

February 20, 1998

ENGROSSED HOUSE BILL No. 1157

DIGEST OF HB 1157 (Updated February 19, 1998 12:17 pm - DI 73)

Citations Affected: IC 6-2.1; IC 6-3; IC 6-3.5; IC 6-5.5; IC 6-8.1; IC 6-9; IC 8-2.1.

Synopsis: State and local taxation. Allows Jackson County to impose a county adjusted gross income tax at a rate of 1.1% for four years. Provides that the county adjusted gross income tax revenue in Jackson County that is derived from a tax rate of 0.1% may be used only to pay the costs of operating and maintaining a jail and juvenile detention center. Allows Pulaski County to impose a county adjusted gross income tax at a rate of 1.3% for four years. Provides that the county adjusted gross income tax revenue in Pulaski County that is derived from a tax rate of 0.3% may be used only to pay the costs of operating and maintaining a jail and justice center. Provides that if Jackson County or Pulaski County imposes the county adjusted gross income tax at such a rate, the county council may decrease the rate or rescind the tax in the same manner as other reductions or rescissions under the county adjusted gross income tax law. Makes the following changes
(Continued next page)

Effective: Upon passage; March 1, 2001.

Bailey, Lytle

(SENATE SPONSORS — SKILLMAN, LEWIS, WEATHERWAX, WOLF)

January 8, 1998, read first time and referred to Committee on Local Government.
January 21, 1998, amended, reported — Do Pass.
January 27, 1998, read second time, ordered engrossed. Engrossed.
January 29, 1998, read third time, recommitted to a Committee of One, amended; passed.
Yeas 80, nays 16.
January 30, 1998, engrossed.

SENATE ACTION

February 3, 1998, read first time and referred to Committee on Finance.
February 19, 1998, amended, reported favorably — Do Pass.

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concerning state and local taxation: (1) Changes a reference to the federal law defining passive investment income. (2) Changes the dates for quarterly payment of gross income tax by withholding agents. (3) Specifies that the capital gain portion (rather than the ordinary income portion) of certain lump sum distributions are added back to adjusted gross income for state tax purposes. (4) Updates the definition of "Internal Revenue Code" to reflect federal tax law changes in effect on January 1, 1998. (5) Specifies that a taxpayer (including a resident taxpayer) must notify the department of state revenue if there is a change to the taxpayer's federal tax return or federal tax liability. (6) Specifies that if a county changes the county's economic development income tax rate, the new rate must be one of the rates that the county could initially have imposed. (7) Changes a reference to the provisions under which trust companies are established. (8) Provides that a taxpayer may round to the nearest dollar amount when filing an income tax return. (9) Specifies that the motor carrier regulation fund is to be used to pay for development and operation of the registration center and may not be used for gasoline tax and special fuel tax administration. (10) Provides that a county fiscal body adopting an ordinance to impose or rescind the county innkeeper's tax or to change the rate of the tax must send a certified copy of the ordinance to the department of state revenue, and provides that the ordinance must take effect on the first day of a month and at least 30 days after adoption. Repeals a provision made redundant by the expiration of a notwithstanding clause. Makes conforming amendments.

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February 20, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

ENGROSSED HOUSE BILL No. 1157

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 6-2.1-3-24.5, AS AMENDED BY P.L.18-1994,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 24.5. (a) For purposes of
4 this section, "small business corporation" has the same definition that
5 term has in Section 1361(b) of the Internal Revenue Code. However,
6 a corporation is a small business corporation for the purposes of this
7 section even if one (1) of its shareholders is a qualified trust that forms
8 a part of an employee stock ownership plan under Section 401(a) of the
9 Internal Revenue Code.
- 10 (b) Except as provided in subsection (c), gross income received by
11 a small business corporation is exempt from gross income tax.
- 12 (c) A small business corporation is not exempt from gross income
13 tax under this section for a taxable year if for that taxable year
14 twenty-five percent (25%) or more of the small business corporation's
15 gross income consisted of passive investment income (as defined in

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1 Section ~~1362(d)(3)(D)~~ **1362(d)(3)(C)** of the Internal Revenue Code).

2 (d) Upon request of the department, a corporation that claims an
3 exemption under this section shall provide the department with proof,
4 on forms provided by the department, that the corporation was a small
5 business corporation during the taxable year for which the exemption
6 is claimed.

7 SECTION 2. IC 6-2.1-6-3.1 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:
9 Sec. 3.1. ~~(a) Notwithstanding section 3 of this chapter, this section~~
10 ~~applies to taxable years beginning after December 31, 1993, and ending~~
11 ~~before January 1, 1998.~~

12 ~~(b)~~ A withholding agent who is required to withhold gross income
13 tax under ~~section 1-1 or 2-1~~ **section 1 or 2** of this chapter shall file a
14 return and pay the amount of tax withheld to the department on April
15 20, June 20, September 20, and December 20 of each calendar year.
16 The return shall reflect the amount withheld for each taxpayer from
17 gross income paid to the taxpayer. The withholding agent is
18 indemnified against the claims and demands of any individual or entity
19 for the amount of any payment made in accordance with this section.

20 SECTION 3. IC 6-3-1-3.5, AS AMENDED BY P.L.57-1997,
21 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 3.5. When used in
23 IC 6-3, the term "adjusted gross income" shall mean the following:

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

- 27 (1) Subtract income that is exempt from taxation under IC 6-3 by
28 the Constitution and statutes of the United States.
29 (2) Add an amount equal to any deduction or deductions allowed
30 or allowable pursuant to Section 62 of the Internal Revenue Code
31 for taxes based on or measured by income and levied at the state
32 level by any state of the United States or for taxes on property
33 levied by any subdivision of any state of the United States.
34 (3) Subtract one thousand dollars (\$1,000), or in the case of a
35 joint return filed by a husband and wife, subtract for each spouse
36 one thousand dollars (\$1,000).
37 (4) Subtract one thousand dollars (\$1,000) for:
38 (A) each of the exemptions provided by Section 151(c) of the
39 Internal Revenue Code;
40 (B) each additional amount allowable under Section 63(f) of
41 the Internal Revenue Code; and
42 (C) the spouse of the taxpayer if a separate return is made by



