

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1436

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 4-21.5-3-27.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2021]: **Sec. 27.5. In a proceeding under this chapter concerning an agency action, the administrative law judge shall order the agency to pay the reasonable attorney's fees incurred in the proceeding by the party challenging the agency action if the party challenging the agency action proves, by a preponderance of the evidence, that:**

- (1) the agency's action was frivolous or groundless; or**
- (2) the agency pursued the action in bad faith.**

SECTION 2. IC 6-2.5-1-5, AS AMENDED BY SEA 383-2021, SECTION 3, AND AS AMENDED BY HEA 1001-2021, SECTION 69, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. (a) Except as provided in subsection (b), "gross retail income" means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:

- (1) the seller's cost of the property sold;
- (2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed

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- on the seller, and any other expense of the seller;
- (3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- (4) delivery charges; or
- (5) consideration received by the seller from a third party if:
- (A) the seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
 - (D) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

For purposes of subdivision (4), delivery charges are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage charges that are not separately stated on the invoice, bill of sale, or similar document, handling, crating, and packing. Delivery charges do not include postage charges that are separately stated on the invoice, bill of sale, or similar document.

(b) "Gross retail income" does not include that part of the gross receipts attributable to:

- (1) the value of any tangible personal property received in a like kind exchange in the retail transaction, if the value of the property given in exchange is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
- (2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a promissory note or an installment sales contract;
- (3) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
- (4) interest, financing, and carrying charges from credit extended on the sale of personal property if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
- (5) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document



given to the purchaser, including an excise tax imposed under IC 6-6-15;

(6) installation charges that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(7) telecommunications nonrecurring charges;

(8) postage charges that are separately stated on the invoice, bill of sale, or similar document; or

(9) charges for serving or delivering food and food ingredients furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant, to the extent that the charges for the serving or delivery are stated separately from the price of the food and food ingredients when the purchaser pays the charges.

(c) Notwithstanding subsection (b)(5):

(1) in the case of retail sales of special fuel (as defined in IC 6-6-2.5-22), the gross retail income is the total sales price of the special fuel minus the part of that price attributable to tax imposed under IC 6-6-2.5 or Section 4041 or Section 4081 of the Internal Revenue Code; ~~and~~

(2) in the case of retail sales of cigarettes (as defined in IC 6-7-1-2), the gross retail income is the total sales price of the cigarettes including the tax imposed under IC 6-7-1; *and*

(3) in the case of retail sales of consumable material (as defined in IC 6-7-4-2), vapor products (as defined in IC 6-7-4-8), and closed system cartridges (as defined in 6-7-2-0.5) under the closed system cartridge tax, the gross retail income received from selling at retail is the total sales price of the consumable material (as defined in IC 6-7-4-2), vapor products (as defined in IC 6-7-4-8), and closed system cartridges (as defined in IC 6-7-2-0.5) including the tax imposed under IC 6-7-4 and IC 6-7-2-7.5.

(d) Gross retail income is only taxable under this article to the extent that the income represents:

(1) the price of the property transferred, without the rendition of any services; and

(2) except as provided in subsection (b), any bona fide ~~changes~~ *charges* which are made for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred before its transfer and which are separately stated on the transferor's records. For purposes of this subdivision, a transfer is considered to have occurred after the delivery of the property to the purchaser.



(e) A public utility's or a power subsidiary's gross retail income includes all gross retail income received by the public utility or power subsidiary, including any minimum charge, flat charge, membership fee, or any other form of charge or billing.

SECTION 3. IC 6-3-1-3.5, AS AMENDED BY HEA 1001-2021, SECTION 71, AND SEA 383-2021, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020 (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 exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004);
 - (B) 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 federal 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). In the case of a married individual filing a separate return, the qualifying income amount in this clause is equal to twenty thousand dollars (\$20,000).

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 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 if the taxpayer and the taxpayer's spouse file a joint income tax return or the taxpayer is otherwise entitled to a deduction under this subdivision for the taxpayer's spouse, or both.

