
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions

FROM: Daniel Shackle, Commissioner

RE: Legislation Affecting Local Income Tax Matters

DATE: June 18, 2024

The Department of Local Government Finance (“Department”) issues this memorandum to inform the public of legislative changes concerning local income taxes (“LIT”). The legislation includes the following:

- Senate Enrolled Act 33-2024 (“SEA 33”), signed by Governor Eric J. Holcomb on March 13, 2024.
- House Enrolled Act 1121-2024 (“HEA 1121”), signed by Governor Holcomb on March 13, 2024.
- House Enrolled Act 1328-2024 (“HEA 1328”), signed by Governor Holcomb on March 13, 2024.

Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law. Except as otherwise stated, all provisions are effective on July 1, 2024.

I. Distributions of Public Safety LIT Revenue

Section 2 of SEA 33 makes several amendments to the distribution of public safety revenue under Ind. Code § 6-3.6-6-8.

A. Change in Process for Application by Eligible Entities

First, SEA 33 makes the following changes to the process for the review of an application for a public safety LIT distribution by any of the following eligible entities:

- A fire department.
- A volunteer fire department.
- An emergency medical services provider.
- A township fire department.
- A fire protection territory.
- A fire protection district.

An eligible entity may apply to the adopting body for a distribution of public safety LIT revenue if it: (1) provides fire protection or emergency medical services within a county; and (2) is operated by or serves a political subdivision. The application must occur before July 1 and any distribution would be made in the following calendar year.

The adopting body must review an application for a distribution to a township at a public hearing. The adopting body must give notice of the public hearing under Ind. Code § 5-3-1, and the township must present and explain its application at the public hearing. The adopting body may review multiple applications at one (1) public hearing. The resolution that the adopting body may adopt for a distribution to a township cannot be adopted later than ten (10) days after the public hearing. The deadline to adopt a resolution remains August 31 of the year before the year the distribution is made.

B. Clarification of Maximum Amount of Distribution to Eligible Entities

Second, the maximum amount that may be distributed to an eligible entity has been clarified to be one hundred percent (100%) of the revenue collected from that portion of the tax rate imposed for the public safety allocation that does not exceed a rate of five one-hundredths of one percent (0.05%).

II. Acute Care Hospital LIT

Section 7 of HEA 1121 adds a LIT rate for expenses related to acute care hospitals. Specifically, HEA 1121 adds Ind. Code § 6-3.6-6-2.6 as a new section providing that the county fiscal body may adopt an ordinance to impose a tax rate for acute care hospitals located in the county.

“Acute care hospital” is defined as an acute care hospital that is:

- (1) Established and operated under Ind. Code § 16-22-2; Ind. Code § 16-22-8; or Ind. Code § 16-23; and
- (2) Licensed under Ind. Code § 16-21.

The LIT rate that may be adopted by the county fiscal body must be in increments of one-hundredth of one percent (0.01%) and may not exceed one-tenth of one percent (0.1%). Revenue generated by this tax rate must be distributed directly to the county before the remainder of the expenditure rate revenue is distributed. The revenue must be maintained in a separate dedicated county fund and used only for the operating expenses of acute care hospitals located in the county.

Sections 2, 9, and 13 of HEA 1121 amend the existing Indiana Code in the following manner to accommodate the new acute care hospital LIT:

- (1) Section 2 amends Ind. Code § 6-3.6-3-1 to designate the county fiscal body as the “adopting body” for purposes of the acute care hospital LIT.
- (2) Section 9 amends Ind. Code § 6-3.6-6-3 to provide that the portion of the expenditure rate attributed to the acute care hospital LIT shall be distributed directly to the county, equal to the revenue generated by the acute care hospital LIT rate, and before the

- school distribution under Ind. Code § 6-3.6-6-3(a)(2) and the remainder of expenditure rate revenue under Ind. Code § 6-3.6-6-3(a)(3).
- (3) Section 13 amends Ind. Code § 6-3.6-9-10 to provide that the State Budget Agency must separately certify the amount of the certified distribution attributable to the acute care hospital LIT rate.

III. LIT Councils with a Single Voting Bloc

Sections 1, 3, and 6 of HEA 1121 amend various provisions of the Indiana Code to extend certain requirements regarding counties with a single voting bloc (defined by Ind. Code § 6-3.6-2-7.4) through May 31, 2025. Through such provisions, an individual who sits on the fiscal body of a county, city, or town that is a member of a county LIT council has the number of votes on the LIT council proportionate to the number of members of the fiscal body of the county, city, or town. The changes made by these sections are effective upon passage.

IV. Unit Consolidation and Distributions of Non-Property Tax Revenue

Sections 10, 14, 15, and 16 of HEA 1121 make the following amendments concerning the effect of consolidation of units on LIT distributions.

Section 10 of HEA 1121 adds Ind. Code § 6-3.6-6-21.3 as a new section affecting two (2) or more school corporations or civil taxing units¹ consolidating or merging in a county with a local income tax. Under the new provisions, a consolidated school corporation or civil taxing unit in existence on January 1 of a year is entitled to a combined pro rata distribution of the expenditure rate revenue allocated to each school corporation or civil taxing unit in existence on January 1 of the immediately preceding calendar year. The Department is required to make adjustments to merging civil taxing units in accordance with Ind. Code § 6-1.1-18.5-7.

Section 14 of HEA 1121 amends Ind. Code § 6-5.5-8-2 to provide that, for purposes of determining the guaranteed distribution of financial institutions tax (“FIT”) to a taxing unit formed by a merger or consolidation, the combined guaranteed distributions received in 2012 by each taxing unit that merged or consolidated into the current taxing unit. Each merging or consolidating taxing unit must have received a guaranteed distribution of FIT in 2012. Note that this section is effective on January 1, 2025.

Section 15 of HEA 1121 amends Ind. Code § 6-6-5-10 to provide that, in the event a taxing unit merges or consolidates with one (1) or more taxing units in the county, the county auditor shall adjust the current taxing unit’s excise tax apportionment and distributions, if necessary, to reflect the merger or consolidation.

¹ Indiana Code § 6-3.6-2-7 defines “civil taxing unit” to mean any entity having the power to impose ad valorem property taxes except a school corporation. The term does not include a solid waste management district that is not entitled to a distribution under IC 6-3.6-6. However, in the case of a consolidated city, the term “civil taxing unit” includes the consolidated city and all special taxing districts, all special service districts, and all entities whose budgets and property tax levies are subject to review under Ind. Code § 36-3-6-9.

Section 16 of HEA 1121 amends Ind. Code § 6-6-5.5-19 to provide that, in the event a taxing unit merges or consolidates with another taxing unit in the county, the base revenue used to calculate the Commercial Vehicle Excise Tax (“CVET”) distribution percentage to the merged or consolidated taxing unit is the combined base revenue distributed in 2001 to each taxing unit that merged or consolidated.

V. LIT Levy Freeze Rate Reductions

Section 25 of HEA 1328 amends Ind. Code § 6-3.6-11-1 to provide that the balance in the levy freeze stabilization fund may be considered by the Department in its review of a proposal by the county adopting body to reduce the LIT levy freeze rate. This is in addition to the revenue generated from the reduced rate, as well as the supplemental distribution. The county adopting body shall provide the Department with a determination of the amount in the stabilization fund for purposes of the Department’s review.

Contact Information

Questions may be directed to David Marusarz, Deputy General Counsel, at dmarusarz@dlgf.in.gov.