

SENATE BILL No. 347

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 6-3.1-34.2.

Synopsis: Personal property taxes and state tax credits. Provides that business personal property acquired after June 30, 2014, is exempt from property assessment and taxation. Provides a state income tax credit for property taxes paid on business personal property. Specifies that the credit percentage is 10% for taxable years beginning in 2015, and that the credit percentage increases for a year in an increment of 10% if state general fund revenue collections grew during the preceding state fiscal year.

Effective: July 1, 2014; January 1, 2015.

Buck

January 14, 2014, read first time and referred to Committee on Tax and Fiscal Policy.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 347

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1 SECTION 1. IC 6-1.1-2-7, AS AMENDED BY P.L.1-2009,
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 7. (a) As used in this section, "nonbusiness
4 personal property" means personal property that is not:
5 (1) held for sale in the ordinary course of a trade or business;
6 (2) held, used, or consumed in connection with the production of
7 income; or
8 (3) held as an investment.
9 (b) The following property is not subject to assessment and taxation
10 under this article:
11 (1) A commercial vessel that is subject to the net tonnage tax
12 imposed under IC 6-6-6.
13 (2) A motor vehicle that is subject to the annual license excise tax
14 imposed under IC 6-6-5.
15 (3) A motorized boat or sailboat that is subject to the boat excise
16 tax imposed under IC 6-6-11.



- 1 (4) Property used by a cemetery (as defined in IC 23-14-33-7) if
 2 the cemetery:
 3 (A) does not have a board of directors, board of trustees, or
 4 other governing authority other than the state or a political
 5 subdivision; and
 6 (B) has had no business transaction during the preceding
 7 calendar year.
 8 (5) A commercial vehicle that is subject to the annual excise tax
 9 imposed under IC 6-6-5.5.
 10 (6) Inventory.
 11 (7) A recreational vehicle or truck camper that is subject to the
 12 annual excise tax imposed under IC 6-6-5.1.
 13 (8) The following types of nonbusiness personal property:
 14 (A) All-terrain vehicles.
 15 (B) Snowmobiles.
 16 (C) Rowboats, canoes, kayaks, and other human powered
 17 boats.
 18 (D) Invalid chairs.
 19 (E) Yard and garden tractors.
 20 (F) Trailers that are not subject to an excise tax under:
 21 (i) IC 6-6-5-5.5;
 22 (ii) IC 6-6-5.1; or
 23 (iii) IC 6-6-5.5.

24 **(9) New personal property that is exempt from assessment**
 25 **and taxation under IC 6-1.1-10.2.**

26 SECTION 2. IC 6-1.1-10.2 IS ADDED TO THE INDIANA CODE
 27 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2014]:

29 **Chapter 10.2. Property Tax Exemption for New Personal**
 30 **Property**

31 **Sec. 1. As used in this chapter, "affiliate" means a person that**
 32 **directly, or indirectly through one (1) or more intermediaries,**
 33 **controls, is controlled by, or is under common control with, a**
 34 **specified person. The term includes a parent company or a**
 35 **subsidiary.**

36 **Sec. 2. As used in this chapter, "business personal property"**
 37 **means personal property that:**

- 38 **(1) is otherwise subject to assessment and taxation under this**
 39 **article; and**
 40 **(2) is used in a trade or business or otherwise held, used, or**
 41 **consumed in connection with the production of income.**

42 **The term does not include mobile homes assessed under IC 6-1.1-7**



1 or personal property held as an investment.

2 **Sec. 3. As used in this chapter, "new personal property" means**
 3 **business personal property that a person acquires after June 30,**
 4 **2014:**

5 (1) in an arms length transaction from an entity that is not an
 6 affiliate of the person, if the personal property has been
 7 previously used in Indiana before the person acquires the
 8 personal property; or

9 (2) in any manner, if the personal property has never been
 10 previously used in Indiana before the person acquires the
 11 personal property.

12 **Sec. 4. Notwithstanding any other law, for assessment dates**
 13 **after February 28, 2015, a taxpayer's new personal property is**
 14 **exempt from property taxation.**

15 **Sec. 5. A taxpayer is not required to file an application to**
 16 **qualify for the exemption provided by this chapter.**

17 SECTION 3. IC 6-3.1-34.2 IS ADDED TO THE INDIANA CODE
 18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 19 JANUARY 1, 2015]:

20 **Chapter 34.2. Credit for Property Taxes Paid on Business**
 21 **Personal Property**

22 **Sec. 1. As used in this chapter, "business personal property" has**
 23 **the meaning set forth in IC 6-1.1-10.2-2.**

24 **Sec. 2. As used in this chapter, "general fund revenue" has the**
 25 **meaning set forth in IC 4-10-18-1.**

26 **Sec. 3. As used in this chapter, "net ad valorem property taxes"**
 27 **means the amount of property taxes that:**

28 (1) are first due and payable in a particular calendar year;
 29 and

30 (2) are paid by a taxpayer in that calendar year;

31 **after the application of all property tax deductions and property**
 32 **tax credits.**

33 **Sec. 4. As used in this chapter, "pass through entity" means:**

34 (1) a corporation that is exempt from the adjusted gross
 35 income tax under IC 6-3-2-2.8(2);

36 (2) a partnership;

37 (3) a trust;

38 (4) a limited liability company; or

39 (5) a limited liability partnership.

