

January 29, 1998

HOUSE BILL No. 1395

DIGEST OF HB 1395 (Updated January 28, 1998 2:46 pm - DI 58)

Citations Affected: IC 6-2.1; IC 6-3; IC 6-3.1; IC 6-3.5; IC 6-5.5; IC 6-8.1; IC 6-9; IC 7.1-1; IC 7.1-4; noncode.

Synopsis: Federal update and miscellaneous tax changes. Makes the following changes 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
(Continued next page)

Effective: See text of bill.

Bauer

January 13, 1998, read first time and referred to Committee on Ways and Means.
January 28, 1998, amended, reported — Do Pass.

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Digest Continued

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) 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. (10) Provides for the taxation of hard apple cider that has an alcohol content. Provides that cider is an alcoholic beverage if it has at least 0.5% but not more than 7% alcohol content. Regulates hard cider that is an alcoholic beverage as a wine. Creates a hard cider excise tax at a rate of \$0.115 per gallon (same rate as the beer excise tax). Deposits all the revenue from the hard cider excise tax into the state general fund. (11) Expands the use of the Allen county food and beverage tax to include new expansions. (12) Provides that a pass through entity is a taxpayer in order to allow: (A) a pass through entity to take an enterprise zone employment expense credit; (B) a qualified employee of a pass through entity to take an enterprise zone employee wage deduction; and (C) a pass through entity to take an enterprise zone investment cost credit. Allows a corporation to take an enterprise zone investment cost credit. (13) For purposes of the financial institutions tax, adds a deduction from income concerning bad debt reserves for building and loan associations, mutual savings banks, and certain cooperative banks to correspond to federal tax law. Makes conforming amendments.

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January 29, 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.

HOUSE BILL No. 1395

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 6-3-2-8 IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 8. (a) For
 27 purposes of this section, "qualified employee" means an individual who
 28 is employed by a taxpayer or by an employer exempt from adjusted
 29 gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3),
 30 ~~(4)~~, **IC 6-3-2-2.8(4)**, or ~~(5)~~ **IC 6-3-2-2.8(5)** and who:

- 31 (1) has the employee's principal place of residence in the
- 32 enterprise zone in which the employee is employed;
- 33 (2) performs services for the taxpayer or employer, ninety percent
- 34 (90%) of which are directly related to the conduct of the
- 35 taxpayer's or employer's trade or business that is located in an
- 36 enterprise zone; and
- 37 (3) performs at least fifty percent (50%) of the employee's service
- 38 for the taxpayer or employer during the taxable year in the
- 39 enterprise zone.

40 **(b) For purposes of this section, "pass through entity" means a:**

- 41 **(1) corporation that is exempt from the adjusted gross income**
- 42 **tax under IC 6-3-2-2.8(2);**

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- 1 **(2) partnership;**
 2 **(3) trust;**
 3 **(4) limited liability company; or**
 4 **(5) limited liability partnership.**

5 **(c) For purposes of this section, "taxpayer" includes a pass**
 6 **through entity.**

7 ~~(b)~~ **(d)** Except as provided in subsection ~~(c)~~; **(e)**, a qualified
 8 employee is entitled to deduction from his adjusted gross income in
 9 each taxable year in the amount of the lesser of:

- 10 (1) one-half (1/2) of his adjusted gross income for the taxable year
 11 that he earns as a qualified employee; or
 12 (2) seven thousand five hundred dollars (\$7,500).

13 ~~(e)~~ **(e)** No qualified employee is entitled to a deduction under this
 14 section for a taxable year that begins after the termination of the
 15 enterprise zone in which he resides.

16 SECTION 6. IC 6-3-3-10 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 10. (a) As
 18 used in this section:

19 "Base period wages" means wages paid or payable by a taxpayer to
 20 its employees during the year that ends on the last day of the month that
 21 immediately precedes the month in which an enterprise zone is
 22 established, to the extent that the wages would have been qualified
 23 wages if the enterprise zone had been in effect for that year. If the
 24 taxpayer did not engage in an active trade or business during that year
 25 in the area that is later designated as an enterprise zone, then the base
 26 period wages equal zero (0). If the taxpayer engaged in an active trade
 27 or business during only part of that year in an area that is later
 28 designated as an enterprise zone, then the department shall determine
 29 the amount of base period wages.

30 "Enterprise zone" means an enterprise zone created under
 31 IC 4-4-6.1.

32 "Enterprise zone adjusted gross income" means adjusted gross
 33 income of a taxpayer that is derived from sources within an enterprise
 34 zone. Sources of adjusted gross income shall be determined with
 35 respect to an enterprise zone, to the extent possible, in the same manner
 36 that sources of adjusted gross income are determined with respect to
 37 the state of Indiana under IC 6-3-2-2.