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- 1 the taxpayer, and if the spouse, for the calendar year in which
 2 the taxable year of the taxpayer begins, has no gross income
 3 and is not the dependent of another taxpayer.
- 4 (5) Subtract five hundred dollars (\$500) for each of the
 5 exemptions allowed under Section 151(c)(1)(B) of the Internal
 6 Revenue Code for taxable years beginning after December 31,
 7 1996, and before January 1, 2001. This amount is in addition to
 8 the amount subtracted under subdivision (4).
- 9 (6) Subtract an amount equal to the lesser of:
- 10 (A) that part of the individual's adjusted gross income (as
 11 defined in Section 62 of the Internal Revenue Code) for that
 12 taxable year that is subject to a tax that is imposed by a
 13 political subdivision of another state and that is imposed on or
 14 measured by income; or
- 15 (B) two thousand dollars (\$2,000).
- 16 (7) Add an amount equal to the total **ordinary income capital gain**
 17 portion of a lump sum distribution (as defined in Section
 18 ~~402(e)(4)(A)~~ **402(e)(4)(D)** of the Internal Revenue Code), if the
 19 lump sum distribution is received by the individual during the
 20 taxable year and if the **ordinary income capital gain** portion of the
 21 distribution is taxed in the manner provided in Section ~~402(e)~~ **402**
 22 of the Internal Revenue Code.
- 23 (8) Subtract any amounts included in federal adjusted gross
 24 income under Internal Revenue Code Section 111 as a recovery
 25 of items previously deducted as an itemized deduction from
 26 adjusted gross income.
- 27 (9) Subtract any amounts included in federal adjusted gross
 28 income under the Internal Revenue Code which amounts were
 29 received by the individual as supplemental railroad retirement
 30 annuities under 45 U.S.C. 231 and which are not deductible under
 31 subdivision (1).
- 32 (10) Add an amount equal to the deduction allowed under Section
 33 221 of the Internal Revenue Code for married couples filing joint
 34 returns if the taxable year began before January 1, 1987.
- 35 (11) Add an amount equal to the interest excluded from federal
 36 gross income by the individual for the taxable year under Section
 37 128 of the Internal Revenue Code, if the taxable year began
 38 before January 1, 1985.
- 39 (12) Subtract an amount equal to the amount of federal Social
 40 Security and Railroad Retirement benefits included in a taxpayer's
 41 federal gross income by Section 86 of the Internal Revenue Code.
- 42 (13) In the case of a nonresident taxpayer or a resident taxpayer

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1 residing in Indiana for a period of less than the taxpayer's entire
 2 taxable year, the total amount of the deductions allowed pursuant
 3 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
 4 which bears the same ratio to the total as the taxpayer's income
 5 taxable in Indiana bears to the taxpayer's total income.

6 (14) In the case of an individual who is a recipient of assistance
 7 under IC 12-10-6-1, IC 12-10-6-2, IC 12-10-6-3, IC 12-15-2-2, or
 8 IC 12-15-7, subtract an amount equal to that portion of the
 9 individual's adjusted gross income with respect to which the
 10 individual is not allowed under federal law to retain an amount to
 11 pay state and local income taxes.

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

15 (1) Subtract income that is exempt from taxation under IC 6-3 by
 16 the Constitution and statutes of the United States.

17 (2) Add an amount equal to any deduction or deductions allowed
 18 or allowable pursuant to Section 170 of the Internal Revenue
 19 Code.

20 (3) Add an amount equal to any deduction or deductions allowed
 21 or allowable pursuant to Section 63 of the Internal Revenue Code
 22 for taxes based on or measured by income and levied at the state
 23 level by any state of the United States or for taxes on property
 24 levied by any subdivision of any state of the United States.

25 (4) Subtract an amount equal to the amount included in the
 26 corporation's taxable income under Section 78 of the Internal
 27 Revenue Code.

28 (c) In the case of trusts and estates, "taxable income" (as defined for
 29 trusts and estates in Section 641(b) of the Internal Revenue Code)
 30 reduced by income that is exempt from taxation under IC 6-3 by the
 31 Constitution and statutes of the United States.

32 SECTION 4. IC 6-3-1-11, AS AMENDED BY P.L.60-1997,
 33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 11. (a) The term "Internal
 35 Revenue Code" means the Internal Revenue Code of 1986 of the
 36 United States as amended and in effect on January 1, ~~1997~~. **1998**.

37 (b) Whenever the Internal Revenue Code is mentioned in this
 38 article, the particular provisions that are referred to, together with all
 39 the other provisions of the Internal Revenue Code in effect on January
 40 1, ~~1997~~, **1998**, that pertain to the provisions specifically mentioned
 41 shall be regarded as incorporated in this article by reference and have
 42 the same force and effect as though fully set forth in this article. To the

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1 extent the provisions apply to this article, regulations adopted under
 2 Section 7805(a) of the Internal Revenue Code and in effect on January
 3 1, ~~1997~~, **1998**, shall be regarded as rules adopted by the department
 4 under this article, unless the department adopts specific rules that
 5 supersede the regulation.

6 (c) An amendment to the Internal Revenue Code made by an act
 7 passed by Congress before January 1, ~~1997~~, **1998**, that is effective for
 8 any taxable year that began before January 1, ~~1997~~, **1998**, and that
 9 affects:

10 (1) individual adjusted gross income (as defined in Section 62 of
 11 the Internal Revenue Code);

12 (2) corporate taxable income (as defined in Section 63 of the
 13 Internal Revenue Code);

14 (3) trust and estate taxable income (as defined in Section 641(b)
 15 of the Internal Revenue Code);

16 (4) life insurance company taxable income (as defined in Section
 17 801(b) of the Internal Revenue Code);

18 (5) mutual insurance company taxable income (as defined in
 19 Section 821(b) of the Internal Revenue Code); or

20 (6) taxable income (as defined in Section 832 of the Internal
 21 Revenue Code);

22 is also effective for that same taxable year for purposes of determining
 23 adjusted gross income under IC 6-3-1-3.5 and net income under
 24 IC 6-3-8-2(b).

