HOUSE BILL No. 1388

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.

Synopsis: Tax deduction for retirement income. Provides a 100% adjusted gross income deduction for: (1) federal civil service annuity income; (2) retirement or survivor's benefits received for an individual's service in the armed forces; (3) accident and health plan income received by an individual who is permanently and totally disabled; and (4) any other pension or retirement income. Makes conforming changes.

Effective: January 1, 1999.

Ripley, Kruse

January 13, 1998, read first time and referred to Committee on Ways and Means.

Introduced

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. 1388

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

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

SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.57-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: 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 portion of a lump sum distribution (as defined in Section 402(e)(4)(A) of the Internal Revenue Code), if the lump sum distribution is received by the individual during the taxable year and if the ordinary income portion of the distribution is taxed in the manner provided in Section 402(e) 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.

(15) Subtract the amount that is included in adjusted gross income under Section 62 of the Internal Revenue Code and not otherwise deducted under this article to the extent the income is from one (1) or more of the following:

(A) Federal civil service annuity income received during the taxable year by the individual or the individual's surviving spouse.

(B) Retirement or survivor's benefits received during the taxable year by the individual, or the individual's surviving spouse, for the individual's service in an active or reserve component of the armed forces of the United States, including the army, navy, air force, coast guard, marine corps, merchant marine, Indiana army national guard, or Indiana air national guard.

(C) Accident and health plan income received during the taxable year by an individual who is permanently and totally disabled for personal injuries or sickness, as provided in IC 6-3-2-9.

(D) Any other pension or retirement income received during the taxable year by the individual.

(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 Code.

(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 2. IC 6-3-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 4. Each taxable year, an individual, or the individual's surviving spouse, is entitled to an adjusted gross income tax deduction for the first two thousand dollars ($2,000) of income ~~including retirement or survivor's benefits,~~ received during the taxable year by the individual ~~or the individual's surviving spouse,~~ for the individual's service in an active or reserve component of the armed forces of the United States, including the army, navy, air force, coast guard, marine corps, merchant marine, Indiana army national guard, or Indiana air national guard. ~~However, a person who is less than sixty (60) years of age on the last day of the person's taxable year, is not, for that taxable year, entitled to a deduction under this section for retirement or survivor's benefits.~~

SECTION 3. IC 6-3-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 9. (a) An individual who:

(1) has not attained age sixty-five (65) before the end of a particular taxable year;

(2) retired on disability before the end of that taxable year; and

(3) was permanently and totally disabled, as determined under subsection (c), at the time of retirement;

is entitled to a deduction from the individual's adjusted gross income for that taxable year in the amount determined under subsection (b).

(b) The deduction provided by subsection (a) is ~~the amount determined using the following STEPS:~~

~~STEP ONE: Determine~~ the amount received by the individual during the taxable year through an accident and health plan for personal injuries or sickness to the extent that:

~~(A)~~ **(1)** these amounts are attributable to contributions by the individual's employer that were not includable in the individual's gross income or are paid by the employer; and

~~(B)~~ **(2)** these amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work because of permanent and total disability.

~~STEP TWO: Determine for each week of the taxable year the amount by which each weekly payment referred to in STEP ONE exceeds one hundred dollars ($100), then add these amounts.~~

~~STEP THREE: Determine the amount by which the individual's federal adjusted gross income for the taxable year, as defined by Section 62 of the Internal Revenue Code, exceeds fifteen thousand dollars ($15,000).~~

~~STEP FOUR: Subtract from the amount determined in STEP ONE the amount determined in STEP TWO and the amount determined in STEP THREE.~~

(c) For purposes of this section, an individual is permanently and totally disabled if the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months. An individual may not be considered to be permanently and totally disabled unless he furnishes proof of the existence of the disability as the department of revenue may require.

SECTION 4. IC 6-3-4-15.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 15.7. (a) The payor of a periodic or nonperiodic distribution under an annuity, ~~a pension, a retirement,~~ or other deferred compensation plan, as described in Section 3405 of the Internal Revenue Code, that is paid to a resident of this state shall, upon receipt from the payee of a written request for state income tax withholding, withhold the requested amount from each payment. The request must be dated and signed by the payee and specify the flat whole dollar amount to be withheld from each payment. The request must also specify the payee's name, current address, taxpayer identification number, and the contract, policy, or account number to which the request applies. The request shall remain in effect until the payor receives in writing from the payee a change in or revocation of the request.

(b) The payor is not required to withhold state income tax from a payment if the amount to be withheld is less than ten dollars ($10) or if the amount to be withheld would reduce the affected payment to less than ten dollars ($10).

(c) The payor is responsible for custody of withheld funds, for reporting withheld funds to the state and to the payee, and for remitting withheld funds to the state in the same manner as is done for wage withholding, including utilization of federal forms and participation by Indiana in the combined Federal/State Filing Program on magnetic media.

SECTION 5. IC 6-3-2-3.7 IS REPEALED [EFFECTIVE JANUARY 1, 1999].

SECTION 6. [EFFECTIVE JANUARY 1, 1999] **IC 6-3-1-3.5, IC 6-3-2-4, IC 6-3-2-9, and IC 6-3-4-15.7, all as amended by this act, apply to taxable years beginning after December 31, 1998.**