38 "Enterprise zone gross income" means gross income of a taxpayer
 39 that is derived from sources within an enterprise zone.

40 "Enterprise zone insurance premiums" means insurance premiums
 41 derived from sources within an enterprise zone.

42 "Monthly base period wages" means base period wages divided by

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1 twelve (12).

2 **"Pass through entity" means:**

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

5 **(2) a partnership;**

6 **(3) a trust;**

7 **(4) a limited liability company; or**

8 **(5) a limited liability partnership.**

9 "Qualified employee" means an individual who is employed by a
10 taxpayer and who:

11 (1) has his principal place of residence in the enterprise zone in
12 which he is employed;

13 (2) performs services for the taxpayer, ninety percent (90%) of
14 which are directly related to the conduct of the taxpayer's trade or
15 business that is located in an enterprise zone; and

16 (3) performs at least fifty percent (50%) of his services for the
17 taxpayer during the taxable year in the enterprise zone.

18 "Qualified increased employment expenditures" means the
19 following:

20 (1) For a taxpayer's taxable year other than his taxable year in
21 which the enterprise zone is established, the amount by which
22 qualified wages paid or payable by the taxpayer during the taxable
23 year to qualified employees exceeds the taxpayer's base period
24 wages.

25 (2) For the taxpayer's taxable year in which the enterprise zone is
26 established, the amount by which qualified wages paid or payable
27 by the taxpayer during all of the full calendar months in the
28 taxpayer's taxable year that succeed the date on which the
29 enterprise zone was established exceed the taxpayer's monthly
30 base period wages multiplied by that same number of full
31 calendar months.

32 "Qualified state tax liability" means a taxpayer's total income tax
33 liability incurred under:

34 (1) IC 6-2.1 (gross income tax) with respect to enterprise zone
35 gross income;

36 (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with
37 respect to enterprise zone adjusted gross income;

38 (3) IC 27-1-18-2 (insurance premiums tax) with respect to
39 enterprise zone insurance premiums; and

40 (4) IC 6-5.5 (the financial institutions tax);

41 as computed after the application of the credits that, under
42 IC 6-3.1-1-2, are to be applied before the credit provided by this

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1 section.

2 "Qualified wages" means the wages paid or payable to qualified
3 employees during a taxable year.

4 **"Taxpayer" includes a pass through entity.**

5 (b) A taxpayer is entitled to a credit against the taxpayer's qualified
6 state tax liability for a taxable year in the amount of the lesser of:

7 (1) the product of ten percent (10%) multiplied by the qualified
8 increased employment expenditures of the taxpayer for the
9 taxable year; or

10 (2) one thousand five hundred dollars (\$1,500) multiplied by the
11 number of qualified employees employed by the taxpayer during
12 the taxable year.

13 (c) The amount of the credit provided by this section that a taxpayer
14 uses during a particular taxable year may not exceed the taxpayer's
15 qualified state tax liability for the taxable year. If the credit provided by
16 this section exceeds the amount of that tax liability for the taxable year
17 it is first claimed, then the excess may be carried back to preceding
18 taxable years or carried over to succeeding taxable years and used as
19 a credit against the taxpayer's qualified state tax liability for those
20 taxable years. Each time that the credit is carried back to a preceding
21 taxable year or carried over to a succeeding taxable year, the amount
22 of the carryover is reduced by the amount used as a credit for that
23 taxable year. Except as provided in subsection (e), the credit provided
24 by this section may be carried forward and applied in the ten (10)
25 taxable years that succeed the taxable year in which the credit accrues.
26 The credit provided by this section may be carried back and applied in
27 the three (3) taxable years that precede the taxable year in which the
28 credit accrues.

29 (d) A credit earned by a taxpayer in a particular taxable year shall
30 be applied against the taxpayer's qualified state tax liability for that
31 taxable year before any credit carryover or carryback is applied against
32 that liability under subsection (c).

33 (e) Notwithstanding subsection (c), if a credit under this section
34 results from wages paid in a particular enterprise zone, and if that
35 enterprise zone terminates in a taxable year that succeeds the last
36 taxable year in which a taxpayer is entitled to use the credit carryover
37 that results from those wages under subsection (c), then the taxpayer
38 may use the credit carryover for any taxable year up to and including
39 the taxable year in which the enterprise zone terminates.

40 (f) A taxpayer is not entitled to a refund of any unused credit.

41 (g) A taxpayer that:

42 (1) does not own, rent, or lease real property outside of an

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1 enterprise zone that is an integral part of its trade or business; and
 2 (2) is not owned or controlled directly or indirectly by a taxpayer
 3 that owns, rents, or leases real property outside of an enterprise
 4 zone;

5 is exempt from the allocation and apportionment provisions of this
 6 section.