25 SECTION 5. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 6. (a) Any
 27 taxpayer, upon request by the department, shall furnish to the
 28 department a true and correct copy of any tax return which he has filed
 29 with the United States Internal Revenue Service which copy shall be
 30 certified to by the taxpayer under penalties of perjury.

31 (b) Each taxpayer ~~except a resident individual~~, shall notify the
 32 department of any modification of:

33 (1) a federal income tax ~~returned~~ **return** filed by the taxpayer
 34 after January 1, 1978; or

35 (2) the taxpayer's federal income tax liability for a taxable year
 36 which begins after December 31, 1977.

37 The taxpayer shall file the notice, on the form prescribed by the
 38 department, within one hundred twenty (120) days after the
 39 modification is made.

40 SECTION 6. IC 6-3.5-1.1-2, AS AMENDED BY P.L.42-1994,
 41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 1998]: Sec. 2. (a) The county council of any county in which

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1 the county option income tax will not be in effect on July 1 of a year
 2 under an ordinance adopted during a previous calendar year may
 3 impose the county adjusted gross income tax on the adjusted gross
 4 income of county taxpayers of its county effective July 1 of that year.

5 (b) **Except as provided in section 2.5 or 3.5 of this chapter**, the
 6 county adjusted gross income tax may be imposed at a rate of one-half
 7 of one percent (0.5%), three-fourths of one percent (0.75%), or one
 8 percent (1%) on the adjusted gross income of resident county taxpayers
 9 of the county. Any county imposing the county adjusted gross income
 10 tax must impose the tax on the nonresident county taxpayers at a rate
 11 of one-fourth of one percent (0.25%) on their adjusted gross income.
 12 If the county council elects to decrease the county adjusted gross
 13 income tax, the county council may decrease the county adjusted gross
 14 income tax rate in increments of one-tenth of one percent (0.1%).

15 (c) To impose the county adjusted gross income tax, the county
 16 council must, after January 1 but before April 1 of a year, adopt an
 17 ordinance. The ordinance must substantially state the following:

18 "The _____ County Council imposes the county adjusted
 19 gross income tax on the county taxpayers of _____ County.
 20 The county adjusted gross income tax is imposed at a rate of
 21 _____ percent (____%) on the resident county taxpayers of the
 22 county and one-fourth of one percent (0.25%) on the nonresident
 23 county taxpayers of the county. This tax takes effect July 1 of this
 24 year.".

25 (d) Any ordinance adopted under this section takes effect July 1 of
 26 the year the ordinance is adopted.

27 (e) The auditor of a county shall record all votes taken on
 28 ordinances presented for a vote under the authority of this section and
 29 immediately send a certified copy of the results to the department by
 30 certified mail.

31 (f) If the county adjusted gross income tax had previously been
 32 adopted by a county under IC 6-3.5-1 (before its repeal on March 15,
 33 1983) and that tax was in effect at the time of the enactment of this
 34 chapter, then the county adjusted gross income tax continues in that
 35 county at the rates in effect at the time of enactment until the rates are
 36 modified or the tax is rescinded in the manner prescribed by this
 37 chapter. If a county's adjusted gross income tax is continued under this
 38 subsection, then the tax shall be treated as if it had been imposed under
 39 this chapter and is subject to rescission or reduction as authorized in
 40 this chapter.

41 SECTION 7. IC 6-3.5-1.1-2.5 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 1998]: **Sec. 2.5. (a) This section applies only**
 2 **to a county having a population of more than thirty-seven thousand**
 3 **(37,000) but less than thirty-seven thousand eight hundred**
 4 **(37,800).**

5 (b) The county council of a county described in subsection (a)
 6 may, by ordinance, determine that additional county adjusted
 7 gross income tax revenue is needed in the county to fund the
 8 operation and maintenance of a jail and juvenile detention center
 9 opened after July 1, 1998.

10 (c) Notwithstanding section 2 of this chapter, if the county
 11 council adopts an ordinance under subsection (b), the county
 12 council may impose the county adjusted gross income tax at a rate
 13 of one and one-tenth percent (1.1%) on adjusted gross income.
 14 However, a county may impose the county adjusted gross income
 15 tax at a rate of one and one-tenth percent (1.1%) for only four (4)
 16 years. After the county has imposed the county adjusted gross
 17 income tax at a rate of one and one-tenth percent (1.1%) for four
 18 (4) years, the rate is reduced to one percent (1%). If the county
 19 council imposes the county adjusted gross income tax at a rate of
 20 one and one-tenth percent (1.1%), the county council may decrease
 21 the rate or rescind the tax in the manner provided under this
 22 chapter.

23 (d) If a county imposes the county adjusted gross income tax at
 24 a rate of one and one-tenth percent (1.1%) under this section, the
 25 revenue derived from a tax rate of one-tenth percent (0.1%) on
 26 adjusted gross income:

- 27 (1) shall be paid to the county treasurer;
- 28 (2) may be used only to pay the costs of operating a jail and
 29 juvenile detention center opened after July 1, 1998; and
- 30 (3) may not be considered by the state board of tax
 31 commissioners in determining the county's maximum
 32 permissible property tax levy limit under IC 6-1.1-18.5.

33 SECTION 8. IC 6-3.5-1.1-3.5 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) This section applies**
 36 **only to a county having a population of more than twelve thousand**
 37 **six hundred (12,600) but less than thirteen thousand (13,000).**

38 (b) The county council of a county described in subsection (a)
 39 may, by ordinance, determine that additional county adjusted
 40 gross income tax revenue is needed in the county to fund the
 41 operation and maintenance of a jail and justice center.