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

(A) two thousand five hundred dollars (\$2,500), or one thousand two hundred fifty dollars (\$1,250) in the case of a married individual filing a separate return; 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 the sum of:

(A) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

(i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the



Internal Revenue Code in effect on January 1, 2017;
 (ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and
 (iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

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

(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.

(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.

(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.

(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 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 that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(26) For taxable years beginning after December 31, 2019, and before January 1, 2021, add an amount of the deduction claimed under Section 62(a)(22) of the Internal Revenue Code.

(27) For taxable years beginning after December 31, 2019, for payments made by an employer under an education assistance program after March 27, 2020:

(A) add the amount of payments by an employer that are excluded from the taxpayer's federal gross income under Section 127(c)(1)(B) of the Internal Revenue Code; and

(B) deduct the interest allowable under Section 221 of the Internal Revenue Code, if the disallowance under Section 221(e)(1) of the Internal Revenue Code did not apply to the payments described in clause (A). For purposes of applying Section 221(b) of the Internal Revenue Code to the amount allowable under this clause, the amount under clause (A) shall not be added to adjusted gross income.

(28) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(29) For taxable years beginning after December 31, 2017, and



before January 1, 2021, add an amount equal to the excess business loss of the taxpayer as defined in Section 461(l)(3) of the Internal Revenue Code. In addition:

(A) If a taxpayer has an excess business loss under this subdivision and also has modifications under subdivisions (15) and (17) for property placed in service during the taxable year, the taxpayer shall treat a portion of the taxable year modifications for that property as occurring in the taxable year the property is placed in service and a portion of the modifications as occurring in the immediately following taxable year.

(B) The portion of the modifications under subdivisions (15) and (17) for property placed in service during the taxable year treated as occurring in the taxable year in which the property is placed in service equals:

- (i) the modification for the property otherwise determined under this section; minus
- (ii) the excess business loss disallowed under this subdivision;

but not less than zero (0).

(C) The portion of the modifications under subdivisions (15) and (17) for property placed in service during the taxable year treated as occurring in the taxable year immediately following the taxable year in which the property is placed in service equals the modification for the property otherwise determined under this section minus the amount in clause (B).

(D) Any reallocation of modifications between taxable years under clauses (B) and (C) shall be first allocated to the modification under subdivision (15), then to the modification under subdivision (17).

(30) Add an amount equal to the amount excluded from federal gross income under Section 108(f)(5) of the Internal Revenue Code. For purposes of this subdivision, if an amount excluded under Section 108(f)(5) of the Internal Revenue Code would be excludible under Section 108(a)(1)(B) of the Internal Revenue Code, the exclusion under Section 108(a)(1)(B) of the Internal Revenue Code shall take precedence.

(31) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

- (A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law



116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(32) Subtract the amount of an annual grant amount distributed to a taxpayer's Indiana education scholarship account under IC 20-51.4-4-2 that is used for a qualified expense (as defined in IC 20-51.4-2-9), to the extent the distribution used for the qualified expense is included in the taxpayer's federal adjusted gross income under the Internal Revenue Code.

(33) For taxable years beginning after December 31, 2019, and before January 1, 2021, add an amount equal to the amount of unemployment compensation excluded from federal gross income under Section 85(c) of the Internal Revenue Code.

~~(33)~~ **(34)** 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 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 the sum of:

(A) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

(i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;

(ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and

(iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(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) 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). For purposes of this clause, any directly related interest expense that constitutes business interest within the meaning of Section 163(j) of the Internal Revenue Code shall be considered to have reduced the taxpayer's federal taxable income only in the first taxable year in which the deduction otherwise 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.

(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).

(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.

(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.

