

Special Session 120th General Assembly (2018)(ss)

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 2018 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1316(ss)

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.5-5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 26. (a) Sales of tangible personal property are exempt from the state gross retail tax, if:

- (1) the seller is an organization that is described in section 21(b)(1) of this chapter;
- (2) the organization makes the sale to make money to carry on a not-for-profit purpose; and
- (3) the organization does not make those sales during more than thirty (30) days in a calendar year.

(b) Sales of tangible personal property are exempt from the state gross retail tax, if:

- (1) the seller is an organization described in section 21(b)(1) of this chapter;
- (2) the seller is not operated predominantly for social purposes;
- (3) the property sold is designed and intended primarily either for the organization's educational, cultural, or religious purposes, or for improvement of the work skills or professional qualifications of the organization's members; and
- (4) the property sold is not designed or intended primarily for use in carrying on a private or proprietary business.

(c) Sales of tangible personal property by a public library, or a charitable organization described in section 21(b)(1) of this chapter

HEA 1316(ss)



formed to support a public library, are exempt from the state gross retail tax if the property sold consists of:

- (1) items in the library's circulated and publicly available collections, including items from the library's holdings; or
- (2) items that would typically be included in the library's circulated and publicly available collections and that are donated by individuals or organizations to a public library or to a charitable organization described in section 21(b)(1) of this chapter formed to support a public library.

The exemption provided by this subsection does not apply to any other sales of tangible personal property by a public library.

(e) (d) The exemption provided by this section does not apply to an accredited college or university's sales of books, stationery, haberdashery, supplies, or other property.

SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.86-2018, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Except as provided in subsection (c), add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).
- (4) Subtract one thousand dollars (\$1,000) for:
 - (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code **(as effective January 1, 2017)**;
 - (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
 - (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.
- (5) Subtract:
 - (A) one thousand five hundred dollars (\$1,500) for each of the

HEA 1316(ss)



exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004);

(B) for taxable years beginning after ~~December 31, 2017~~, one thousand five hundred dollars (\$1,500) for each exemption allowed under Section 151(c) of the Internal Revenue Code **(as effective January 1, 2017)** for an individual:

(i) who is less than nineteen (19) years of age or is a full-time student who is less than twenty-four (24) years of age;

(ii) for whom the taxpayer is the legal guardian; and

(iii) for whom the taxpayer does not claim an exemption under clause (A); and

(C) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(7) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(8) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(9) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), and (5) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(10) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and

HEA 1316(ss)



local income taxes.

(11) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(12) Subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(13) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(14) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(16) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (**concerning net operating losses**).

(17) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

~~(18) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.~~

~~(19)~~ (18) Subtract an amount equal to the amount of the taxpayer's

HEA 1316(ss)



qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

~~(20)~~ **(19)** Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7 (**certain income derived from patents**); and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

~~(21)~~ **(20)** Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract the amount necessary from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

~~(22)~~ **(21)** Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

~~(23)~~ **(22)** Subtract an amount as described in Section 1341(a)(2) of the Internal Revenue Code to the extent, if any, that the amount was previously included in the taxpayer's adjusted gross income for a prior taxable year.

(23) For taxable years beginning after December 25, 2016, add an amount equal to the deduction for deferred foreign income that was claimed by the taxpayer for the taxable year under Section 965(c) of the Internal Revenue Code.

(24) Subtract any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year. For purposes of this subdivision, an interest

HEA 1316(ss)



expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist. (25) Subtract the amount included in the taxpayer's gross income under Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

~~(24)~~ **(26)** Subtract any other amounts the taxpayer is entitled to deduct under IC 6-3-2.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code **(concerning charitable contributions).**

(3) Except as provided in subsection (c), add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code **(concerning foreign tax credits).**

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code **(concerning net operating losses).**

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not

HEA 1316(ss)



been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

~~(8)~~ **(8)** Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

~~(9)~~ **(8)** Add to the extent required by IC 6-3-2-20:

(A) the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes; and **(B)** any directly related interest expenses (as defined in IC 6-3-2-20) that reduced the corporation's adjusted gross income (determined without regard to this subdivision). **The amount of interest that is considered to have reduced the corporation's adjusted gross income equals:**

- (i) the directly related interest expense that reduced the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code); plus**
- (ii) any directly related interest expenses for which a subtraction is allowable under subdivision (15); minus**
- (iii) any directly related interest expenses required to be added back under subdivision (15).**

~~(10)~~ **(9)** Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

~~(11)~~ **(10)** Subtract income that is:

- (A)** exempt from taxation under IC 6-3-2-21.7 (**certain income derived from patents**); and
- (B)** included in the corporation's taxable income under the Internal Revenue Code.

~~(12)~~ **(11)** Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted



gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

~~(13)~~ **(12)** Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(13) For taxable years beginning after December 25, 2016:

(A) for a corporation other than a real estate investment trust, add an amount equal to the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1; and
(B) for a real estate investment trust, add an amount equal to the deduction for deferred foreign income that was claimed by the taxpayer for the taxable year under Section 965(c) of the Internal Revenue Code, but only to the extent that the taxpayer included income pursuant to Section 965 of the Internal Revenue Code in its taxable income for federal income tax purposes or is required to add back dividends paid under subdivision (9).

(14) Add an amount equal to the deduction that was claimed by the taxpayer for the taxable year under Section 250(a)(1)(B) of the Internal Revenue Code (attributable to global intangible low-taxed income). The taxpayer shall separately specify the amount of the reduction under Section 250(a)(1)(B)(i) of the Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the Internal Revenue Code.