42 (c) Notwithstanding section 2 of this chapter, if the county

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1 council adopts an ordinance under subsection (b), the county
 2 council may impose the county adjusted gross income tax at a rate
 3 of one and three-tenths percent (1.3%) on adjusted gross income.
 4 However, a county may impose the county adjusted gross income
 5 tax at a rate of one and three-tenths percent (1.3%) for only four
 6 (4) years. After the county has imposed the county adjusted gross
 7 income tax at a rate of one and three-tenths percent (1.3%) for
 8 four (4) years, the rate is reduced to one percent (1%). If the
 9 county council imposes the county adjusted gross income tax at a
 10 rate of one and three-tenths percent (1.3%), the county council
 11 may decrease the rate or rescind the tax in the manner provided
 12 under this chapter.

13 (d) If a county imposes the county adjusted gross income tax at
 14 a rate of one and three-tenths percent (1.3%) under this section,
 15 the revenue derived from a tax rate of three-tenths percent (0.3%)
 16 on adjusted gross income:

- 17 (1) shall be paid to the county treasurer;
- 18 (2) may be used only to pay the costs of operating and
 19 maintaining a jail and justice center; and
- 20 (3) may not be considered by the state board of tax
 21 commissioners under any provision of IC 6-1.1-18.5, including
 22 the determination of the county's maximum permissible
 23 property tax levy.

24 (e) Notwithstanding section 3 of this chapter, the county fiscal
 25 body may adopt an ordinance under this section before June 1.

26 SECTION 9. IC 6-3.5-1.1-10 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. (a) One-half (1/2)
 28 of each adopting county's certified distribution for a calendar year shall
 29 be distributed from its account established under section 8 of this
 30 chapter to the appropriate county treasurer on May 1 and the other
 31 one-half (1/2) on November 1 of that calendar year.

32 (b) Except for revenue that must be used to pay the costs of
 33 operating a jail and juvenile detention center under section 2.5(d)
 34 of this chapter or revenue that must be used to pay the costs of
 35 operating and maintaining a jail and justice center under section
 36 3.5(d) of this chapter, distributions made to a county treasurer under
 37 subsection (a) shall be treated as though they were property taxes that
 38 were due and payable during that same calendar year. The certified
 39 distribution shall be distributed and used by the taxing units and school
 40 corporations as provided in sections 11 through 15 of this chapter.

41 (c) All distributions from an account established under section 8 of
 42 this chapter shall be made by warrants issued by the auditor of the state



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to the treasurer of the state ordering the appropriate payments.

SECTION 10. IC 6-3.5-1.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11. (a) **Except for revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter or revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter**, the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 2 of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received. The percentages are set forth in the following table:

COUNTY	PROPERTY TAX REPLACEMENT CREDITS	CERTIFIED SHARES
ADJUSTED GROSS INCOME TAX RATE		
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 11. IC 6-3.5-7-5, AS AMENDED BY P.L.99-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;



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- 1 (2) the county council if the county adjusted gross income tax is
- 2 in effect on January 1 of the year the county economic
- 3 development tax is imposed; or
- 4 (3) the county income tax council or the county council,
- 5 whichever acts first, for a county not covered by subdivision (1)
- 6 or (2).

7 To impose the county economic development income tax, a county
 8 income tax council shall use the procedures set forth in IC 6-3.5-6
 9 concerning the imposition of the county option income tax.

10 (b) Except as provided in subsections (c) and (g), the county
 11 economic development income tax may be imposed at a rate of:

- 12 (1) one-tenth percent (0.1%);
- 13 (2) two-tenths percent (0.2%);
- 14 (3) twenty-five hundredths percent (0.25%);
- 15 (4) three-tenths percent (0.3%);
- 16 (5) thirty-five hundredths percent (0.35%);
- 17 (6) four-tenths percent (0.4%);
- 18 (7) forty-five hundredths percent (0.45%); or
- 19 (8) five-tenths percent (0.5%);

20 on the adjusted gross income of county taxpayers.

21 (c) **Except as provided in subsection (h) or (i)**, the county
 22 economic development income tax rate plus the county adjusted gross
 23 income tax rate, if any, that are in effect on January 1 of a year may not
 24 exceed one and twenty-five hundredths percent (1.25%). Except as
 25 provided in subsection (g), the county economic development tax rate
 26 plus the county option income tax rate, if any, that are in effect on
 27 January 1 of a year may not exceed one percent (1%).

28 (d) To impose the county economic development income tax, the
 29 appropriate body must, after January 1 but before April 1 of a year,
 30 adopt an ordinance. The ordinance must substantially state the
 31 following:

32 "The _____ County _____ imposes the county economic
 33 development income tax on the county taxpayers of _____
 34 County. The county economic development income tax is imposed at
 35 a rate of _____ percent (____%) on the county taxpayers of the
 36 county. This tax takes effect July 1 of this year."

37 (e) Any ordinance adopted under this section takes effect July 1 of
 38 the year the ordinance is adopted.

39 (f) The auditor of a county shall record all votes taken on ordinances
 40 presented for a vote under the authority of this section and immediately
 41 send a certified copy of the results to the department by certified mail.

42 (g) This subsection applies to a county having a population of more

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1 than one hundred twenty-nine thousand (129,000) but less than one
 2 hundred thirty thousand six hundred (130,600). In addition to the rates
 3 permitted by subsection (b), the:

4 (1) county economic development income tax may be imposed at
 5 a rate of:

6 (A) fifteen-hundredths percent (0.15%);

7 (B) two-tenths percent (0.2%); or

8 (C) twenty-five hundredths percent (0.25%); and

9 (2) county economic development income tax rate plus the county
 10 option income tax rate that are in effect on January 1 of a year
 11 may equal up to one and twenty-five hundredths percent (1.25%);
 12 if the county income tax council makes a determination to impose rates
 13 under this subsection and section 22 of this chapter.