(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:

(i) an amount equal to the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1; or

(ii) if the taxpayer deducted an amount under Section 965(c) of the Internal Revenue Code in determining the taxpayer's taxable income for purposes of the federal income tax, the amount deducted under Section 965(c) of the Internal Revenue Code; 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 that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(17) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(18) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(19) 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 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 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 the sum of:

(A) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:



- (i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;
- (ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and
- (iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

- (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.
- (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.
- (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.
- (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:
 - (A) an amount equal to the amount reported by the taxpayer on



IRC 965 Transition Tax Statement, line 1; or
 (B) if the taxpayer deducted an amount under Section 965(c) of the Internal Revenue Code in determining the taxpayer's taxable income for purposes of the federal income tax, the amount deducted under Section 965(c) of the Internal Revenue Code.

(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 that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(16) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(17) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(18) 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 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 the sum of:

(A) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and



(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

- (i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;
- (ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and
- (iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(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.

(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.

(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.

(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:
- (A) an amount equal to the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1; or
 - (B) if the taxpayer deducted an amount under Section 965(c) of the Internal Revenue Code in determining the taxpayer's taxable income for purposes of the federal income tax, the amount deducted under Section 965(c) of the Internal Revenue Code.
- (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 that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.
- (16) Add an amount equal to the remainder of:
- (A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus
 - (B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.
- (17) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:
- (A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law



116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(18) 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 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 the sum of:

(A) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:



- (i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;
- (ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and
- (iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

- (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.
- (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.
- (8) 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.
- (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;
 - (B) if the taxpayer deducted an amount under Section 965(c) of the Internal Revenue Code in determining the taxpayer's



taxable income for purposes of the federal income tax, the amount deducted under Section 965(c) of the Internal Revenue Code; and

(C) 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 and not reported to the beneficiary.

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 that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(13) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(14) For taxable years beginning after December 31, 2017, and before January 1, 2021, add an amount equal to the excess business loss of the taxpayer as defined in Section 461(l)(3) of the Internal Revenue Code. In addition:

(A) If a taxpayer has an excess business loss under this subdivision and also has modifications under subdivisions (3)



and (5) for property placed in service during the taxable year, the taxpayer shall treat a portion of the taxable year modifications for that property as occurring in the taxable year the property is placed in service and a portion of the modifications as occurring in the immediately following taxable year.

(B) The portion of the modifications under subdivisions (3) and (5) for property placed in service during the taxable year treated as occurring in the taxable year in which the property is placed in service equals:

- (i) the modification for the property otherwise determined under this section; minus
- (ii) the excess business loss disallowed under this subdivision;

but not less than zero (0).

(C) The portion of the modifications under subdivisions (3) and (5) for property placed in service during the taxable year treated as occurring in the taxable year immediately following the taxable year in which the property is placed in service equals the modification for the property otherwise determined under this section minus the amount in clause (B).

(D) Any reallocation of modifications between taxable years under clauses (B) and (C) shall be first allocated to the modification under subdivision (3), then to the modification under subdivision (5).

(15) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(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.

(g) Subsections ~~(a)(33)~~; **(a)(34)**, (b)(19), (d)(18), (e)(18), or (f)(16) 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 exemption.

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

- (1) a taxpayer is a shareholder, either directly or indirectly, in a



corporation that is an E&P deficit foreign corporation as defined in Section 965(b)(3)(B) of the Internal Revenue Code, and the earnings and profit deficit, or a portion of the earnings and profit deficit, of the E&P deficit foreign corporation is permitted to reduce the federal adjusted gross income or federal taxable income of the taxpayer, the deficit, or the portion of the deficit, shall also reduce the amount taxable under this section to the extent permitted under the Internal Revenue Code, however, in no case shall this permit a reduction in the amount taxable under Section 965 of the Internal Revenue Code for purposes of this section to be less than zero (0); and

(2) the Internal Revenue Service issues guidance that such an income or deduction is not reported directly on a federal tax return or is to be reported in a manner different than specified in this section, this section shall be construed as if federal adjusted gross income or federal taxable income included the income or deduction.