7 **(h) If a pass through entity is entitled to a credit under**
 8 **subsection (b) but does not have state tax liability against which the**
 9 **tax credit may be applied, an individual who is a shareholder,**
 10 **partner, beneficiary, or member of the pass through entity is**
 11 **entitled to a tax credit equal to:**

12 (1) the tax credit determined for the pass through entity for
 13 the taxable year; multiplied by

14 (2) the percentage of the pass through entity's distributive
 15 income to which the shareholder, partner, beneficiary, or
 16 member is entitled.

17 **The credit provided under this subsection is in addition to a tax**
 18 **credit to which a shareholder, partner, beneficiary, or member of**
 19 **a pass through entity is entitled. However, a pass through entity**
 20 **and an individual who is a shareholder, partner, beneficiary, or**
 21 **member of a pass through entity may not claim more than one (1)**
 22 **credit for the qualified expenditure.**

23 SECTION 7. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 6. (a) Any
 25 taxpayer, upon request by the department, shall furnish to the
 26 department a true and correct copy of any tax return which he has filed
 27 with the United States Internal Revenue Service which copy shall be
 28 certified to by the taxpayer under penalties of perjury.

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

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

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

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

38 SECTION 8. IC 6-3.1-10-4, AS AMENDED BY P.L.57-1996,
 39 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 4. (a) As used in this
 41 chapter, "taxpayer" means **the following**:

42 (1) Any individual that has any state tax liability.

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1 (b) ~~Notwithstanding subsection (a), for a credit for a qualified~~
2 ~~investment in a business located in an enterprise zone in a county~~
3 ~~having a population of more than one hundred thousand (100,000) but~~
4 ~~less than one hundred seven thousand (107,000); "taxpayer" includes~~
5 ~~a pass through entity.~~

6 (2) **A corporation that has any state tax liability.**

7 (3) **A pass through entity (as defined in IC 6-3-3-10).**

8 SECTION 9. IC 6-3.5-7-6, AS AMENDED BY P.L.99-1995,
9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 6. (a) The body imposing
11 the tax may decrease or increase the county economic development
12 income tax rate imposed upon the county taxpayers as long as the
13 resulting rate does not exceed the rates specified in section 5(b) and
14 5(c) or 5(g) of this chapter. **The rate imposed under this section must**
15 **be adopted at one (1) of the rates specified in section 5(b) of this**
16 **chapter.** To decrease or increase the rate, the appropriate body must,
17 after January 1 but before April 1 of a year, adopt an ordinance. The
18 ordinance must substantially state the following:

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

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

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

30 SECTION 10. IC 6-5.5-1-2, AS AMENDED BY P.L.28-1997,
31 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JANUARY 1, 1997 (RETROACTIVE)]: Sec. 2. (a) Except as provided
33 in subsections (b) through (d), "adjusted gross income" means taxable
34 income as defined in Section 63 of the Internal Revenue Code, adjusted
35 as follows:

36 (1) Add the following amounts:

37 (A) An amount equal to a deduction allowed or allowable
38 under Section 166, Section 585, or Section 593 of the Internal
39 Revenue Code.

40 (B) An amount equal to a deduction allowed or allowable
41 under Section 170 of the Internal Revenue Code.

42 (C) An amount equal to a deduction or deductions allowed or

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1 allowable under Section 63 of the Internal Revenue Code for
 2 taxes based on or measured by income and levied at the state
 3 level by a state of the United States or levied at the local level
 4 by any subdivision of a state of the United States, or for taxes
 5 on property levied by a state or a subdivision of a state of the
 6 United States.

7 (D) The amount of interest excluded under Section 103 of the
 8 Internal Revenue Code or under any other federal law, minus
 9 the associated expenses disallowed in the computation of
 10 taxable income under Section 265 of the Internal Revenue
 11 Code.

12 (E) An amount equal to the deduction allowed under Section
 13 172 or 1212 of the Internal Revenue Code for net operating
 14 losses or net capital losses.

15 (F) For a taxpayer that is not a large bank (as defined in
 16 Section 585(c)(2) of the Internal Revenue Code), an amount
 17 equal to the recovery of a debt, or part of a debt, that becomes
 18 worthless to the extent a deduction was allowed from gross
 19 income in a prior taxable year under Section 166(a) of the
 20 Internal Revenue Code.

