LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6518 | **NOTE PREPARED:** Jan 1, 2010
BILL NUMBER: HB 1149 | **BILL AMENDED:**

SUBJECT: Variable Local Option Income Taxes.

FIRST AUTHOR: Rep. Thompson | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
DEDICATED
FEDERAL

Summary of Legislation: *Local Option Income Tax:* The bill authorizes a taxing unit to impose variable local option income taxes to replace revenue lost to the local unit as a result of: (1) the application of the circuit breaker credit; or (2) the elimination of property taxes on real property wholly owned by individuals residing in the local unit where the individuals pay a variable local option income tax.

Appeals Board: The bill also repeals the Distressed Unit Appeal Board (DUAB) statute.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Department of Local Government Finance (DLGF):* The DLGF will incur additional expenses to compute and certify variable local option income tax (LOIT) rates for taxing districts containing taxing units imposing a variable LOIT. The DLGF is required to compute the appropriate aggregate income tax rate for taxing districts containing taxing units that adopt a variable LOIT. The bill provides that the State Budget Agency and the Department of State Revenue (DOR) assist the DLGF with this task. The DLGF also must certify the annual tax rates to each affected taxing unit, the county fiscal officer, the Department of State Revenue, and the State Auditor. The additional expenses relating to these responsibilities is indeterminable and would depend on the number of taxing units adopting a variable LOIT. There are currently about 2,500 taxing units statewide.

Department of State Revenue: The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to implement collection of the variable LOIT. The additional expenses would depend on the number of taxing units adopting a variable LOIT.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: *Summary* - The bill permits a taxing unit (a county, city, town, township, school corporation, library district, or special taxing district) to impose a variable LOIT on resident and certain nonresident individuals. The variable LOIT could be imposed to: (1) replace reductions in a taxing unit's property tax revenue due to the property tax circuit breaker rate caps; and/or (2) eliminate property taxes a taxing unit levies on real property wholly owned by individuals residing within the taxing unit. The bill provides that taxing units could impose the variable LOIT beginning in 2012. There are currently about 2,500 taxing units in Indiana. The potential yield from variable LOITs is indeterminable and would depend on resident and nonresident income levels within the various taxing units as well as choices made by taxing units whether to replace circuit breaker losses or replace property taxes, or both.

Background Information - The bill provides that a taxing unit may adopt an ordinance or resolution, whichever applies, to impose a variable LOIT to replace circuit breaker losses or eliminate property taxes of eligible property owners. A taxing unit's variable LOIT would be imposed on: (1) individuals who are residents of the taxing unit; and (2) individuals who are not Indiana residents but whose principal place of business or employment is in the taxing unit. The bill requires a taxing unit's variable LOIT rate to be uniformly applied to all taxing districts in which the taxing unit is located. A taxing district is a geographic area within which property is taxed by the same taxing units at the same total rate. A taxing unit's variable LOIT rate may change on a year-to-year basis depending upon the circuit breaker losses to be replaced or property tax credits to be funded by revenue from the tax.

The variable LOIT for property tax elimination would fund a credit equal to 100% of the property taxes otherwise due and payable by eligible property owners in the calendar year the variable LOIT is in effect. The property tax credit would not apply to real property in which one or more of the following entities have a direct or indirect interest: (1) a Subchapter C Corporation; (2) a public utility company; (3) a trust that is not required by a trust agreement to distribute 100% of its income to individuals who are beneficiaries of the trust; (4) a Subchapter S Corporation or partnership (including an LLC) if the real property is not located where all of the shareholders, partners, or members are subject to the income tax; or (5) one or more individuals if the real property is not located where all of the individuals are subject to the income tax.

The ordinance or resolution providing for the variable LOIT does not have to identify a tax rate for the variable LOIT. However, the ordinance or resolution must state the purposes of the variable LOIT and specify that the rate will be annually determined by the DLGF at the rate necessary to provide sufficient revenue to fund the specified purposes of the variable LOIT. The bill provides that the ordinance initially takes effect beginning with the second calendar year after the date that the final vote is taken to adopt the ordinance or resolution. Thus, if an ordinance or resolution is adopted in 2010 after the effective date of the bill, the tax could go into effect beginning in 2012. When a taxing unit that imposes a variable LOIT publishes notice to its taxpayers of its estimated budget, proposed property tax rate, and proposed property tax levy, it must include in the notice: (1) the budget amount to be funded by the variable LOIT and the tax rate necessary to raise this amount; and (2) the budget amount to be funded from the taxing unit's rainy day fund (see below).

The bill requires a taxing unit imposing a variable LOIT to annually pay an amount into its rainy day fund to maintain a balance equal to 5% of the amount distributed to the taxing unit from the variable LOIT in the immediately preceding calendar year. Any amounts exceeding this 5% threshold must be used in the following year to maintain lower tax rates.

Appeals Board: Under current law, taxing units may appeal to the DUAB for relief from the circuit breaker credit losses that a unit may experience. To date, only one taxing unit and its related special units have been granted relief from the circuit breakers. The repeal of the DUAB statute means that beginning with property taxes payable in CY 2011, taxing units would not be able to seek administrative relief from the circuit breakers. Without the relief, tax bills would be reduced by the full effect of the circuit breakers and taxing units would lose the revenue. The full impact of the circuit breaker losses may, however, be reduced by the LOIT portion of this bill.

State Agencies Affected: DOR; State Budget Agency; DLGF; Auditor of State.

Local Agencies Affected: All taxing units.

Information Sources:

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