(i) If a partner is required to include an item of income, a deduction, or another tax attribute in the partner's adjusted gross income tax return pursuant to IC 6-3-4.5, such item shall be considered to be includible in the partner's federal adjusted gross income or federal taxable income, regardless of whether such item is actually required to be reported by the partner for federal income tax purposes. For purposes of this subsection:

(1) items for which a valid election is made under IC 6-3-4.5-6, IC 6-3-4.5-8, or IC 6-3-4.5-9 shall not be required to be included in the partner's adjusted gross income or taxable income; and

(2) items for which the partnership did not make an election under IC 6-3-4.5-6, IC 6-3-4.5-8, or IC 6-3-4.5-9, but for which the partnership is required to remit tax pursuant to IC 6-3-4.5-18, shall be included in the partner's adjusted gross income or taxable income.

SECTION 4. IC 6-3-2-2.5, AS AMENDED BY HEA 1001-2021, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020 (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 sum of:



- (1) 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 IC 6-3-1-3.5 as set forth in subsection (d)(1) and, in the case of an individual, reduced by any deductions allowable in determining the federal net operating loss for the taxable year, but not allowable in determining federal adjusted gross income;
- (2) the excess business loss deduction disallowed under IC 6-3-1-3.5(a)(29) and IC 6-3-1-3.5(f)(14); and
- (3) for taxable years beginning after December 31, 2020, a loss for a taxable year disallowed because of Section 461(l) of the Internal Revenue Code, without any modifications under subsection (d).
- (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)(33)~~; **IC 6-3-1-3.5(a)(34)**;
 - (E) IC 6-3-1-3.5(f)(11); and
 - (F) IC 6-3-1-3.5(f)(16).
- (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 sum of the taxpayer's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) if the taxpayer is an individual, or federal taxable income (as defined in Section 63 of the Internal Revenue Code) if the taxpayer is a trust or an estate for the taxable year in which the Indiana net operating loss is determined and the modifications otherwise required for federal net operating losses for the taxable year by Section 172(d) of the Internal Revenue Code. A modification that reduces a federal net operating loss shall be treated as a positive number for purposes of this subdivision, and a modification that increases a federal net operating loss shall be treated as a negative number for purposes of this subdivision.
- (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), but not in excess of the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryover year determined without regard to this section.

(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) 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).

SECTION 5. IC 6-3-2-2.6, AS AMENDED BY HEA 1001-2021, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020 (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 sum of:

(1) 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) and, for a nonresident individual, reduced by any deductions from Indiana sources allowable in determining the federal net operating loss for the taxable year, but not allowable in determining federal adjusted gross income;



- (2) the excess business loss deduction disallowed under IC 6-3-1-3.5(a)(29) and IC 6-3-1-3.5(f)(14) and incurred from Indiana sources; and
- (3) for taxable years beginning after December 31, 2020, the portion of the loss for a taxable year disallowed because of Section 461(l) of the Internal Revenue Code and incurred from Indiana sources, without any modifications under subsection (d). Any net operating loss under this subdivision shall be computed in a manner consistent with the computation of adjusted gross income under IC 6-3.
- (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)(33)~~; **IC 6-3-1-3.5(a)(34)**;
 - (E) IC 6-3-1-3.5(b)(14);
 - (F) IC 6-3-1-3.5(b)(19);
 - (G) IC 6-3-1-3.5(d)(13);
 - (H) IC 6-3-1-3.5(d)(18);
 - (I) IC 6-3-1-3.5(e)(13);
 - (J) IC 6-3-1-3.5(e)(18);
 - (K) IC 6-3-1-3.5(f)(11); and
 - (L) IC 6-3-1-3.5(f)(16).
- (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 as set forth in subdivision (1) exceed the sum of:
- (A) either:
- (i) the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, nonresident estate, or nonresident trust; or
 - (ii) the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer



is a nonresident individual;
for the taxable year in which the Indiana net operating loss is determined; and

(B) the modifications otherwise required for federal net operating losses for the taxable year of the Indiana net operating loss under Section 172(d) of the Internal Revenue Code or Section 512(b) of the Internal Revenue Code. A modification that reduces a federal net operating loss shall be treated as a positive number for purposes of this subdivision, and a modification that increases a federal net operating loss shall be treated as a negative number for purposes of this subdivision.