21 (2) Subtract the following amounts:

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

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

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

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

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

38 (c) In the case of an investment company, "adjusted gross income"
 39 means the company's federal taxable income multiplied by the quotient
 40 of:

41 (1) the aggregate of the gross payments collected by the company
 42 during the taxable year from old and new business upon

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1 investment contracts issued by the company and held by residents
2 of Indiana; divided by

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

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

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

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

14 (A) a so-called bond;

15 (B) a share;

16 (C) a coupon;

17 (D) a certificate of membership;

18 (E) an agreement;

19 (F) a pretended agreement; or

20 (G) other evidences of obligation;

21 entitling the holder to anything of value at some future date, if the
22 gross payments received by the company during the taxable year
23 on outstanding investment contracts, plus interest and dividends
24 earned on those contracts (by prorating the interest and dividends
25 earned on investment contracts by the same proportion that
26 certificate reserves (as defined by the Investment Company Act
27 of 1940) is to the company's total assets) is at least fifty percent
28 (50%) of the company's gross payments upon investment
29 contracts plus gross income from all other sources except
30 dividends from subsidiaries for the taxable year. The term
31 "investment contract" means an instrument listed in clauses (A)
32 through (G).

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

38 (1) A holding company.

39 (2) A regulated financial corporation.

40 (3) A subsidiary of a holding company or regulated financial
41 corporation.

42 (4) Any other corporation organized under the laws of the United

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- 1 States, this state, another taxing jurisdiction, or a foreign
 2 government that is carrying on the business of a financial
 3 institution.
- 4 (b) As used in this section, "holding company" means a corporation
 5 registered under the Bank Holding Company Act of 1956 (12 U.S.C.
 6 1841 through 1849), as in effect on December 31, 1990, or registered
 7 as a savings and loan holding company other than a diversified savings
 8 and loan holding company (as defined in Section 10(a)(F) of the Home
 9 Owners' Loan Act of 1933 (12 U.S.C. 1467a(1)(F)), as in effect on
 10 December 31, 1990).
- 11 (c) As used in this section, "regulated financial corporation" means:
 12 (1) an institution, the deposits, shares, or accounts of which are
 13 insured under the Federal Deposit Insurance Act (12 U.S.C. 1811
 14 through 1833e), as in effect on December 31, 1990;
 15 (2) an institution that is a member of a Federal Home Loan Bank;
 16 (3) any other bank or thrift institution incorporated or organized
 17 under the laws of a state that is engaged in the business of
 18 receiving deposits;
 19 (4) a credit union incorporated and organized under the laws of
 20 this state;
 21 (5) a production credit association organized under 12 U.S.C.
 22 2071, as in effect on December 31, 1990;
 23 (6) a corporation organized under 12 U.S.C. 611 through 631 (an
 24 Edge Act corporation), as in effect on December 31, 1990;
 25 (7) a federal or state agency or branch of a foreign bank (as
 26 defined in 12 U.S.C. 3101, as in effect on December 31, 1990); or
 27 (8) a trust company formed under ~~IC 28-1-4~~ **IC 28-12**.
- 28 (d) For purposes of this section and when used in this article,
 29 "business of a financial institution" means the following:
 30 (1) For a holding company, a regulated financial corporation, or
 31 a subsidiary of either, the activities that each is authorized to
 32 perform under federal or state law, including the activities
 33 authorized by regulation or order of the Federal Reserve Board for
 34 such a subsidiary under Section 4(c)(8) of the Bank Holding
 35 Company Act of 1956 (12 U.S.C. 1843(c)(8)), as in effect on
 36 December 31, 1990.
 37 (2) For any other corporation described in subsection (a)(4), all of
 38 the corporation's business activities if eighty percent (80%) or
 39 more of the corporation's gross income, excluding extraordinary
 40 income, is derived from one (1) or more of the following
 41 activities:
 42 (A) Making, acquiring, selling, or servicing loans or

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1 extensions of credit. For the purpose of this subdivision, loans
 2 and extensions of credit include:
 3 (i) secured or unsecured consumer loans;
 4 (ii) installment obligations;
 5 (iii) mortgage or other secured loans on real estate or
 6 tangible personal property;
 7 (iv) credit card loans;
 8 (v) secured and unsecured commercial loans of any type;
 9 (vi) letters of credit and acceptance of drafts;
 10 (vii) loans arising in factoring; and
 11 (viii) any other transactions with a comparable economic
 12 effect.

13 (B) Leasing or acting as an agent, broker, or advisor in
 14 connection with leasing real and personal property that is the
 15 economic equivalent of the extension of credit if the
 16 transaction is not treated as a lease for federal income tax
 17 purposes.