(15) Subtract any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year. For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(16) Subtract the amount included in the taxpayer's gross



income under Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

~~(14)~~ (17) Add or subtract any other amounts the taxpayer is:

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(c) The following apply to taxable years beginning after December 31, 2018, for purposes of the add back of any deduction allowed on the taxpayer's federal income tax return for wagering taxes, as provided in subsection (a)(2) if the taxpayer is an individual or subsection (b)(3) if the taxpayer is a corporation:

(1) For taxable years beginning after December 31, 2018, and before January 1, 2020, a taxpayer is required to add back under this section eighty-seven and five-tenths percent (87.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(2) For taxable years beginning after December 31, 2019, and before January 1, 2021, a taxpayer is required to add back under this section seventy-five percent (75%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(3) For taxable years beginning after December 31, 2020, and before January 1, 2022, a taxpayer is required to add back under this section sixty-two and five-tenths percent (62.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(4) For taxable years beginning after December 31, 2021, and before January 1, 2023, a taxpayer is required to add back under this section fifty percent (50%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(5) For taxable years beginning after December 31, 2022, and before January 1, 2024, a taxpayer is required to add back under this section thirty-seven and five-tenths percent (37.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(6) For taxable years beginning after December 31, 2023, and before January 1, 2025, a taxpayer is required to add back under this section twenty-five percent (25%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(7) For taxable years beginning after December 31, 2024, and before January 1, 2026, a taxpayer is required to add back under this section twelve and five-tenths percent (12.5%) of any deduction allowed on the taxpayer's federal income tax return for

HEA 1316(ss)



wagering taxes.

(8) For taxable years beginning after December 31, 2025, a taxpayer is not required to add back under this section any amount of a deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(d) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code (**concerning charitable contributions**).

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code (**concerning foreign tax credits**).

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 ~~or Section 810~~ of the Internal Revenue Code (**concerning net operating losses**).

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

HEA 1316(ss)



(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) (8) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7 (**certain income derived from patents**); and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) (9) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) (10) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(12) (11) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(12) For taxable years beginning after December 25, 2016, add an amount equal to the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1.

(13) Add an amount equal to the deduction that was claimed by the taxpayer for the taxable year under Section 250(a)(1)(B) of the Internal Revenue Code (attributable to global intangible low-taxed income). The taxpayer shall separately specify the amount of the reduction under Section 250(a)(1)(B)(i) of the Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the Internal Revenue Code.

(14) Subtract any interest expense paid or accrued in the

HEA 1316(ss)



current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year. For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist. (15) Subtract the amount included in the taxpayer's gross income under Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

~~(13)~~ **(16)** Add or subtract any other amounts the taxpayer is:

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(e) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code **(concerning charitable contributions)**.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code **(concerning foreign tax credits)**.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section

HEA 1316(ss)



172 of the Internal Revenue Code (**concerning net operating losses**).

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

~~(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.~~

~~(9) (8)~~ Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7 (**certain income derived from patents**); and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

~~(10) (9)~~ Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

~~(11) (10)~~ Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

~~(12) (11)~~ Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the

HEA 1316(ss)



taxpayer after December 31, 2011.

(12) For taxable years beginning after December 25, 2016, add an amount equal to the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1.

(13) Add an amount equal to the deduction that was claimed by the taxpayer for the taxable year under Section 250(a)(1)(B) of the Internal Revenue Code (attributable to global intangible low-taxed income). The taxpayer shall separately specify the amount of the reduction under Section 250(a)(1)(B)(i) of the Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the Internal Revenue Code.

(14) Subtract any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year. For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(15) Subtract the amount included in the taxpayer's gross income under Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

~~(13)~~ **(16) Add or subtract any other amounts the taxpayer is:**

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(f) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an

HEA 1316(ss)



earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code **(concerning net operating losses)**.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

~~(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.~~

~~(7) (6) Subtract income that is:~~

~~(A) exempt from taxation under IC 6-3-2-21.7 **(certain income derived from patents)**; and~~

~~(B) included in the taxpayer's taxable income under the Internal Revenue Code.~~

~~(8) (7) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.~~

~~(9) (8) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on~~

HEA 1316(ss)



an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(9) For taxable years beginning after December 25, 2016, add an amount equal to:

(A) the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1; and

(B) with regard to any amounts of income under Section 965 of the Internal Revenue Code distributed by the taxpayer, the deduction under Section 965(c) of the Internal Revenue Code attributable to such distributed amounts.

For purposes of this article, the amount required to be added back under clause (B) is not considered to be distributed or distributable to a beneficiary of the estate or trust for purposes of Sections 651 and 661 of the Internal Revenue Code.

(10) Subtract any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year. For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(11) Add an amount equal to the deduction for qualified business income that was claimed by the taxpayer for the taxable year under Section 199A of the Internal Revenue Code.

(12) Subtract the amount included in the taxpayer's gross income under Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(13) Add or subtract any other amounts the taxpayer is:

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(g) Subsections (a)(26), (b)(17), (d)(16), (e)(16), or (f)(13) may not be construed to require an add back or allow a deduction or exemption more than once for a particular add back, deduction, or

HEA 1316(ss)



exemption.