(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), but not in excess of the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryover year determined without regard to the deduction allowable under this section.

(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) 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 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, this section shall be applied by 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 6. IC 6-5.5-1-2, AS AMENDED BY SEA 383-2021, SECTION 26, AND AS AMENDED BY HEA 1001-2021, SECTION 98, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: 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:
 - (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 the sum of:

(i) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in item (ii); and

(ii) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017, the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code, and the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service. The amount of deductions allowable for an item of property under this item may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(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.

(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.

(K) *Add an amount equal to the remainder of:*

(i) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(ii) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(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.

(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 the sum of:

(i) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in item (ii); and

(ii) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017, the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code, and the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service. The amount of deductions allowable for an item of property under this item may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(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 that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(I) For taxable years ending after March 12, 2020, an amount equal to the deduction disallowed pursuant to:

(i) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(ii) Section 3134(e) of the Internal Revenue Code.



(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) 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:

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

(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

(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 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).

(e) If a partner is required to include an item of income, a deduction, or another tax attribute in the partner's adjusted gross income tax return pursuant to IC 6-3-4.5, such item shall be considered to be includible in the partner's federal adjusted gross income or federal taxable income, regardless of whether such item is actually required to be reported by the partner for federal income tax purposes. For purposes of this subsection:

(1) items for which a valid election is made under IC 6-3-4.5-6, IC 6-3-4.5-8, or IC 6-3-4.5-9 shall not be required to be included in the partner's adjusted gross income or taxable income; and

(2) items for which the partnership did not make an election



under IC 6-3-4.5-6, IC 6-3-4.5-8, or IC 6-3-4.5-9, but for which the partnership is required to remit tax pursuant to IC 6-3-4.5-18, shall be included in the partner's adjusted gross income or taxable income.

SECTION 7. IC 14-28-1-22.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 22.2. (a) This section applies to local floodplain administrators in a county having a population of more than one hundred forty thousand (140,000) but less than one hundred fifty thousand (150,000).**

(b) A local floodplain administrator may issue a variance approving a structure located within a floodway without a permit issued by the director of the department under section 22 of this chapter if:

- (1) the structure is not used as an abode or residence;**
- (2) the structure is constructed after January 1, 2018, but not later than July 1, 2020; and**
- (3) the lowest floor of the structure is not more than fifteen-hundredths (0.15) of a foot below two (2) feet above the one hundred (100) year flood elevation.**

(c) This section expires July 1, 2022.

SECTION 8. IC 16-21-9-3.5, AS ADDED BY SEA 325-2021, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.5. (a) This section does not apply to the following:**

- (1) A nonprofit critical access hospital that is not:**
 - (A) part of a hospital system; or**
 - (B) an affiliate of a hospital or hospital system.**
- (2) A county hospital that is established and operated under IC 16-22 or IC 16-23.**

(b) Before December 31 of each year, a nonprofit hospital shall hold a public forum in which the nonprofit hospital, including the nonprofit hospital's board of directors, shall:

- (1) obtain feedback from the community about the nonprofit hospital's performance in the previous year;**
- (2) discuss the pricing of health services provided at the nonprofit hospital; and**
- (3) discuss the contributions made by the nonprofit hospital to the community, including uncompensated care, charitable contributions, and any other charitable assistance programs.**

(c) At least fourteen (14) days before the forum held under subsection (b), the nonprofit hospital shall post on the nonprofit



hospital's Internet web site the following:

- (1) A printed notice that:
 - (A) is designed, lettered, and featured on the Internet web site so as to be conspicuous to and readable by any individual with normal vision who visits the Internet web site;
 - (B) states the date, time, and location of the public forum to be held under subsection (b); and
 - (C) states that the purpose of the public forum is to provide members of the community with an opportunity to:
 - (i) comment on the nonprofit hospital's performance in the previous year;
 - (ii) discuss the pricing of health services provided at the nonprofit hospital; and
 - (iii) discuss the contributions made by the hospital to the community, including uncompensated care, charitable contributions, and any other charitable assistance programs.
- (2) The following information relating to the subjects to be discussed at the public forum held under subsection (b):
 - (A) The nonprofit hospital's Indiana specific income statement for the previous calendar year that is prepared according to generally accepted accounting principles.
 - (B) Information concerning:
 - (i) the nonprofit hospital's pricing of health services in comparison to the amounts of reimbursement for the health services under the Medicare program;
 - (ii) the rationale for any pricing of health services by the nonprofit hospital that is higher than the corresponding reimbursement for the health services under the Medicare program; and
 - (iii) any increase in the nonprofit hospital's pricing of health services that occurred in the previous year.

(d) The public forum requirement under this section may be held, either all or in part, through an interactive real time audio and video meeting that is accessible to the community through the Internet.

SECTION 9. IC 16-36-7-28, AS ADDED BY SEA 204-2021, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 28. (a) An advance directive signed by or for a declarant under this section may accomplish or communicate one (1) or more of the following:

- (1) Designate one (1) or more competent adult individuals or other persons as a health care representative to make health care decisions for the declarant or receive health information on behalf



of the declarant, or both.

(2) State specific health care decisions by the declarant.

(3) State the declarant's preferences or desires regarding the provision, continuation, termination, or refusal of life prolonging procedures, palliative care, comfort care, or assistance with activities of daily living.

(4) Specifically disqualify one (1) or more named individuals from:

(A) being appointed as a health care representative for the declarant;

(B) acting as a proxy for the declarant under section 42 of this chapter; or

(C) receiving and exercising delegated authority from the declarant's health care representative.

(b) An advance directive under this section must be signed by or for the declarant using one (1) of the following methods:

(1) Signed by the declarant in the presence of two (2) adult witnesses or in the presence of a notarial officer.

(2) Signing of the declarant's name by another adult individual at the specific direction of the declarant, in the declarant's presence, and in the presence of the two (2) adult witnesses or a notarial officer. However, an individual who signs the declarant's name on the advance directive may not be a witness, the notarial officer, or a health care representative designated in the advance directive.

(c) An advance directive signed under this section must be witnessed or acknowledged in one (1) of the following ways:

(1) Signed in the declarant's ~~direct physical~~ presence by two (2) adult witnesses, at least one (1) of whom may not be the spouse or other relative of the declarant.

(2) Signed or acknowledged by the declarant in the presence of a notarial officer, who completes and signs a notarial certificate under IC 33-42-9-12 and makes it a part of the advance directive.

If the advance directive complies with either subdivision (1) or (2), but contains additional witness signatures or a notarial certificate that is not needed, the advance directive is still validly witnessed and acknowledged. A remote online notarization or electronic notarization of an advance directive that complies with IC 33-42-17 complies with subdivision (2).

(d) A competent declarant and the witnesses or a notarial officer may complete and sign an advance directive in two (2) or more counterparts in tangible paper form, with the declarant's signature placed on one (1) original counterpart and with the signatures of the



witnesses, if any, or the notarial officer's signature and certificate on one (1) or more different counterparts in tangible paper form, so long as the declarant and the witnesses or notarial officer comply with the presence requirement as described in section 19 of this chapter, and so long as the text of the advance directive states that it is being signed in separate paper counterparts. If an advance directive is signed in counterparts under this subsection:

- (1) the declarant;
- (2) a health care representative who is designated in the advance directive;
- (3) a person who supervised the signing of the advance directive in that person's presence; or
- (4) any other person who was present during the signing of the advance directive;

must combine all of the separately signed paper counterparts of the advance directive into a single composite document that contains the text of the advance directive, the signature of the declarant, and the signatures of the witnesses, if any, or the notarial officer. The person who combines the separately signed counterparts into a single composite document must do so not later than ten (10) business days after the person receives all of the separately signed paper counterparts. Any scanned copy, photocopy, or other accurate copy of the composite document that contains the complete text of the advance directive and all signatures will be treated as validly signed under this section. The person who creates the signed composite document under this subsection may include information about compliance within this subsection in an optional affidavit that is signed under section 41 of this chapter.