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

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

26 SECTION 12. IC 6-8.1-1-1, AS AMENDED BY P.L.61-1996,
 27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 1998]: Sec. 1. "Listed taxes" or "taxes" includes only the
 29 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat
 30 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);
 31 the gross income tax (IC 6-2.1); the state gross retail and use taxes (IC
 32 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net
 33 income tax (IC 6-3-8); the county adjusted gross income tax (IC
 34 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
 35 economic development income tax (IC 6-3.5-7); the auto rental excise
 36 tax (IC 6-6-9); the bank tax (IC 6-5-10); the savings and loan
 37 association tax (IC 6-5-11); the production credit association tax (IC
 38 6-5-12); the financial institutions tax (IC 6-5.5); the gasoline tax (IC
 39 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
 40 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
 41 collected under a reciprocal agreement under IC 6-8.1-3; the motor
 42 vehicle excise tax (IC 6-6-5); the hazardous waste disposal tax (IC

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1 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2);
 2 the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); **the**
 3 **hard cider excise tax (IC 7.1-4-4.5)**; the malt excise tax (IC 7.1-4-5);
 4 the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
 5 (IC 6-9); the various county food and beverage taxes (IC 6-9); the
 6 county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
 7 (IC 16-44-2); the emergency and hazardous chemical inventory form
 8 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
 9 and IC 9-30); the fees and penalties assessed for overweight vehicles
 10 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);
 11 the solid waste management fee (IC 13-20-22); and any other tax or fee
 12 that the department is required to collect or administer.

13 SECTION 13. IC 6-8.1-6-4.5 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: **Sec. 4.5. A**
 16 **taxpayer that is required under IC 6-3-4-1 to file a return may**
 17 **round to the nearest whole dollar an amount or item reported on**
 18 **the return. The following apply if an amount or item is rounded:**

19 (1) **An amount or item of at least fifty cents (\$0.50) must be**
 20 **rounded up to the nearest whole dollar.**

21 (2) **An amount or item of less than fifty cents (\$0.50) must be**
 22 **rounded down to the nearest whole dollar.**

23 SECTION 14. IC 6-8.1-7-1, AS AMENDED BY P.L.67-1996,
 24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 1998]: Sec. 1. (a) This subsection does not apply to the
 26 disclosure of information concerning a conviction on a tax evasion
 27 charge. Unless in accordance with a judicial order or as otherwise
 28 provided in this chapter, the department, its employees, former
 29 employees, counsel, agents, or any other person may not divulge the
 30 amount of tax paid by any taxpayer, terms of a settlement agreement
 31 executed between a taxpayer and the department, investigation records,
 32 investigation reports, or any other information disclosed by the reports
 33 filed under the provisions of the law relating to any of the listed taxes,
 34 including required information derived from a federal return, except to:

- 35 (1) members and employees of the department;
 36 (2) the governor;
 37 (3) the attorney general or any other legal representative of the
 38 state in any action in respect to the amount of tax due under the
 39 provisions of the law relating to any of the listed taxes; or
 40 (4) any authorized officers of the United States;

41 when it is agreed that the information is to be confidential and to be
 42 used solely for official purposes.



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1 (b) The information described in subsection (a) may be revealed
2 upon the receipt of a certified request of any designated officer of the
3 state tax department of any other state, district, territory, or possession
4 of the United States when:

5 (1) the state, district, territory, or possession permits the exchange
6 of like information with the taxing officials of the state; and

7 (2) it is agreed that the information is to be confidential and to be
8 used solely for tax collection purposes.

9 (c) The information described in subsection (a) relating to a person
10 on public welfare or a person who has made application for public
11 welfare may be revealed to the director of the division of family and
12 children, and to any county director of family and children located in
13 Indiana, upon receipt of a written request from either director for the
14 information. The information shall be treated as confidential by the
15 directors. In addition, the information described in subsection (a)
16 relating to a person who has been designated as an absent parent by the
17 state Title IV-D agency shall be made available to the state Title IV-D
18 agency upon request. The information shall be subject to the
19 information safeguarding provisions of the state and federal Title IV-D
20 programs.

21 (d) The name, address, Social Security number, and place of
22 employment relating to any individual who is delinquent in paying
23 educational loans owed to an institution of higher education may be
24 revealed to that institution if it provides proof to the department that the
25 individual is delinquent in paying for educational loans. This
26 information shall be provided free of charge to approved institutions of
27 higher learning (as defined by IC 20-12-21-3(2)). The department shall
28 establish fees that all other institutions must pay to the department to
29 obtain information under this subsection. However, these fees may not
30 exceed the department's administrative costs in providing the
31 information to the institution.

32 (e) The information described in subsection (a) relating to reports
33 submitted under IC 6-6-1.1-502 concerning the number of gallons of
34 gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of
35 gallons of special fuel sold by a supplier and the number of gallons of
36 special fuel exported by a licensed exporter or imported by a licensed
37 transporter may be released by the commissioner upon receipt of a
38 written request for the information.