14 **(h) For a county having a population of more than thirty-seven**
 15 **thousand (37,000) but less than thirty-seven thousand eight**
 16 **hundred (37,800), the county economic development income tax**
 17 **rate plus the county adjusted gross income tax rate that are in**
 18 **effect on January 1 of a year may not exceed one and thirty-five**
 19 **hundredths percent (1.35%) if the county has imposed the county**
 20 **adjusted gross income tax at a rate of one and one-tenth percent**
 21 **(1.1%) under IC 6-3.5-1.1-2.5.**

22 **(i) For a county having a population of more than twelve**
 23 **thousand six hundred (12,600) but less than thirteen thousand**
 24 **(13,000), the county economic development income tax rate plus**
 25 **the county adjusted gross income tax rate that are in effect on**
 26 **January 1 of a year may not exceed one and fifty-five hundredths**
 27 **percent (1.55%).**

28 SECTION 12. IC 6-3.5-7-6, AS AMENDED BY P.L.99-1995,
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 6. (a) The body imposing
 31 the tax may decrease or increase the county economic development
 32 income tax rate imposed upon the county taxpayers as long as the
 33 resulting rate does not exceed the rates specified in section 5(b) and
 34 5(c) or 5(g) of this chapter. **The rate imposed under this section must**
 35 **be adopted at one (1) of the rates specified in section 5(b) of this**
 36 **chapter.** To decrease or increase the rate, the appropriate body must,
 37 after January 1 but before April 1 of a year, adopt an ordinance. The
 38 ordinance must substantially state the following:

39 "The _____ County _____ increases (decreases) the
 40 county economic development income tax rate imposed upon the
 41 county taxpayers of the county from _____ percent (____%) to
 42 _____ percent (____%). This tax rate increase (decrease) takes



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effect July 1 of this year."

(b) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(c) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

SECTION 13. IC 6-5.5-1-2, AS AMENDED BY P.L.28-1997, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(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, or for taxes on property levied by a state or a 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.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute

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- 1 of the United States prohibits from being used to measure the
 2 tax imposed by this chapter.
- 3 (B) Income that is derived from sources outside the United
 4 States, as defined by the Internal Revenue Code.
- 5 (C) An amount equal to a debt or part of a debt that becomes
 6 worthless, as permitted under Section 166(a) of the Internal
 7 Revenue Code.
- 8 (D) An amount equal to any bad debt reserves that are
 9 included in federal income because of accounting method
 10 changes required by Section 585(c)(3)(A) or **Section 593** of
 11 the Internal Revenue Code.
- 12 (b) In the case of a credit union, "adjusted gross income" for a
 13 taxable year means the total transfers to undivided earnings minus
 14 dividends for that taxable year after statutory reserves are set aside
 15 under IC 28-7-1-24.
- 16 (c) In the case of an investment company, "adjusted gross income"
 17 means the company's federal taxable income multiplied by the quotient
 18 of:
- 19 (1) the aggregate of the gross payments collected by the company
 20 during the taxable year from old and new business upon
 21 investment contracts issued by the company and held by residents
 22 of Indiana; divided by
- 23 (2) the total amount of gross payments collected during the
 24 taxable year by the company from the business upon investment
 25 contracts issued by the company and held by persons residing
 26 within Indiana and elsewhere.
- 27 (d) As used in subsection (c), "investment company" means a
 28 person, copartnership, association, limited liability company, or
 29 corporation, whether domestic or foreign, that:
- 30 (1) is registered under the Investment Company Act of 1940 (15
 31 U.S.C. 80a-1 et seq.); and
- 32 (2) solicits or receives a payment to be made to itself and issues
 33 in exchange for the payment:
- 34 (A) a so-called bond;
- 35 (B) a share;
- 36 (C) a coupon;
- 37 (D) a certificate of membership;
- 38 (E) an agreement;
- 39 (F) a pretended agreement; or
- 40 (G) other evidences of obligation;
- 41 entitling the holder to anything of value at some future date, if the
 42 gross payments received by the company during the taxable year

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1 on outstanding investment contracts, plus interest and dividends
 2 earned on those contracts (by prorating the interest and dividends
 3 earned on investment contracts by the same proportion that
 4 certificate reserves (as defined by the Investment Company Act
 5 of 1940) is to the company's total assets) is at least fifty percent
 6 (50%) of the company's gross payments upon investment
 7 contracts plus gross income from all other sources except
 8 dividends from subsidiaries for the taxable year. The term
 9 "investment contract" means an instrument listed in clauses (A)
 10 through (G).

11 SECTION 14. IC 6-5.5-1-17 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:
 13 Sec. 17. (a) "Taxpayer" means a corporation that is transacting the
 14 business of a financial institution in Indiana, including any of the
 15 following:

- 16 (1) A holding company.
- 17 (2) A regulated financial corporation.
- 18 (3) A subsidiary of a holding company or regulated financial
 19 corporation.
- 20 (4) Any other corporation organized under the laws of the United
 21 States, this state, another taxing jurisdiction, or a foreign
 22 government that is carrying on the business of a financial
 23 institution.

24 (b) As used in this section, "holding company" means a corporation
 25 registered under the Bank Holding Company Act of 1956 (12 U.S.C.
 26 1841 through 1849), as in effect on December 31, 1990, or registered
 27 as a savings and loan holding company other than a diversified savings
 28 and loan holding company (as defined in Section 10(a)(F) of the Home
 29 Owners' Loan Act of 1933 (12 U.S.C. 1467a(1)(F)), as in effect on
 30 December 31, 1990).

31 (c) As used in this section, "regulated financial corporation" means:
 32 (1) an institution, the deposits, shares, or accounts of which are
 33 insured under the Federal Deposit Insurance Act (12 U.S.C. 1811
 34 through 1833e), as in effect on December 31, 1990;
 35 (2) an institution that is a member of a Federal Home Loan Bank;
 36 (3) any other bank or thrift institution incorporated or organized
 37 under the laws of a state that is engaged in the business of
 38 receiving deposits;
 39 (4) a credit union incorporated and organized under the laws of
 40 this state;
 41 (5) a production credit association organized under 12 U.S.C.
 42 2071, as in effect on December 31, 1990;



