3.5-7-26 by each civil taxing unit during the calendar
7 year immediately preceding the year in which the
8 distribution is to be made to the extent that the receipts are
9 used to reduce the civil taxing unit's property tax levy
10 below the limit imposed by IC 6-1.1-18.5 for that same
11 calendar year.

12 **STEP THREE: Determine the sum of the following:**

13 (A) The total property taxes collected by all civil taxing
14 units in the county in the calendar year immediately
15 preceding the calendar year in which the distribution is to
16 be made.

17 (B) The amount of federal revenue sharing funds and
18 certified shares received under IC 6-3.5-1.1 or homestead
19 credits received under IC 6-3.5-6, IC 6-3.5-7-25, or
20 IC 6-3.5-7-26 by all civil taxing units in the county during
21 that calendar year to the extent that the receipts are used
22 to reduce the county's property tax levy below the limit
23 imposed by IC 6-1.1-18.5 for that same calendar year.

24 **STEP FOUR: Divide the STEP TWO sum by the STEP
25 THREE sum.**

26 **STEP FIVE: Multiply the STEP ONE amount by the STEP
27 FOUR quotient.**

28 (c) The department of local government finance shall provide
29 each county auditor with the amount of property tax replacement
30 credits that each civil taxing unit in the auditor's county is entitled
31 to receive. The county auditor shall then certify to each civil taxing
32 unit the amount of property tax replacement credits it is entitled to
33 receive during that year. The county auditor shall also certify these
34 distributions to the county treasurer.

35 **Sec. 18. (a) This section applies to a civil taxing unit that:**

- 36 (1) imposes a property tax that is first due and payable in a
37 year in which a distribution is made under this chapter; and
38 (2) did not impose a property tax that was first due and
39 payable in the year that immediately precedes the year in
40 which the distribution is made.

41 (b) A civil taxing unit is entitled to receive part of the property
42 tax replacement credits to be distributed within the county. The

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1 amount that the civil taxing unit is entitled to receive during that
 2 year is the result determined under STEP FIVE of the following
 3 formula:

4 **STEP ONE:** Determine the part of the county's certified
 5 distribution that is to be used to provide property tax
 6 replacement credits during that year.

7 **STEP TWO:** Determine the budget of the civil taxing unit for
 8 that year.

9 **STEP THREE:** Determine the total budgets of all civil taxing
 10 units of that county for that year.

11 **STEP FOUR:** Divide the STEP TWO amount by the STEP
 12 THREE amount.

13 **STEP FIVE:** Multiply the STEP ONE amount by the STEP
 14 FOUR quotient.

15 (c) If a civil taxing unit is allocated a proportion of a county's
 16 property tax replacement credits by this section for a year, the
 17 formula used in section 17 of this chapter to determine all other
 18 civil taxing units' property tax replacement credits shall be
 19 changed for that same year by reducing the amount dedicated to
 20 providing property tax replacement credits by the amount of
 21 property tax replacement credits allocated under this section for
 22 that same year. The department of local government finance shall
 23 make any adjustments required by this section and provide them
 24 to the appropriate county auditors.

25 **Sec. 19. (a)** In determining the amount of property tax
 26 replacement credits that the civil taxing units in a county are
 27 entitled to receive during a year, the department of local
 28 government finance shall consider only property taxes imposed on
 29 tangible property that was assessed in that county.

30 (b) If a civil taxing unit is located in more than one (1) county
 31 and receives property tax replacement credits from one (1) or more
 32 of the counties, the property tax replacement credits received from
 33 each county shall be used only to reduce the property tax rates that
 34 are imposed within the county that distributed the property tax
 35 replacement credits.

36 (c) A civil taxing unit shall treat any property tax replacement
 37 credits that it receives or is to receive during a particular year as
 38 a part of its property tax levy for that same year for purposes of
 39 fixing its budget and for purposes of the property tax levy limits
 40 imposed by IC 6-1.1-18.5.

41 SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.192-2002(ss),
 42 SECTION 140, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2003]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); **a local option sales tax (IC 6-3.5-9)**; the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 3. IC 6-8.1-3-7.1, AS ADDED BY P.L.178-2002, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7.1. (a) "Fiscal officer" has the meaning set forth in IC 36-1-2-7.

(b) The department shall enter into an agreement with the fiscal officer of an entity that has adopted **a local option sales tax under IC 6-3.5-9**, an innkeeper's tax, a food and beverage tax, or an admissions tax under IC 6-9 to furnish the fiscal officer annually with:

- (1) the name of each business collecting the taxes listed in this subsection; and
- (2) the amount of money collected from each business.

(c) The agreement must provide that the department must provide the information in an electronic format that the fiscal officer can use,

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1 as well as a paper copy.

2 (d) The agreement must include a provision that, unless in
3 accordance with a judicial order, the fiscal officer, employees of the
4 fiscal officer, former employees of the fiscal officer, counsel of the
5 fiscal officer, agents of the fiscal officer, or any other person may not
6 divulge the names of the businesses, the amount of taxes paid by the
7 businesses, or any other information disclosed to the fiscal officer by
8 the department.