40 **Sec. 5. As used in this chapter, "state tax liability" means a**
 41 **taxpayer's total tax liability that is incurred under:**

42 (1) IC 6-2.3 (utility receipts tax);



1 (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
 2 (3) IC 6-5.5 (financial institutions tax); and
 3 (4) IC 27-1-18-2 (insurance premiums tax);
 4 as computed after the application of the credits that under
 5 IC 6-3.1-1-2 are to be applied before the credit provided by this
 6 chapter.

7 Sec. 6. As used in this chapter, "taxpayer" means an individual
 8 or entity that has state tax liability.

9 Sec. 7. (a) Except as provided in this chapter, a taxpayer is
 10 entitled to a credit against the taxpayer's state tax liability for a
 11 taxable year equal to:

12 (1) the net ad valorem property taxes paid by the taxpayer in
 13 the taxable year on the taxpayer's business personal property;
 14 multiplied by

15 (2) the credit percentage specified in subsection (b), as
 16 adjusted (if applicable) under subsection (c).

17 (b) The credit percentage to be used for purposes of subsection
 18 (a)(2) is equal to ten percent (10%) for a taxable year beginning
 19 after December 31, 2014, and before January 1, 2016. For taxable
 20 years beginning after December 31, 2015, the credit percentage
 21 shall be adjusted as provided in subsection (c).

22 (c) The credit percentage to be used for purposes of subsection
 23 (a)(2) for a taxable year beginning after December 31, 2015, shall
 24 be determined as provided in the following STEPS:

25 STEP ONE: Before September 1, 2015, and before September
 26 1 of each year thereafter, the department shall determine the
 27 result of:

28 (A) the general fund revenue collected during the
 29 preceding state fiscal year; minus

30 (B) the general fund revenue collected during the state
 31 fiscal year immediately before the preceding state fiscal
 32 year described in clause (A).

33 STEP TWO: If the result of STEP ONE is positive, the credit
 34 percentage to be used for purposes of subsection (a)(2) for a
 35 taxable year beginning in the following calendar year is equal
 36 to:

37 (A) the credit percentage used for purposes of subsection
 38 (a)(2) for a taxable year beginning in the calendar year in
 39 which the determination is made; plus

40 (B) ten (10) percentage points.

41 STEP THREE: If the result of STEP ONE is zero (0) or is
 42 negative, the credit percentage to be used for purposes of



1 subsection (a)(2) for a taxable year beginning in the following
 2 calendar year is equal to the same credit percentage used for
 3 purposes of subsection (a)(2) for a taxable year beginning in
 4 the calendar year in which the determination is made.

5 However, the credit percentage to be used for purposes of
 6 subsection (a)(2) may not exceed one hundred percent (100%).

7 (d) Before October 1, 2015, and before October 1 of each year
 8 thereafter, the department shall submit for publication in the
 9 Indiana Register, under IC 4-22-7-7, a statement of:

- 10 (1) the determination made under STEP ONE of subsection
 11 (c) in the calendar year; and
 12 (2) the credit percentage to be used under subsection (a)(2) for
 13 taxable years beginning in the following calendar year.

14 The department shall also publish the statement on the
 15 department's Internet web site and make the statement available
 16 for public inspection and copying under IC 5-14-3.

17 **Sec. 8.** If the amount of the credit determined under section 7 of
 18 this chapter for a taxpayer in a taxable year exceeds the taxpayer's
 19 state tax liability for that taxable year, the taxpayer may carry the
 20 excess over to the following taxable years. The amount of the credit
 21 carryover from a taxable year shall be reduced to the extent that
 22 the carryover is used by the taxpayer to obtain a credit under this
 23 chapter for any subsequent taxable year. A taxpayer is not entitled
 24 to a refund or carryback of the credit.

25 **Sec. 9.** If a pass through entity does not have state income tax
 26 liability against which the tax credit may be applied, a shareholder
 27 or partner of the pass through entity is entitled to a tax credit equal
 28 to:

- 29 (1) the tax credit determined for the pass through entity for
 30 the taxable year; multiplied by
 31 (2) the percentage of the pass through entity's distributive
 32 income to which the shareholder or partner is entitled.

33 **Sec. 10.** To receive the credit provided by this chapter, a
 34 taxpayer must claim the credit on the taxpayer's state tax return
 35 or returns in the manner prescribed by the department. The
 36 taxpayer shall submit to the department proof of payment of an ad
 37 valorem property tax and all information that the department
 38 determines is necessary for the calculation of the credit provided
 39 by this chapter.

40 SECTION 4. [EFFECTIVE JANUARY 1, 2015] (a) IC 6-3.1-34.2,
 41 as added by this act, applies to taxable years beginning after
 42 December 31, 2014.



1 **(b) This SECTION expires July 1, 2018.**