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- 1 (6) a corporation organized under 12 U.S.C. 611 through 631 (an
- 2 Edge Act corporation), as in effect on December 31, 1990;
- 3 (7) a federal or state agency or branch of a foreign bank (as
- 4 defined in 12 U.S.C. 3101, as in effect on December 31, 1990); or
- 5 (8) a trust company formed under ~~IC 28-1-4~~ **IC 28-12**.
- 6 (d) For purposes of this section and when used in this article,
- 7 "business of a financial institution" means the following:
- 8 (1) For a holding company, a regulated financial corporation, or
- 9 a subsidiary of either, the activities that each is authorized to
- 10 perform under federal or state law, including the activities
- 11 authorized by regulation or order of the Federal Reserve Board for
- 12 such a subsidiary under Section 4(c)(8) of the Bank Holding
- 13 Company Act of 1956 (12 U.S.C. 1843(c)(8)), as in effect on
- 14 December 31, 1990.
- 15 (2) For any other corporation described in subsection (a)(4), all of
- 16 the corporation's business activities if eighty percent (80%) or
- 17 more of the corporation's gross income, excluding extraordinary
- 18 income, is derived from one (1) or more of the following
- 19 activities:
- 20 (A) Making, acquiring, selling, or servicing loans or
- 21 extensions of credit. For the purpose of this subdivision, loans
- 22 and extensions of credit include:
- 23 (i) secured or unsecured consumer loans;
- 24 (ii) installment obligations;
- 25 (iii) mortgage or other secured loans on real estate or
- 26 tangible personal property;
- 27 (iv) credit card loans;
- 28 (v) secured and unsecured commercial loans of any type;
- 29 (vi) letters of credit and acceptance of drafts;
- 30 (vii) loans arising in factoring; and
- 31 (viii) any other transactions with a comparable economic
- 32 effect.
- 33 (B) Leasing or acting as an agent, broker, or advisor in
- 34 connection with leasing real and personal property that is the
- 35 economic equivalent of the extension of credit if the
- 36 transaction is not treated as a lease for federal income tax
- 37 purposes.
- 38 (C) Operating a credit card, debit card, charge card, or similar
- 39 business.
- 40 As used in this subdivision, "gross income" includes income from
- 41 interest, fees, penalties, a market discount or other type of
- 42 discount, rental income, the gain on a sale of intangible or other

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1 property evidencing a loan or extension of credit, and dividends
 2 or other income received as a means of furthering the activities
 3 set out in this subdivision.

4 SECTION 15. IC 6-8.1-4-4, AS AMENDED BY P.L.61-1996,
 5 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: Sec. 4. (a) The department shall establish a **joint**
 7 registration center to service owners of commercial motor vehicles.

8 (b) The **joint** registration center is under the supervision of the
 9 department through the **special tax motor carrier services** division.

10 (c) An owner or operator of a commercial motor vehicle may apply
 11 to the **joint** registration center for the following:

- 12 (1) Vehicle registration (IC 9-18).
- 13 (2) Motor carrier fuel tax annual permit.
- 14 (3) Certificate of operating authority.
- 15 (4) Oversize vehicle permit (IC 9-20-3).
- 16 (5) Overweight vehicle permit (IC 9-20-4).

17 **(d) Funding for the development and operation of the**
 18 **registration center shall be taken from the motor carrier**
 19 **regulation fund (IC 8-2.1-23-1).**

20 ~~(d)~~ (e) The department shall recommend to the general assembly
 21 other functions that the **joint** registration center may perform.

22 SECTION 16. IC 6-8.1-6-4.5 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: **Sec. 4.5. A**
 25 **taxpayer that is required under IC 6-3-4-1 to file a return may**
 26 **round to the nearest whole dollar an amount or item reported on**
 27 **the return. The following apply if an amount or item is rounded:**

- 28 (1) **An amount or item of at least fifty cents (\$0.50) must be**
 29 **rounded up to the nearest whole dollar.**
- 30 (2) **An amount or item of less than fifty cents (\$0.50) must be**
 31 **rounded down to the nearest whole dollar.**

32 SECTION 17. IC 6-9-29-1.5 IS ADDED TO THE INDIANA CODE
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 34 1, 1998]: **Sec. 1.5. (a) Unless otherwise provided in this article, a**
 35 **county fiscal body that adopts an ordinance to impose, rescind, or**
 36 **increase or decrease the rate of a county innkeeper's tax must**
 37 **specify the effective date of the ordinance to provide that the**
 38 **ordinance takes effect:**

- 39 (1) **at least thirty (30) days after the adoption of the**
 40 **ordinance; and**
- 41 (2) **on the first day of a month.**

42 (b) **If a county fiscal body adopts an ordinance described in**

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1 **subsection (a), it must immediately send a certified copy of the**
2 **ordinance to the commissioner of the department of state revenue.**
3 SECTION 18. IC 8-2.1-23-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The motor
5 carrier regulation fund is established for the purpose of funding:
6 (1) the administration and enforcement of this article; and
7 (2) the administration and enforcement of ~~IC 6-6-1.1; IC 6-6-2.5;~~
8 **and IC 6-6-4.1 and IC 6-8.1-4-4.**
9 SECTION 19. IC 6-2.1-6-3 IS REPEALED [EFFECTIVE
10 JANUARY 1, 1998 (RETROACTIVE)].
11 SECTION 20. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1157, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:
(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to House Bill 1157 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1157 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, line 8, after "2.5" insert "**or 3.5**".

Page 3, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 3. IC 6-3.5-1.1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) This section applies only to a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).**

(b) The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the operation and maintenance of a jail and justice center.

(c) Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection (b), the county council may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) on adjusted gross income. However, a county may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for only four (4) years. After the county has imposed the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for four (4) years, the rate is reduced to one percent (1%).

(d) If a county imposes the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) under this section, the revenue derived from a tax rate of three-tenths percent (0.3%) on adjusted gross income:

- (1) shall be paid to the county treasurer;**
- (2) may be used only to pay the costs of operating and maintaining a jail and justice center; and**
- (3) may not be considered by the state board of tax commissioners under any provision of IC 6-1.1-18.5, including the determination of the county's maximum permissible property tax levy.**

(e) Notwithstanding section 3 of this chapter, the county fiscal body may adopt an ordinance under this section before June 1."

Page 3, line 23, after "chapter" delete "," and insert "**or revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter,**".

Page 3, line 34, after "chapter" delete "," and insert "**or revenue that must be used to pay the costs of operating and maintaining a**



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jail and justice center under section 3.5(d) of this chapter,".

