



# **Negative GRT Distributions**

***Presented To:  
Revenue Stabilization & Tax  
Policy Committee  
October 13, 2015***

# Explaining the New Distribution Adjustment Rules

## October 2015

### **Introduction**

Last session's HB-581 established a new set of rules for dealing with negative distributions to municipalities and counties (mainly of gross receipts tax revenues).

On July 1, 2015, a very different approach from previous law took effect. Rather than focus (as prior law had) on negatives arising from actions by or with respect to a single taxpayer, the new approach looks first at the aggregate dollars from all taxpayers attributable to a municipality or county. Further, no determination is required of the Secretary of Taxation and Revenue. Instead a process is prescribed applying to all covered distributions and transfers to every municipality or county every month.

### **The new adjustment process** **Section 7-1-6.15, Subsections B and E**

The process below is to be followed for every monthly distribution or transfer of a covered tax (mainly gross receipts).

**Step 1:** Divide the net receipts for the tax attributable to the municipality or county into 2 categories, **current month** items and **prior month** items (e.g., refunds processed in the current month but which are adjustments of taxes paid in prior periods).

Note: Because this is very useful information and instills some accountability into the system, the totals of each category are to be reported to the municipality or county each month.

**Step 2:** Examine the prior period aggregate amount.

a. If the total is **positive or zero**, *no adjustment* is required. The prior period total is added to the current month number and transferred/distributed.

b. If the total is **negative but does not exceed the greater of \$100 or 20%** [10% in prior law] of the 3-year [one year in prior law] average of the previous transfers/distributions, *no adjustment* need be made. The prior period total is added to the current month number and transferred/distributed.

c. If the total is **negative and exceeds the greater of \$100 or 20%** of the 3-year average of prior transfers/distributions, *go to step 3*.

**Step 3.** Adjust the transfer/distribution amount upwards. Exclude negatives (net of any associated positives) related to all months prior to the three calendar years [one year in prior law] preceding the year of the current month. The remainder of the prior year amounts is referred to as the **revised total**.

a. If the revised total **does not exceed the greater of \$100 or 20%** of the 3-year average of prior transfers/distributions, add the amount to the current month total and make the transfer/distribution.

b. If the revised total of prior period amounts **exceeds the greater of \$100 or 20% of the average**:

(i) Transfer/distribute the current month total only. The revised prior period amount becomes the **recoverable amount**.

(ii) TRD to notify the local government that it has revised the transfer/distribution amount, the size of the recoverable amount, that TRD intends to collect the recoverable amount from the local government and that the local government has 90 days *from the date of notification* to consider how to shape the collection.

(iv) Local government may examine relevant TRD records and negotiate a pay-back arrangement in the 90-day window. If no agreement is in place by the 90th day, TRD shall collect the recoverable amount in installments over 6 months.

**Step 4.** For extraordinary cases.

a. If the Secretary of Taxation and Revenues determines that the recoverable amount exceeds 50% of the average transfer/distribution amount, TRD will collect only up to 50% of the average and may, with State Board of Finance approval, may waive collection of any portion of the recoverable amount.

b. If, without including any collection of a recoverable amount, the transfer/distribution amounts to a local government fall or are projected to fall below 50% of the average as a result of a permanent change in reporting by the taxpayer(s) involved, the Secretary may waive, with State Board of Finance approval, collection of any portion of the recoverable amount.

**Other features of HB-581**

a. Expands somewhat the ability of local governments to examine TRD records relating to take-backs. Allows TRD to require certain local government officials to complete training regarding confidentiality.

b. Sets priorities among competing claims against transfer/distribution amounts.