SECTION 3. IC 6-3-1-11, AS AMENDED BY P.L.204-2016, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on ~~January 1, 2016~~; **February 11, 2018**.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on ~~January 1, 2016~~; **February 11, 2018**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on ~~January 1, 2016~~; **February 11, 2018**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before ~~January 1, 2016~~; **February 11, 2018**, **other than the federal 21st Century Cures Act (P.L. 114-255) and the federal Disaster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63)**, that is effective for any taxable year that began before ~~January 1, 2016~~; **February 11, 2018**, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

(d) This subsection applies to a taxable year ending before January 1, 2013. The following provisions of the Internal Revenue Code that were amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are

HEA 1316(ss)



treated as though they were not amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312):

- (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to an adjustment of basis of the stock of shareholders.
- (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal Revenue Code pertaining to the treatment of certain dividends of regulated investment companies.
- (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code pertaining to regulated investment companies qualified entity treatment.
- (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code pertaining to the modification of tax treatment of certain payments to controlling exempt organizations.
- (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code pertaining to the limitations on percentage depletion in the case of oil and gas wells.
- (6) Section 451(i)(3) of the Internal Revenue Code pertaining to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy for qualified electric utilities.
- (7) Section 954(c)(6) of the Internal Revenue Code pertaining to the look-through treatment of payments between related controlled foreign corporation under foreign personal holding company rules.

The department shall develop forms and adopt any necessary rules under IC 4-22-2 to implement this subsection.

SECTION 4. IC 6-3-2-2, AS AMENDED BY P.L.73-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

- (1) income from real or tangible personal property located in this state;
- (2) income from doing business in this state;
- (3) income from a trade or profession conducted in this state;
- (4) compensation for labor or services rendered within this state; and
- (5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property to

HEA 1316(ss)



the extent that the income is apportioned to Indiana under this section or if the income is allocated to Indiana or considered to be derived from sources within Indiana under this section.

Income from a pass through entity shall be characterized in a manner consistent with the income's characterization for federal income tax purposes and shall be considered Indiana source income as if the person, corporation, or pass through entity that received the income had directly engaged in the income producing activity. Income that is derived from one (1) pass through entity and is considered to pass through to another pass through entity does not change these characteristics or attribution provisions. In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter), only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection (r) is considered derived from sources within Indiana.

(b) Except as provided in subsection (l), if business income of a corporation or a nonresident person is derived from sources within the state of Indiana and from sources without the state of Indiana, the business income derived from sources within this state shall be determined by multiplying the business income derived from sources both within and without the state of Indiana by the following:

(1) For all taxable years that begin after December 31, 2006, and before January 1, 2008, a fraction. The:

(A) numerator of the fraction is the sum of the property factor plus the payroll factor plus the product of the sales factor multiplied by three (3); and

(B) denominator of the fraction is five (5).

(2) For all taxable years that begin after December 31, 2007, and before January 1, 2009, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by

HEA 1316(ss)



four and sixty-seven hundredths (4.67); and

(B) denominator of the fraction is six and sixty-seven hundredths (6.67).

(3) For all taxable years beginning after December 31, 2008, and before January 1, 2010, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by eight (8); and

(B) denominator of the fraction is ten (10).

(4) For all taxable years beginning after December 31, 2009, and before January 1, 2011, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by eighteen (18); and

(B) denominator of the fraction is twenty (20).

(5) For all taxable years beginning after December 31, 2010, the sales factor.

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

(1) the individual's service is performed entirely within the state;

HEA 1316(ss)



(2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or

(3) some of the service is performed in this state and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or

(B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point or other conditions of the sale, sales of tangible personal property are in this state if:

(1) the property is delivered or shipped to a purchaser that is within Indiana, other than the United States government; or

(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and the purchaser is the United States government.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 and from the sale of computer software shall be treated as sales of tangible personal property for purposes of this chapter.

(f) Sales, other than receipts from intangible property covered by subsection (e) and sales of tangible personal property, are in this state if:

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(g) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as

HEA 1316(ss)



provided in subsections (h) through (k).

(h)(1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

- (i) if and to the extent that the property is utilized in this state; or
- (ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(i)(1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

- (i) the property had a situs in this state at the time of the sale; or
- (ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(j) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(k)(1) Patent and copyright royalties are allocable to this state:

- (i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or
- (ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit

HEA 1316(ss)



allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) for a taxable year beginning before January 1, 2011, the exclusion of any one (1) or more of the factors, except the sales factor;

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Notwithstanding IC 6-8.1-5-1(c), a taxpayer petitioning for, or the department requiring, the use of an alternative method to effectuate an equitable allocation and apportionment of the taxpayer's income under this subsection bears the burden of proof that the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within this state and that the alternative method to the allocation and apportionment provisions of this article is reasonable.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the

HEA 1316(ss)



privilege of doing business, or a corporate stock tax; or
 (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(o) Notwithstanding subsections (l) and (m), the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:

- (1) a foreign corporation; or
- (2) a corporation that is classified as a foreign operating corporation for the taxable year by section 2.4 of this chapter.

(p) Notwithstanding subsections (l) and (m), the department may not require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection (o)(1) or (o)(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections (l) and (m).

(q) Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year. A taxpayer filing a combined income tax return must petition the department within thirty (30) days after the end of the taxpayer's taxable year to discontinue filing a combined income tax return.

(r) This subsection applies to a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code. The corporation's adjusted gross income that is derived from sources within Indiana is determined by multiplying the corporation's adjusted gross income by a fraction:

- (1) the numerator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks in the state; and
- (2) the denominator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks everywhere.

The term "direct premiums and annuity considerations" means the gross premiums received from direct business as reported in the corporation's annual statement filed with the department of insurance.

HEA 1316(ss)



(s) This subsection applies to receipts derived from motorsports racing.

(1) Any purse, prize money, or other amounts earned for placement or participation in a race or portion thereof, including qualification, shall be attributed to Indiana if the race is conducted in Indiana.