9 SECTION 4. IC 6-8.1-7-1, AS AMENDED BY P.L.204-2001,
10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2003]: Sec. 1. (a) This subsection does not apply to the
12 disclosure of information concerning a conviction on a tax evasion
13 charge. Unless in accordance with a judicial order or as otherwise
14 provided in this chapter, the department, its employees, former
15 employees, counsel, agents, or any other person may not divulge the
16 amount of tax paid by any taxpayer, terms of a settlement agreement
17 executed between a taxpayer and the department, investigation records,
18 investigation reports, or any other information disclosed by the reports
19 filed under the provisions of the law relating to any of the listed taxes,
20 including required information derived from a federal return, except to:

- 21 (1) members and employees of the department;
22 (2) the governor;
23 (3) the attorney general or any other legal representative of the
24 state in any action in respect to the amount of tax due under the
25 provisions of the law relating to any of the listed taxes; or
26 (4) any authorized officers of the United States;

27 when it is agreed that the information is to be confidential and to be
28 used solely for official purposes.

29 (b) The information described in subsection (a) may be revealed
30 upon the receipt of a certified request of any designated officer of the
31 state tax department of any other state, district, territory, or possession
32 of the United States when:

- 33 (1) the state, district, territory, or possession permits the exchange
34 of like information with the taxing officials of the state; and
35 (2) it is agreed that the information is to be confidential and to be
36 used solely for tax collection purposes.

37 (c) The information described in subsection (a) relating to a person
38 on public welfare or a person who has made application for public
39 welfare may be revealed to the director of the division of family and
40 children, and to any county director of family and children located in
41 Indiana, upon receipt of a written request from either director for the
42 information. The information shall be treated as confidential by the

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1 directors. In addition, the information described in subsection (a)
 2 relating to a person who has been designated as an absent parent by the
 3 state Title IV-D agency shall be made available to the state Title IV-D
 4 agency upon request. The information shall be subject to the
 5 information safeguarding provisions of the state and federal Title IV-D
 6 programs.

7 (d) The name, address, Social Security number, and place of
 8 employment relating to any individual who is delinquent in paying
 9 educational loans owed to an institution of higher education may be
 10 revealed to that institution if it provides proof to the department that the
 11 individual is delinquent in paying for educational loans. This
 12 information shall be provided free of charge to approved institutions of
 13 higher learning (as defined by IC 20-12-21-3(2)). The department shall
 14 establish fees that all other institutions must pay to the department to
 15 obtain information under this subsection. However, these fees may not
 16 exceed the department's administrative costs in providing the
 17 information to the institution.

18 (e) The information described in subsection (a) relating to reports
 19 submitted under IC 6-6-1.1-502 concerning the number of gallons of
 20 gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of
 21 gallons of special fuel sold by a supplier and the number of gallons of
 22 special fuel exported by a licensed exporter or imported by a licensed
 23 transporter may be released by the commissioner upon receipt of a
 24 written request for the information.

25 (f) The information described in subsection (a) may be revealed
 26 upon the receipt of a written request from the administrative head of a
 27 state agency of Indiana when:

- 28 (1) the state agency shows an official need for the information;
 29 and
 30 (2) the administrative head of the state agency agrees that any
 31 information released will be kept confidential and will be used
 32 solely for official purposes.

33 (g) The name and address of retail merchants, including township,
 34 as specified in IC 6-2.5-8-1(h) may be released solely for tax collection
 35 purposes to township assessors.

36 (h) The department shall notify the appropriate innkeepers' tax
 37 board, bureau, or commission that a taxpayer is delinquent in remitting
 38 innkeepers' taxes under IC 6-9.

39 (i) All information relating to the delinquency or evasion of the
 40 motor vehicle excise tax shall be disclosed to the bureau of motor
 41 vehicles in Indiana and may be disclosed to another state, if the
 42 information is disclosed for the purpose of the enforcement and

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1 collection of the taxes imposed by IC 6-6-5.

2 (j) All information relating to the delinquency or evasion of
3 commercial vehicle excise taxes payable to the bureau of motor
4 vehicles in Indiana must be disclosed to the bureau and may be
5 disclosed to another state, if the information is disclosed for the
6 purpose of the enforcement and collection of the taxes imposed by
7 IC 6-6-5.5.

8 (k) All information relating to the delinquency or evasion of
9 commercial vehicle excise taxes payable under the International
10 Registration Plan may be disclosed to another state, if the information
11 is disclosed for the purpose of the enforcement and collection of the
12 taxes imposed by IC 6-6-5.5.

13 (l) This section does not apply to:

- 14 (1) the beer excise tax (IC 7.1-4-2);
- 15 (2) the liquor excise tax (IC 7.1-4-3);
- 16 (3) the wine excise tax (IC 7.1-4-4);
- 17 (4) the hard cider excise tax (IC 7.1-4-4.5);
- 18 (5) the malt excise tax (IC 7.1-4-5);
- 19 (6) the motor vehicle excise tax (IC 6-6-5);
- 20 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- 21 (8) the fees under IC 13-23.

22 (m) The name and business address of retail merchants within each
23 county that sell tobacco products may be released to the division of
24 mental health and addiction and the alcohol and tobacco commission
25 solely for the purpose of the list prepared under IC 6-2.5-6-14.

26 **(n) The department shall notify the appropriate county**
27 **treasurer that a taxpayer is delinquent in remitting local option**
28 **sales taxes collected under IC 6-3.5-9.**

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