(e) If facts and circumstances, including physical impairments or physical isolation of a competent declarant, make it impossible or impractical for the declarant to use audiovisual technology to interact with the two (2) witnesses and to satisfy the presence requirement under section 19 of this chapter, the declarant and the witnesses may use telephonic interaction throughout the signing process. A potential witness cannot be compelled to use telephonic interaction alone to accomplish the signing of an advance directive under this section. A declarant and a notarial officer may not use telephonic interaction to accomplish the signing of an advance directive or other document under this chapter.

(f) If an advance directive is signed under subsection (e), the witnesses must be able to positively identify the declarant by receiving accurate answers from the declarant that:



- (1) authenticate the identity of the declarant; and
- (2) establish the capacity and sound mind of the declarant to the satisfaction of the witness.

(g) The text of the advance directive signed under subsection (e) must state that the declarant and the witnesses used telephonic interaction throughout the signing process to satisfy the presence requirement.

(h) An advance directive signed under subsection (e) is presumed to be valid if it recites that the declarant and the witnesses signed the advance directive in compliance with Indiana law.

(i) A health care provider or other person who disputes the validity of an advance directive signed under subsection (e) has the burden of proving the invalidity of the advance directive or noncompliance with subsection (e) by a reasonable preponderance of the evidence.

(j) If a declarant resides in or is located in a jurisdiction other than Indiana at the time when the declarant signs a writing that communicates the information described in subsection (a), the writing must be treated as a validly signed advance directive under this chapter if the declarant was not incapacitated at the time of signing and if the writing was:

- (1) signed and witnessed or acknowledged in a manner that complies with subsections (b) and (c); or
- (2) signed in a manner that complies with the applicable law of the jurisdiction in which the declarant was residing or was physically located at the time of signing.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding the effective date, if a subdivision in IC 6-3-1-3.5 or clause in IC 6-5.5-1-2, as added by this act, specifies that it is effective for a particular taxable year or for actions or payments on or after a specified date, the effective date for that added provision is the date specified in the particular subdivision.

(b) Notwithstanding the effective date of the amendment to IC 6-3-2-10, the provision relating to the deduction for amounts not taxable under this article pursuant to 45 U.S.C. 352 is intended as a clarification and is applicable to all prior years for which the deduction under IC 6-3-2-10 was allowed.

(c) The amendments to IC 6-3-2-2.5(c)(2) and IC 6-3-2-2.6(c)(2) apply to taxable years beginning after December 31, 2017.

(d) The amendments to IC 6-3-2-2.5 and IC 6-3-2-2.6 other than those described in subsection (c) apply to taxable years ending after June 30, 2021.

(e) If an Indiana net operating loss carryover remains for a



taxable year ending after June 30, 2021, the Indiana net operating loss carryover for use in such taxable years shall be recomputed in a manner consistent with IC 6-3-2-2.5 and IC 6-3-2-2.6 as amended as if they applied to any previous taxable year.

(f) If an Indiana net operating loss arising from a taxable year has been claimed as a deduction in a taxable year ending before July 1, 2021, the Indiana net operating loss available for use in taxable years ending after June 30, 2021, shall be computed after application of the deductions taken for Indiana net operating losses in previous years to the extent necessary to prevent duplicate use of a net operating loss.

(g) The amendment to IC 6-5.5-1-11 is intended as a clarification and not as a substantive change.

(h) This SECTION expires July 1, 2024.

SECTION 11. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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