(2) Any amounts received from an individual or entity as a result of sponsorship or similar promotional consideration for one (1) or more races shall be in this state in the amount received, multiplied by the following fraction:

(A) The numerator of the fraction is the number of racing events for which sponsorship or similar promotional consideration has been paid in a taxable year and that occur in Indiana.

(B) The denominator of the fraction is the total number of racing events for which sponsorship or similar promotional consideration has been paid in a taxable year.

(3) Any amounts earned as an incentive for placement or participation in one (1) or more races and that are not covered under subdivision (1) or (2) or under IC 6-3-2-3.2 shall be attributed to Indiana in the proportion of the races that occurred in Indiana.

This subsection, as enacted in 2013, is intended to be a clarification of the law and not a substantive change in the law.

(t) For purposes of this section and section 2.2 of this chapter, the following apply:

(1) For taxable years beginning after December 25, 2016, if a taxpayer is required to include amounts in the taxpayer's federal adjusted gross income, federal taxable income, or IRC 965 Transition Tax Statement, line 1 as a result of Section 965 of the Internal Revenue Code, the following apply:

(A) For an entity that is not eligible to claim a deduction under IC 6-3-2-12, these amounts shall not be receipts in any taxable year for the entity.

(B) For an entity that is eligible to claim a deduction under IC 6-3-2-12, these amounts shall be receipts in the year in which the amounts are reported by the entity as adjusted gross income under this article, but only to the extent of:

(i) any amounts includible after application of IC 6-3-1-3.5(b)(13), IC 6-3-1-3.5(d)(12), and IC 6-3-1-3.5(e)(12); minus

(ii) the deduction taken under IC 6-3-2-12 with regard to

HEA 1316(ss)



that income.

This subdivision applies regardless of the taxable year in which the money or property was actually received.

(2) If a taxpayer is required to include amounts in the taxpayer's federal adjusted gross income or federal taxable income as a result of Section 951A of the Internal Revenue Code the following apply:

(A) For an entity that is not eligible to claim a deduction under IC 6-3-2-12, the receipts that generated the income shall not be included as a receipt in any taxable year.

(B) For an entity that is eligible to claim a deduction under IC 6-3-2-12, the amounts included in federal gross income as a result of Section 951A of the Internal Revenue Code, reduced by the deduction allowable under IC 6-3-2-12 with regard to that income, shall be considered a receipt in the year in which the amounts are includible in federal taxable income.

(3) Receipts do not include receipts derived from sources outside the United States to the extent the taxpayer is allowed a deduction or exclusion in determining both the taxpayer's federal taxable income as a result of the federal Tax Cuts and Jobs Act of 2017 and the taxpayer's adjusted gross income under this chapter. If any portion of the federal taxable income derived from these receipts is deductible under IC 6-3-2-12, receipts shall be reduced by the proportion of the deduction allowable under IC 6-3-2-12 with regard to that federal taxable income.

Receipts includible in a taxable year under subdivisions (1) and (2) shall be considered dividends from investments for apportionment purposes.

SECTION 5. IC 6-3-2-2.5, AS AMENDED BY P.L.86-2018, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 2.5. (a) This section applies to a resident person.

(b) Resident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried over to that year. A taxpayer is not entitled to carryback any net operating losses after December 31, 2011.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, adjusted for certain modifications required by

HEA 1316(ss)



IC 6-3-1-3.5 as set forth in subsection (d)(1).

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred, except that the modifications do not include the modifications required under:

(A) IC 6-3-1-3.5(a)(3);

(B) IC 6-3-1-3.5(a)(4);

(C) IC 6-3-1-3.5(a)(5);

(D) ~~IC 6-3-1-3.5(a)(24)~~; and **IC 6-3-1-3.5(a)(26)**;

(E) ~~IC 6-3-1-3.5(f)(10)~~; **IC 6-3-1-3.5(f)(11)**; and

(F) IC 6-3-1-3.5(f)(13).

(2) An Indiana net operating loss includes a net operating loss that arises when the applicable modifications required by IC 6-3-1-3.5 as set forth in subdivision (1) exceed the taxpayer's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryover shall be available as a deduction from the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryover year provided in subsection (f).

(f) Carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(2) ~~Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code. An Indiana net operating loss may not be carried over for more than twenty (20) taxable years after the taxable year of the loss.~~

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried over as provided in subsection (f). The amount of the Indiana net operating loss carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been

HEA 1316(ss)



used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

SECTION 6. IC 6-3-2-2.6, AS AMENDED BY P.L.86-2018, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried over to that year. A taxpayer is not entitled to carryback any net operating losses after December 31, 2011.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for certain modifications required by IC 6-3-1-3.5 as set forth in subsection (d)(1).

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred, except that the modifications do not include the modifications required under:

- (A) IC 6-3-1-3.5(a)(3);
- (B) IC 6-3-1-3.5(a)(4);
- (C) IC 6-3-1-3.5(a)(5);
- (D) ~~IC 6-3-1-3.5(a)(24)~~; **IC 6-3-1-3.5(a)(26)**;
- (E) IC 6-3-1-3.5(b)(14);
- (F) IC 6-3-1-3.5(b)(17)**;
- ~~(G)~~ **(G) IC 6-3-1-3.5(d)(13)**;
- (H) IC 6-3-1-3.5(d)(16)**;
- ~~(I)~~ **(I) IC 6-3-1-3.5(e)(13)**; ~~and~~
- (J) IC 6-3-1-3.5(e)(16)**;
- ~~(K)~~ **(K) IC 6-3-1-3.5(f)(10)**; **IC 6-3-1-3.5(f)(11)**; ~~and~~
- (L) IC 6-3-1-3.5(f)(13)**.