39 (f) The information described in subsection (a) may be revealed
40 upon the receipt of a written request from the administrative head of a
41 state agency of Indiana when:

42 (1) the state agency shows an official need for the information;

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1 and
 2 (2) the administrative head of the state agency agrees that any
 3 information released will be kept confidential and will be used
 4 solely for official purposes.

5 (g) The name and address of retail merchants, including township,
 6 as specified in IC 6-2.5-8-1(h) may be released solely for tax collection
 7 purposes to township assessors.

8 (h) The department shall notify the appropriate innkeepers' tax
 9 board, bureau, or commission that a taxpayer is delinquent in remitting
 10 innkeepers' taxes under IC 6-9.

11 (i) All information relating to the delinquency or evasion of the
 12 motor vehicle excise tax shall be disclosed to the bureau of motor
 13 vehicles in Indiana and may be disclosed to another state, if the
 14 information is disclosed for the purpose of the enforcement and
 15 collection of the taxes imposed by IC 6-6-5.

16 (j) This section does not apply to:
 17 (1) the beer excise tax (IC 7.1-4-2);
 18 (2) the liquor excise tax (IC 7.1-4-3);
 19 (3) the wine excise tax (IC 7.1-4-4);
 20 (4) **the hard cider excise tax (IC 7.1-4-4.5);**
 21 (5) the malt excise tax (IC 7.1-4-5);
 22 ~~(5) (6)~~ the motor vehicle excise tax (IC 6-6-5); and
 23 ~~(6) (7)~~ the fees under IC 13-23.

24 SECTION 15. IC 6-9-23-8 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) If a tax is
 26 imposed under section 3 of this chapter, the county treasurer shall
 27 establish a coliseum expansion fund. The county treasurer shall deposit
 28 in this fund all amounts received from the tax imposed under this
 29 chapter. Money in this fund may be appropriated only:

30 (1) for the acquisition, improvement, remodeling, or expansion of
 31 an athletic and exhibition coliseum in existence before ~~the~~
 32 ~~effective day of an ordinance adopted under section 3 of this~~
 33 ~~chapter; January 1, 1998;~~ and
 34 (2) to retire any bonds issued, loans obtained, or lease payments
 35 incurred under IC 36-1-10 (referred to in this chapter as
 36 "obligations") to remodel, expand, improve, or acquire an athletic
 37 and exhibition coliseum in existence before ~~the effective day of~~
 38 ~~an ordinance adopted under section 3 of this chapter. January 1,~~
 39 **1998.**

40 (b) Obligations entered into for the acquisition, expansion,
 41 remodeling, and improvement of an athletic and exhibition coliseum
 42 shall be retired by using money collected from a tax imposed under this

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1 chapter.

2 (c) **Money collected under this chapter and set aside for debt**
 3 **reserve before July 1, 1998, may not be used for the purposes set**
 4 **forth in subsection (a)(1).**

5 SECTION 16. IC 6-9-29-1.5 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 1998]: **Sec. 1.5. (a) Unless otherwise provided in this article, a**
 8 **county fiscal body that adopts an ordinance to impose, rescind, or**
 9 **increase or decrease the rate of a county innkeeper's tax must**
 10 **specify the effective date of the ordinance to provide that the**
 11 **ordinance takes effect:**

12 (1) **at least thirty (30) days after the adoption of the**
 13 **ordinance; and**

14 (2) **on the first day of a month.**

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

18 SECTION 17. IC 7.1-1-3-9.5 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 1998]: **Sec. 9.5. The term "hard cider" means**
 21 **an alcoholic beverage that:**

22 (1) **is made from the normal alcoholic fermentation of the**
 23 **juice of sound, ripe apples; and**

24 (2) **contains at least one-half of one percent (0.5%) of alcohol**
 25 **by volume and not more than seven percent (7%) of alcohol**
 26 **by volume.**

27 **The term includes flavored, sparkling, or carbonated cider and**
 28 **cider made from condensed apple.**

29 SECTION 18. IC 7.1-1-3-49 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 1998]: ~~Sec. 49. Wine.~~ The term
 31 "wine" means an alcoholic beverage obtained by the fermentation of
 32 the natural sugar content of fruit, fruit juice, or other agricultural
 33 products containing sugar, including necessary additions to correct
 34 defects due to climatic, saccharine, and seasonal conditions, and also
 35 the alcoholic fortification of the beverage. **The term includes hard**
 36 **cider, except for alcoholic beverage tax purposes.** The term does not
 37 mean an alcoholic beverage that contains twenty-one percent (21%), or
 38 more, of absolute alcohol reckoned by volume.

39 SECTION 19. IC 7.1-4-4-1 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 1. An excise tax at the**
 41 **rate of forty-seven cents (\$0.47) a gallon is imposed upon the**
 42 **manufacture and sale or gift, or withdrawal for sale or gift, of wine,**



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1 **except hard cider**, within this state.