Page 5, line 6, after "(h)" delete "," and insert "or (i),".

Page 6, after line 8, begin a new paragraph and insert:

"(i) For a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

SECTION 7. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to House Bill 1157 as printed January 22, 1998.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1157, begs leave to report that said bill has been amended as directed.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred House Bill 1157, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the amendment made by the committee of one adopted January 29, 1998.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-2.1-3-24.5, AS AMENDED BY P.L.18-1994, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 24.5. (a) For purposes of this section, "small business corporation" has the same definition that term has in Section 1361(b) of the Internal Revenue Code. However, a corporation is a small business corporation for the purposes of this section even if one (1) of its shareholders is a qualified trust that forms a part of an employee stock ownership plan under Section 401(a) of the Internal Revenue Code.

(b) Except as provided in subsection (c), gross income received by a small business corporation is exempt from gross income tax.

(c) A small business corporation is not exempt from gross income tax under this section for a taxable year if for that taxable year twenty-five percent (25%) or more of the small business corporation's gross income consisted of passive investment income (as defined in Section ~~1362(d)(3)(D)~~ **1362(d)(3)(C)** of the Internal Revenue Code).

(d) Upon request of the department, a corporation that claims an exemption under this section shall provide the department with proof, on forms provided by the department, that the corporation was a small business corporation during the taxable year for which the exemption is claimed.

SECTION 2. IC 6-2.1-6-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 3.1. ~~(a) Notwithstanding section 3 of this chapter, this section applies to taxable years beginning after December 31, 1993, and ending before January 1, 1998.~~

~~(b)~~ A withholding agent who is required to withhold gross income tax under ~~section 1-1 or 2-1~~ **section 1 or 2** of this chapter shall file a return and pay the amount of tax withheld to the department on April 20, June 20, September 20, and December 20 of each calendar year. The return shall reflect the amount withheld for each taxpayer from gross income paid to the taxpayer. The withholding agent is indemnified against the claims and demands of any individual or entity

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for the amount of any payment made in accordance with this section.

SECTION 3. IC 6-3-1-3.5, AS AMENDED BY P.L.57-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 3.5. When used in IC 6-3, 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 IC 6-3 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 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 or for taxes on property levied by any subdivision of 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;
 - (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 five hundred dollars (\$500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996, and before January 1, 2001. This amount is in addition to the amount subtracted under subdivision (4).
- (6) Subtract an amount equal to the lesser of:
 - (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
 - (B) two thousand dollars (\$2,000).
- (7) Add an amount equal to the total ~~ordinary income~~ **capital gain** portion of a lump sum distribution (as defined in Section ~~402(e)(4)(A)~~ **402(e)(4)(D)** of the Internal Revenue Code), if the

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lump sum distribution is received by the individual during the taxable year and if the ~~ordinary income~~ **capital gain** portion of the distribution is taxed in the manner provided in Section ~~402(e)~~ **402** of the Internal Revenue Code.

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

(9) 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).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code, if the taxable year began before January 1, 1985.

(12) 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.

(13) 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), (5), and (6) 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.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2, IC 12-10-6-3, 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.

(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 IC 6-3 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

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(3) 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 or for taxes on property levied by any subdivision of 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.

(c) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) reduced by income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.

SECTION 4. IC 6-3-1-11, AS AMENDED BY P.L.60-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~1997~~ **1998**.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~1997~~ **1998**, that pertain to the provisions specifically mentioned shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~1997~~ **1998**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~1997~~ **1998**, that is effective for any taxable year that began before January 1, ~~1997~~ **1998**, and that affects:

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



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Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under IC 6-3-1-3.5 and net income under IC 6-3-8-2(b).

SECTION 5. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 6. (a) Any taxpayer, upon request by the department, shall furnish to the department a true and correct copy of any tax return which he has filed with the United States Internal Revenue Service which copy shall be certified to by the taxpayer under penalties of perjury.

(b) Each taxpayer ~~except a resident individual~~, shall notify the department of any modification of:

(1) a federal income tax ~~returned~~ **return** filed by the taxpayer after January 1, 1978; or

(2) the taxpayer's federal income tax liability for a taxable year which begins after December 31, 1977.

The taxpayer shall file the notice, on the form prescribed by the department, within one hundred twenty (120) days after the modification is made."

Page 1, line 8, after "2.5" insert "**or 3.5**".

Page 3, line 4, after "(1%)." insert "**If the county council imposes the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.**".

Page 3, between lines 14 and 15, begin a new paragraph and insert: "SECTION 8. IC 6-3.5-1.1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) This section applies only to a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).**

(b) **The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the operation and maintenance of a jail and justice center.**

(c) **Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection (b), the county council may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) on adjusted gross income. However, a county may impose the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for only four**



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(4) years. After the county has imposed the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) for four (4) years, the rate is reduced to one percent (1%). If the county council imposes the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.

(d) If a county imposes the county adjusted gross income tax at a rate of one and three-tenths percent (1.3%) under this section, the revenue derived from a tax rate of three-tenths percent (0.3%) on adjusted gross income:

- (1) shall be paid to the county treasurer;
- (2) may be used only to pay the costs of operating and maintaining a jail and justice center; and
- (3) may not be considered by the state board of tax commissioners under any provision of IC 6-1.1-18.5, including the determination of the county's maximum permissible property tax levy.

(e) Notwithstanding section 3 of this chapter, the county fiscal body may adopt an ordinance under this section before June 1."

Page 3, line 23, after "chapter" delete "," and insert "or revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter,".

Page 3, line 34, after "chapter" delete "," and insert "or revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter,".

Page 5, line 6, after "(h)" delete "," and insert "or (i),".

Page 6, after line 8, begin a new paragraph and insert:

"(i) For a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%)."