(2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's adjusted **gross** income derived from sources within Indiana is determined under section 2 of this chapter for the same taxable year during which each loss was incurred.

(3) An Indiana net operating loss includes a net operating loss that arises when the applicable modifications required by IC 6-3-1-3.5

HEA 1316(ss)



as set forth in subdivision (1) exceed the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, or when the applicable modifications required by IC 6-3-1-3.5 as set forth in subdivision (1) exceed the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident person, for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryover year provided in subsection (f).

(f) Carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(2) ~~Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.~~ **An Indiana net operating loss may not be carried over for more than twenty (20) taxable years after the taxable year of the loss.**

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried over as provided in subsection (f). The amount of the Indiana net operating loss carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

(h) An Indiana net operating loss deduction determined under this section shall be allowed notwithstanding the fact that in the year the taxpayer incurred the net operating loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(1) a life insurance company (as defined in Section 816(a) of the

HEA 1316(ss)



Internal Revenue Code); or

(2) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

(i) In the case of a life insurance company, ~~that claims an operations loss deduction under Section 810 of the Internal Revenue Code~~; this section shall be applied by

~~(1) substituting the corresponding provisions of Section 810 of the Internal Revenue Code in place of references to Section 172 of the Internal Revenue Code; and~~

~~(2) substituting life insurance company taxable income (as defined in Section 801 the Internal Revenue Code) in place of references to taxable income (as defined in Section 63 of the Internal Revenue Code).~~

SECTION 7. IC 6-3-2-4, AS AMENDED BY P.L.217-2017, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 4. (a) Each taxable year, an individual, or the individual's surviving spouse, is entitled to the following:

(1) An adjusted gross income tax deduction for the first five thousand dollars (\$5,000) of income, excluding adjusted gross income described in subdivision (2), received during the taxable year by the individual, or the individual's surviving spouse, for the individual's service in an active or reserve component of the armed forces of the United States, including the army, navy, air force, coast guard, marine corps, merchant marine, Indiana army national guard, or Indiana air national guard.

(2) An adjusted gross income tax deduction of six thousand two hundred fifty dollars (\$6,250) for income from retirement or survivor's benefits received during the taxable year by the individual, or the individual's surviving spouse, for the individual's service in an active or reserve component of the armed forces of the United States, including the army, navy, air force, coast guard, marine corps, merchant marine, Indiana army national guard, or Indiana air national guard.

(b) An individual whose qualified military income is subtracted from the individual's federal adjusted gross income under ~~IC 6-3-1-3.5(a)(19)~~ **IC 6-3-1-3.5(a)(18)** for Indiana individual income tax purposes is not, for that taxable year, entitled to a deduction under this section for the same qualified military income that is deducted under ~~IC 6-3-1-3.5(a)(19)~~ **IC 6-3-1-3.5(a)(18)**.

SECTION 8. IC 6-3-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 12. (a) As

HEA 1316(ss)



used in this section, the term "foreign source dividend" means a dividend from a foreign corporation. The term:

(1) includes any amount that a taxpayer is required to include in its gross income for a taxable year under ~~Section~~ Sections 951 and 951A of the Internal Revenue Code, and, for taxable years beginning after December 25, 2016, any amounts required to be included in adjusted gross income under this article after application of IC 6-3-1-3.5(b)(13), IC 6-3-1-3.5(d)(12), and IC 6-3-1-3.5(e)(12), but prior to application of this section; and

(2) ~~but the term~~ does not include any amount that is treated as a dividend under Section 78 of the Internal Revenue Code.

The reference in subdivision (1) to amounts required to be included in adjusted gross income under this article after application of IC 6-3-1-3.5(b)(13), IC 6-3-1-3.5(d)(12), and IC 6-3-1-3.5(e)(12) applies in the same taxable year that the taxpayer takes into account the increase in Subpart F income as a result of Section 965(a) of the Internal Revenue Code and uses the deduction for deferred foreign income under Section 965(c) of the Internal Revenue Code.

(b) A corporation that includes any foreign source dividend in its adjusted gross income for a taxable year is entitled to a deduction from that adjusted gross income. The amount of the deduction equals the product of:

(1) the amount of the foreign source dividend included in the corporation's adjusted gross income for the taxable year; multiplied by

(2) the percentage prescribed in subsection (c), (d), or (e), as the case may be.

(c) The percentage referred to in subsection (b)(2) is one hundred percent (100%) if the corporation that includes the foreign source dividend in its adjusted gross income owns stock possessing at least eighty percent (80%) of the total combined voting power of all classes of stock of the foreign corporation from which the dividend is derived.

(d) The percentage referred to in subsection (b)(2) is eighty-five percent (85%) if the corporation that includes the foreign source dividend in its adjusted gross income owns stock possessing at least fifty percent (50%) but less than eighty percent (80%) of the total combined voting power of all classes of stock of the foreign corporation from which the dividend is derived.

(e) The percentage referred to in subsection (b)(2) is fifty percent (50%) if the corporation that includes the foreign source dividend in its

HEA 1316(ss)



adjusted gross income owns stock possessing less than fifty percent (50%) of the total combined voting power of all classes of stock of the foreign corporation from which the dividend is derived.

SECTION 9. IC 6-3-3-12, AS AMENDED BY P.L.181-2016, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 12. (a) As used in this section, "account" has the meaning set forth in IC 21-9-2-2.

(b) As used in this section, "account beneficiary" has the meaning set forth in IC 21-9-2-3.

(c) As used in this section, "account owner" has the meaning set forth in IC 21-9-2-4.

(d) As used in this section, "college choice 529 education savings plan" refers to a college choice 529 investment plan established under IC 21-9.