2 SECTION 20. IC 7.1-4-4.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 1998]:

5 **Chapter 4.5. Hard Cider Excise Tax**

6 **Sec. 1. An excise tax at the rate of eleven and one-half cents**
7 **(\$0.115) a gallon is imposed upon the manufacture and sale or gift,**
8 **or withdrawal for sale or gift, of hard cider within Indiana.**

9 **Sec. 2. The hard cider excise tax applies only to hard cider. An**
10 **alcoholic beverage that is subject to the hard cider excise tax is not**
11 **subject to the liquor excise tax or the wine excise tax.**

12 **Sec. 3. The hard cider excise tax shall be paid by the holder of**
13 **a vintner's permit, a small winery permit, a wine wholesaler's**
14 **permit, a dining car wine permit, or a boat wine permit on the**
15 **hard cider to which the tax is applicable and that is manufactured**
16 **or imported by the person into this state. However, an item may**
17 **only be taxed once for hard cider excise tax purposes.**

18 **Sec. 4. The commission and the department may adopt rules and**
19 **maintain gauges in a winery, small winery, or a wholesaler's**
20 **premises for the proper gauging of the alcoholic beverages to**
21 **which the hard cider excise tax is applicable and the assessment of**
22 **that tax.**

23 **Sec. 5. (a) All sales of hard cider made by a primary source of**
24 **supply to a wine wholesaler must at the time of the sale be**
25 **accompanied by an invoice that shows the following:**

- 26 (1) **The name and address of seller and purchaser.**
- 27 (2) **The date of disposition.**
- 28 (3) **The name or names of each brand sold.**
- 29 (4) **The number of packages, if any.**
- 30 (5) **The number of cases by size of bottle.**
- 31 (6) **The quantity of each kind of alcoholic beverage sold.**

32 **(b) The primary source of supply shall send a copy of the invoice**
33 **to the department of revenue and the commission at the time of the**
34 **sale.**

35 SECTION 21. IC 7.1-4-7-5, AS AMENDED BY P.L.72-1996,
36 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 1998]: Sec. 5. The department shall deposit:

- 38 (1) four cents (\$0.04) of the beer excise tax rate collected on each
39 gallon of beer or flavored malt beverage;
- 40 (2) one dollar (\$1) of the liquor excise tax rate collected on each
41 gallon of liquor;
- 42 (3) twenty cents (\$0.20) of the wine excise tax rate collected on

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1 each gallon of wine; ~~and~~
2 (4) the entire amount of malt excise tax collected; **and**
3 **(5) the entire amount of hard cider excise tax collected;**
4 daily with the treasurer of state and not later than the fifth day of the
5 following month shall cover them into the general fund of the state for
6 distribution as provided in this chapter.
7 SECTION 22. IC 6-2.1-6-3 IS REPEALED [EFFECTIVE
8 JANUARY 1, 1998 (RETROACTIVE)].
9 SECTION 23. [EFFECTIVE JANUARY 1, 1997
10 (RETROACTIVE)] (a) **IC 6-5.5-1-2, as amended by this act, applies**
11 **to taxable years beginning after December 31, 1996.**
12 **(b) SECTIONS of this act that become effective January 1, 1998,**
13 **apply to taxable years beginning after December 31, 1997.**
14 SECTION 24. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1395, 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:

Page 5, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 5. IC 6-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 8. (a) For purposes of this section, "qualified employee" means an individual who is employed by a taxpayer or by an employer exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3), ~~(4)~~; **IC 6-3-2-2.8(4)**, or ~~(5)~~ **IC 6-3-2-2.8(5)** and who:

- (1) has the employee's principal place of residence in the enterprise zone in which the employee is employed;
- (2) performs services for the taxpayer or employer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's or employer's trade or business that is located in an enterprise zone; and
- (3) performs at least fifty percent (50%) of the employee's service for the taxpayer or employer during the taxable year in the enterprise zone.

(b) For purposes of this section, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);**
- (2) partnership;**
- (3) trust;**
- (4) limited liability company; or**
- (5) limited liability partnership.**

(c) For purposes of this section, "taxpayer" includes a pass through entity.

~~(b)~~ **(d)** Except as provided in subsection ~~(c)~~; **(e)**, a qualified employee is entitled to deduction from his adjusted gross income in each taxable year in the amount of the lesser of:

- (1) one-half (1/2) of his adjusted gross income for the taxable year that he earns as a qualified employee; or
- (2) seven thousand five hundred dollars (\$7,500).

~~(c)~~ **(e)** No qualified employee is entitled to a deduction under this section for a taxable year that begins after the termination of the enterprise zone in which he resides.