SECTION 12. IC 6-3.5-7-6, AS AMENDED BY P.L.99-1995, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 6. (a) The body imposing the tax may decrease or increase the county economic development income tax rate imposed upon the county taxpayers as long as the resulting rate does not exceed the rates specified in section 5(b) and 5(c) or 5(g) of this chapter. **The rate imposed under this section must be adopted at one (1) of the rates specified in section 5(b) of this**



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chapter. To decrease or increase the rate, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County _____ increases (decreases) the county economic development income tax rate imposed upon the county taxpayers of the county from _____ percent (___%) to _____ percent (___%). This tax rate increase (decrease) takes effect July 1 of this year."

(b) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(c) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

SECTION 13. IC 6-5.5-1-2, AS AMENDED BY P.L.28-1997, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(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, or for taxes on property levied by a state or a 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

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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.

(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.

(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 multiplied by the quotient of:

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

(2) 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;



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- (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).

SECTION 14. IC 6-5.5-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:

Sec. 17. (a) "Taxpayer" means a corporation that is transacting the business of a financial institution in Indiana, including any of the following:

- (1) A holding company.
- (2) A regulated financial corporation.
- (3) A subsidiary of a holding company or regulated financial corporation.
- (4) Any other corporation organized under the laws of the United States, this state, another taxing jurisdiction, or a foreign government that is carrying on the business of a financial institution.

(b) As used in this section, "holding company" means a corporation registered under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 through 1849), as in effect on December 31, 1990, or registered as a savings and loan holding company other than a diversified savings and loan holding company (as defined in Section 10(a)(F) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1467a(1)(F)), as in effect on December 31, 1990).

(c) As used in this section, "regulated financial corporation" means:

- (1) an institution, the deposits, shares, or accounts of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 through 1833e), as in effect on December 31, 1990;
- (2) an institution that is a member of a Federal Home Loan Bank;



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- (3) any other bank or thrift institution incorporated or organized under the laws of a state that is engaged in the business of receiving deposits;
- (4) a credit union incorporated and organized under the laws of this state;
- (5) a production credit association organized under 12 U.S.C. 2071, as in effect on December 31, 1990;
- (6) a corporation organized under 12 U.S.C. 611 through 631 (an Edge Act corporation), as in effect on December 31, 1990;
- (7) a federal or state agency or branch of a foreign bank (as defined in 12 U.S.C. 3101, as in effect on December 31, 1990); or
- (8) a trust company formed under ~~IC 28-1-4~~ **IC 28-12**.

(d) For purposes of this section and when used in this article, "business of a financial institution" means the following:

(1) For a holding company, a regulated financial corporation, or a subsidiary of either, the activities that each is authorized to perform under federal or state law, including the activities authorized by regulation or order of the Federal Reserve Board for such a subsidiary under Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)), as in effect on December 31, 1990.

(2) For any other corporation described in subsection (a)(4), all of the corporation's business activities if eighty percent (80%) or more of the corporation's gross income, excluding extraordinary income, is derived from one (1) or more of the following activities:

(A) Making, acquiring, selling, or servicing loans or extensions of credit. For the purpose of this subdivision, loans and extensions of credit include:

- (i) secured or unsecured consumer loans;
- (ii) installment obligations;
- (iii) mortgage or other secured loans on real estate or tangible personal property;
- (iv) credit card loans;
- (v) secured and unsecured commercial loans of any type;
- (vi) letters of credit and acceptance of drafts;
- (vii) loans arising in factoring; and
- (viii) any other transactions with a comparable economic effect.

(B) Leasing or acting as an agent, broker, or advisor in connection with leasing real and personal property that is the economic equivalent of the extension of credit if the



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transaction is not treated as a lease for federal income tax purposes.

(C) Operating a credit card, debit card, charge card, or similar business.

As used in this subdivision, "gross income" includes income from interest, fees, penalties, a market discount or other type of discount, rental income, the gain on a sale of intangible or other property evidencing a loan or extension of credit, and dividends or other income received as a means of furthering the activities set out in this subdivision.

SECTION 15. IC 6-8.1-4-4, AS AMENDED BY P.L.61-1996, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The department shall establish a **joint** registration center to service owners of commercial motor vehicles.

(b) The **joint** registration center is under the supervision of the department through the **special tax motor carrier services** division.

(c) An owner or operator of a commercial motor vehicle may apply to the **joint** registration center for the following:

- (1) Vehicle registration (IC 9-18).
- (2) Motor carrier fuel tax annual permit.
- (3) Certificate of operating authority.
- (4) Oversize vehicle permit (IC 9-20-3).
- (5) Overweight vehicle permit (IC 9-20-4).

(d) Funding for the development and operation of the registration center shall be taken from the motor carrier regulation fund (IC 8-2.1-23-1).

~~(d)~~ (e) The department shall recommend to the general assembly other functions that the **joint** registration center may perform.

SECTION 16. IC 6-8.1-6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: **Sec. 4.5. A taxpayer that is required under IC 6-3-4-1 to file a return may round to the nearest whole dollar an amount or item reported on the return. The following apply if an amount or item is rounded:**

- (1) An amount or item of at least fifty cents (\$0.50) must be rounded up to the nearest whole dollar.**
- (2) An amount or item of less than fifty cents (\$0.50) must be rounded down to the nearest whole dollar.**

SECTION 17. IC 6-9-29-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 1.5. (a) Unless otherwise provided in this article, a county fiscal body that adopts an ordinance to impose, rescind, or**



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increase or decrease the rate of a county innkeeper's tax must specify the effective date of the ordinance to provide that the ordinance takes effect:

- (1) at least thirty (30) days after the adoption of the ordinance; and
- (2) on the first day of a month.

(b) If a county fiscal body adopts an ordinance described in subsection (a), it must immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

SECTION 18. IC 8-2.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The motor carrier regulation fund is established for the purpose of funding:

- (1) the administration and enforcement of this article; and
- (2) the administration and enforcement of ~~IC 6-6-1.1, IC 6-6-2.5,~~ and IC 6-6-4.1 and **IC 6-8.1-4-4.**

SECTION 19. IC 6-2.1-6-3 IS REPEALED [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)].

SECTION 20. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1157 as printed January 22, 1998, and as amended by the committee report of the committee of one adopted January 29, 1998.)

BORST, Chairperson

Committee Vote: Yeas 13, Nays 0.

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