(e) As used in this section, "contribution" means the amount of money directly provided to a college choice 529 education savings plan account by a taxpayer. A contribution does not include any of the following:

(1) Money credited to an account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the account.

(2) Money transferred from any other qualified tuition program under Section 529 of the Internal Revenue Code or from any other similar plan.

(3) Money that is credited to an account and that will be transferred to an ABL account (as defined in Section 529A of the Internal Revenue Code).

(f) As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is not a qualified withdrawal.

(g) As used in this section, "qualified higher education expenses" has the meaning set forth in IC 21-9-2-19.5.

(h) As used in this section, "qualified K-12 education expenses" means expenses that are for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school located in Indiana and are permitted under Section 529 of the Internal Revenue Code.

(i) As used in this section, "qualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is made:

(1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher

HEA 1316(ss)



education expenses, if the withdrawals or distributions are made from an account of a college choice 529 education savings plan that is terminated within twelve (12) months after the account is opened;

- (2) as a result of the death or disability of an account beneficiary;
- (3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or distribution does not exceed the amount of the scholarship; or
- (4) by a college choice 529 education savings plan as the result of a transfer of funds by a college choice 529 education savings plan from one (1) third party custodian to another.

However, a qualified withdrawal does not include a withdrawal or distribution that will be used for expenses that are for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school unless the school is located in Indiana. A qualified withdrawal does not include a rollover distribution or transfer of assets from a college choice 529 education savings plan to any other qualified tuition program under Section 529 of the Internal Revenue Code or to any other similar plan.

(j) As used in this section, "taxpayer" means:

- (1) an individual filing a single return; or
- (2) a married couple filing a joint return.

(k) A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

(1) ~~Twenty percent (20%)~~ **of The following amount:**

(A) For taxable years beginning before January 1, 2019, the sum of twenty percent (20%) multiplied by the amount of the total contributions that are made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year and that will be used to pay for qualified higher education expenses that are not qualified K-12 education expenses, plus the lesser of:

- (i) five hundred dollars (\$500); or**
- (ii) ten percent (10%) multiplied by the amount of the total contributions that are made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year and that will be used to pay for qualified K-12 education expenses.**

(B) For taxable years beginning after December 31, 2018, the sum of:

HEA 1316(ss)



(i) twenty percent (20%) multiplied by the amount of the total contributions that are made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year and that are designated to pay for qualified higher education expenses that are not qualified K-12 education expenses; plus
(ii) twenty percent (20%) multiplied by the amount of the total contributions that are made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year and that are designated to pay for qualified K-12 education expenses.

(2) One thousand dollars (\$1,000).

(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(l) This subsection applies after December 31, 2018. At the time a contribution is made to or a withdrawal is made from an account or accounts of a college choice 529 education savings plan, the person making the contribution or withdrawal shall designate whether the contribution is made for or the withdrawal will be used for:

(1) qualified higher education expenses that are not qualified K-12 education expenses; or

(2) qualified K-12 education expenses.

The Indiana education savings authority (IC 21-9-3) shall use subaccounting to track the designations.

~~(k)~~ **(m)** A taxpayer who makes a contribution to a college choice 529 education savings plan is considered to have made the contribution on the date that:

(1) the taxpayer's contribution is postmarked or accepted by a delivery service, for contributions that are submitted to a college choice 529 education savings plan by mail or delivery service; or

(2) the taxpayer's electronic funds transfer is initiated, for contributions that are submitted to a college choice 529 education savings plan by electronic funds transfer.

~~(j)~~ **(n)** A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

~~(m)~~ **(o)** A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

~~(n)~~ **(p)** To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns

HEA 1316(ss)



in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

(~~o~~) (q) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

- (1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or
- (2) the excess of:
 - (A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over
 - (B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

(~~p~~) (r) Any required repayment under subsection (~~o~~) (q) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(~~q~~) (s) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

(~~r~~) (t) The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

- (1) nonqualified withdrawals made from accounts, **including subaccounts** of a college choice 529 education savings plan for the taxable year; or
- (2) account closings for the taxable year.

SECTION 10. IC 6-3.1-1-3, AS AMENDED BY P.L.238-2017, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 3. (a) A taxpayer (as defined in the following laws), pass through entity (as defined in the following laws), or shareholder, partner, or member of a pass through entity may not be granted more than one (1) tax credit under the

HEA 1316(ss)



following laws for the same project:

- (1) IC 6-3.1-10 (enterprise zone investment cost credit) (before its expiration).
- (2) IC 6-3.1-11 (industrial recovery tax credit).
- (3) IC 6-3.1-19 (community revitalization enhancement district tax credit).
- (4) IC 6-3.1-24 (venture capital investment tax credit).
- (5) IC 6-3.1-26 (Hoosier business investment tax credit).
- (6) IC 6-3.1-31.9 (Hoosier alternative fuel vehicle manufacturer tax credit).

If a taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity has been granted more than one (1) tax credit for the same project, the taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity must elect to apply only one (1) of the tax credits in the manner and form prescribed by the department.