SECTION 6. IC 6-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 10. (a) As used in this section:

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"Base period wages" means wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

"Enterprise zone" means an enterprise zone created under IC 4-4-6.1.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

"Pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);**
- (2) a partnership;**
- (3) a trust;**
- (4) a limited liability company; or**
- (5) a limited liability partnership.**

"Qualified employee" means an individual who is employed by a taxpayer and who:

- (1) has his principal place of residence in the enterprise zone in which he is employed;
- (2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone; and
- (3) performs at least fifty percent (50%) of his services for the taxpayer during the taxable year in the enterprise zone.

"Qualified increased employment expenditures" means the

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following:

(1) For a taxpayer's taxable year other than his taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.

(2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

- (1) IC 6-2.1 (gross income tax) with respect to enterprise zone gross income;
- (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;
- (3) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and
- (4) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this section.

"Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

"Taxpayer" includes a pass through entity.

(b) A taxpayer is entitled to a credit against the taxpayer's qualified state tax liability for a taxable year in the amount of the lesser of:

- (1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or
- (2) one thousand five hundred dollars (\$1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as



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a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(d) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (c).

(e) Notwithstanding subsection (c), if a credit under this section results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (c), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(f) A taxpayer is not entitled to a refund of any unused credit.

(g) A taxpayer that:

- (1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and
- (2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

(h) If a pass through entity is entitled to a credit under subsection (b) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

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

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of

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a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure."

Page 5, between lines 39 and 40, begin a new paragraph and insert the following:

"SECTION 6. IC 6-3.1-10-4, AS AMENDED BY P.L.57-1996, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 4. (a) As used in this chapter, "taxpayer" means **the following:**

(1) Any individual that has any state tax liability.

(b) Notwithstanding subsection (a), for a credit for a qualified investment in a business located in an enterprise zone in a county having a population of more than one hundred thousand (100,000) but less than one hundred seven thousand (107,000); "taxpayer" includes a pass through entity:

(2) A corporation that has any state tax liability.

(3) A pass through entity (as defined in IC 6-3-3-10)."

Page 6, between lines 19 and 20, begin a new paragraph and insert the following:

"SECTION 7. IC 6-5.5-1-2, AS AMENDED BY P.L.28-1997, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1997 (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

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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 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:

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(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)."

Page 8, line 32, before "cider" insert "**hard**".

Page 11, line 7, before "cider" insert "**hard**".

Page 11, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 11. IC 6-9-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the county treasurer shall establish a coliseum expansion fund. The county treasurer shall deposit in this fund all amounts received from the tax imposed under this chapter. Money in this fund may be appropriated only:

(1) for the acquisition, improvement, remodeling, or expansion of an athletic and exhibition coliseum in existence before ~~the effective day of an ordinance adopted under section 3 of this chapter; January 1, 1998;~~ and

(2) to retire any bonds issued, loans obtained, or lease payments incurred under IC 36-1-10 (referred to in this chapter as "obligations") to remodel, expand, improve, or acquire an athletic and exhibition coliseum in existence before ~~the effective day of an ordinance adopted under section 3 of this chapter. January 1, 1998.~~



(b) Obligations entered into for the acquisition, expansion, remodeling, and improvement of an athletic and exhibition coliseum shall be retired by using money collected from a tax imposed under this chapter.

(c) Money collected under this chapter and set aside for debt reserve before July 1, 1998, may not be used for the purposes set forth in subsection (a)(1)."

Page 11, line 29, delete "or pears;" and insert ";".

Page 11, line 34, delete "or pear must." and insert ".".

Page 11, line 41, before "cider" insert "**hard**".

Page 12, line 7, before "cider" insert "**hard**".

Page 12, line 11, before "Cider" insert "**Hard**".

Page 12, line 14, before "cider" insert "**hard**".

Page 12, line 15, after "The" insert "**hard**".

Page 12, line 15, after "to" insert "**hard**".

Page 12, line 16, before "cider" insert "**hard**".

Page 12, line 18, before "cider" insert "**hard**".

Page 12, line 21, before "cider" insert "**hard**".

Page 12, line 23, before "cider" insert "**hard**".

Page 12, line 27, before "cider" insert "**hard**".

Page 12, line 29, before "cider" insert "**hard**".

Page 13, line 9, before "cider" insert "**hard**".

Page 13, between lines 14 and 15, begin a new paragraph and insert:
"SECTION 18. [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)] **(a) IC 6-5.5-1-2, as amended by this act, applies to taxable years beginning after December 31, 1996.**

(b) SECTIONS of this act that become effective January 1, 1998, apply to taxable years beginning after December 31, 1997."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1395 as introduced.)

BAUER, Chair

Committee Vote: yeas 18, nays 0.

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