(b) A taxpayer (as defined in the following laws), pass through entity (as defined in the following laws), or shareholder, partner, or member of a pass through entity that is entitled to one (1) or more tax credits under the following laws for a taxable year beginning after December 31, 2016, and ending before January 1, 2018, may elect to carry forward all or any portion of one (1) or more of those tax credits to the taxable year beginning after December 31, 2017, and ending before January 1, 2019:

- (1) IC 6-3.1-10 (enterprise zone investment cost credit) (before its expiration).**
- (2) IC 6-3.1-11 (industrial recovery tax credit).**
- (3) IC 6-3.1-19 (community revitalization enhancement district tax credit).**
- (4) IC 6-3.1-24 (venture capital investment tax credit).**
- (5) IC 6-3.1-26 (Hoosier business investment tax credit).**
- (6) IC 6-3.1-31.9 (Hoosier alternative fuel vehicle manufacturer tax credit).**

A taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity that wishes to carry forward all or any portion of a tax credit under this subsection must make an election to do so in the manner and form prescribed by the department on or before the taxpayer's due date for filing a return for the taxable year ending after December 31, 2017. This subsection does not affect the limitation set forth in subsection (a) for the taxable year beginning after December 31, 2017, and ending before January 1, 2019. This subsection expires on January 1,

HEA 1316(ss)



2023.

SECTION 11. IC 6-3.1-21-6, AS AMENDED BY P.L.242-2015, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 6. (a) Except as provided by ~~subsection~~ **subsections (b), (d), and (e)**, an individual who is eligible for an earned income tax credit under Section 32 of the Internal Revenue Code as it existed before being amended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), is eligible for a credit under this chapter equal to nine percent (9%) of the amount of the federal earned income tax credit that the individual:

- (1) is eligible to receive in the taxable year; and
- (2) claimed for the taxable year;

under Section 32 of the Internal Revenue Code as it existed before being amended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

(b) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the amount of the credit is equal to the product of:

- (1) the amount determined under subsection (a); multiplied by
- (2) the quotient of the taxpayer's income taxable in Indiana divided by the taxpayer's total income.

(c) If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess shall be refunded to the taxpayer.

(d) If a taxpayer properly elects to determine the taxpayer's earned income in accordance with the federal Bipartisan Budget Act of 2018 for purposes of the credit under Section 32 of the Internal Revenue Code for a taxable year beginning after December 31, 2016, the election shall be treated as being made for purposes of the credit under this chapter.

(e) The minimum earned income amounts and phaseout threshold amounts for the credit under this section are subject to the same cost of living adjustments provided in the Internal Revenue Code.

SECTION 12. IC 6-5.5-1-2, AS AMENDED BY P.L.250-2015, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

- (1) Add the following amounts:

HEA 1316(ss)



- (A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.
- (B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.
- (D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.
- (E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.
- (F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.
- (G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

HEA 1316(ss)



~~(F)~~ Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

~~(F)~~ **(I)** Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

~~(K)~~ **(J)** Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code for active financing income under Subpart F, Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation.

HEA 1316(ss)



(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(G) Income that is:

- (i) exempt from taxation under IC 6-3-2-21.7; and
- (ii) included in the taxpayer's taxable income under the Internal Revenue Code.

(H) The amount included in the taxpayer's gross income under Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(3) Make the following adjustments:

(A) Subtract the amount of any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code.

(B) Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year.

For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income **adjusted as follows:**

(1) plus Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(2) Make the following adjustments:

HEA 1316(ss)



(A) Subtract the amount of any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code.

(B) Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year.

For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(3) ~~multiplied~~ Multiply the amount determined after the adjustments in subdivisions (1) and (2) by the quotient of:

(1) (A) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) (B) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment to be made to itself and issues in exchange for the payment:

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act

HEA 1316(ss)



of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 13. IC 6-8.1-3-17, AS AMENDED BY P.L.213-2015, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Before an original tax appeal is filed with the tax court under IC 33-26, the commissioner may settle any tax liability dispute if a substantial doubt exists as to:

- (1) the constitutionality of the tax under the Constitution of the State of Indiana;
- (2) the right to impose the tax;
- (3) the correct amount of tax due;
- (4) the collectability of the tax; or
- (5) whether the taxpayer is a resident or nonresident of Indiana.

(b) After an original tax appeal is filed with the tax court under IC 33-26, and notwithstanding IC 4-6-2-11, the commissioner may settle a tax liability dispute with an amount in contention of twenty-five thousand dollars (\$25,000) or less. Notwithstanding IC 6-8.1-7-1(a), the terms of a settlement under this subsection are available for public inspection.

(c) The department shall establish an amnesty program for taxpayers having an unpaid tax liability for a listed tax that was due and payable for a tax period ending before January 1, 2013. A taxpayer is not eligible for the amnesty program:

- (1) for any tax liability resulting from the taxpayer's failure to comply with IC 6-3-1-3.5(b)(3) with regard to the tax imposed by IC 4-33-13 or IC 4-35-8; or
- (2) if the taxpayer participated in any previous amnesty program under:
 - (A) this section (as in effect on December 31, 2014); or
 - (B) IC 6-2.5-14.

The time in which a voluntary payment of tax liability may be made (or the taxpayer may enter into a payment program acceptable to the department for the payment of the unpaid listed taxes in full in the manner and time established in a written payment program agreement between the department and the taxpayer) under the amnesty program is limited to the period determined by the department, not to exceed eight (8) regular business weeks ending before the earlier of the date set by the department or January 1, 2017. The amnesty program must

HEA 1316(ss)



provide that, upon payment by a taxpayer to the department of all listed taxes due from the taxpayer for a tax period (or payment of the unpaid listed taxes in full in the manner and time established in a written payment program agreement between the department and the taxpayer), entry into an agreement that the taxpayer is not eligible for any other amnesty program that may be established and waives any part of interest and penalties on the same type of listed tax that is being granted amnesty in the current amnesty program, and compliance with all other amnesty conditions adopted under a rule of the department in effect on the date the voluntary payment is made, the department:

- (1) shall abate and not seek to collect any interest, penalties, collection fees, or costs that would otherwise be applicable;
- (2) shall release any liens imposed;
- (3) shall not seek civil or criminal prosecution against any individual or entity; and
- (4) shall not issue, or, if issued, shall withdraw, an assessment, a demand notice, or a warrant for payment under IC 6-8.1-5-1, IC 6-8.1-5-3, IC 6-8.1-8-2, or another law against any individual or entity;

for listed taxes due from the taxpayer for the tax period for which amnesty has been granted to the taxpayer. Amnesty granted under this subsection is binding on the state and its agents. However, failure to pay to the department all listed taxes due for a tax period invalidates any amnesty granted under this subsection for that tax period. The department shall conduct an assessment of the impact of the tax amnesty program on tax collections and an analysis of the costs of administering the tax amnesty program. As soon as practicable after the end of the tax amnesty period, the department shall submit a copy of the assessment and analysis to the legislative council in an electronic format under IC 5-14-6. The department shall enforce an agreement with a taxpayer that prohibits the taxpayer from receiving amnesty in another amnesty program.

(d) For purposes of subsection (c), a liability for a listed tax is due and payable if:

- (1) the department has issued:
 - (A) an assessment of the listed tax under IC 6-8.1-5-1;
 - (B) a demand for payment under IC 6-8.1-5-3; or
 - (C) a demand notice for payment of the listed tax under IC 6-8.1-8-2;
- (2) the taxpayer has filed a return or an amended return in which the taxpayer has reported a liability for the listed tax; or
- (3) the taxpayer has filed a written statement of liability for the

HEA 1316(ss)



listed tax in a form that is satisfactory to the department.

(e) The department may waive interest and penalties if the general assembly enacts a change in a listed tax for a tax period that increases a taxpayer's tax liability for that listed tax after the due date for that listed tax and tax period. However, such a waiver shall apply only to the extent of the increase in tax liability and only for a period not exceeding sixty (60) days after the change is enacted. The department may adopt rules, including emergency rules, or issue guidelines to carry out this subsection.

SECTION 14. IC 6-8.1-10-1, AS AMENDED BY P.L.113-2014, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) If a person fails to file a return for any of the listed taxes, fails to pay the full amount of tax shown on the person's return by the due date for the return or the payment, or incurs a deficiency upon a determination by the department, the person is subject to interest on the nonpayment.

(b) The interest for a failure described in subsection (a) is the adjusted rate established by the commissioner under subsection (c), from the due date for payment. The interest applies to:

- (1) the full amount of the unpaid tax due if the person failed to file the return;
- (2) the amount of the tax that is not paid, if the person filed the return but failed to pay the full amount of tax shown on the return;
- or
- (3) the amount of the deficiency.

(c) The commissioner shall establish an adjusted rate of interest for a failure described in subsection (a) and for an excess tax payment on or before November 1 of each year. For purposes of subsection (b), the adjusted rate of interest shall be the percentage rounded to the nearest whole number that equals two (2) percentage points above the average investment yield on state general fund money for the state's previous fiscal year, excluding pension fund investments, as determined by the treasurer of state on or before October 1 of each year and reported to the commissioner. For purposes of IC 6-8.1-9-2(c), the adjusted rate of interest for an excess tax payment must be the same as the adjusted rate of interest determined under this subsection for a failure described in subsection (a). The adjusted rates of interest established under this subsection shall take effect on January 1 of the immediately succeeding year.

(d) For purposes of this section, the filing of a substantially blank or unsigned return does not constitute a return.

(e) Except as provided by IC 6-8.1-3-17(c), **IC 6-8.1-3-17(e)**, and

HEA 1316(ss)



IC 6-8.1-5-2, the department may not waive the interest imposed under this section.

(f) Subsections (a) through (c) do not apply to a motor carrier fuel tax return.

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding the June 30, 2018, date set forth in HEA 1001-2017, SECTION 167, regarding the trustees of:

- (1) Indiana University issuing and selling bonds for the Bloomington Campus Old Crescent Renovation - Phase III;**
- (2) Purdue University issuing and selling bonds for the:**
 - (A) West Lafayette Campus Agricultural and Biological Engineering Building Renovation and Addition; and**
 - (B) Purdue Northwest Campus Bioscience Innovation Building;**
- (3) University of Southern Indiana issuing and selling bonds for the Physical Activities Center Classroom Expansion and Renovation - Phase II;**
- (4) Ball State University issuing and selling bonds for the Science, Technology, Engineering, Math, and Health Professions Facilities - Phase II; and**
- (5) Ivy Tech Community College issuing and selling bonds for the:**
 - (A) Kokomo campus renovation and addition; and**
 - (B) Muncie campus renovation and addition;**

the trustees may instead issue and sell bonds under IC 21-34, subject to the approvals required by IC 21-33-3, after the effective date of this SECTION.

(b) This SECTION expires June 30, 2019.

SECTION 16. [EFFECTIVE JULY 1, 2018] (a) IC 6-2.5-5-26(c), as added by this act, applies only to transactions occurring after June 30, 2018.

(b) This SECTION expires July 1, 2024.

SECTION 17. [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: (a) IC 6-3-1-3.5, IC 6-3-2-2, IC 6-3-2-2.5, IC 6-3-2-2.6, IC 6-3-2-4, IC 6-3-2-12, and IC 6-5.5-1-2, all as amended by this act, apply to taxable years beginning after December 31, 2017, unless an earlier taxable year is specified in any of these provisions.

(b) This SECTION expires June 30, 2021.

SECTION 18. An emergency is declared for this act.

HEA 1316(ss)



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1316(ss)

