

**CONFERENCE COMMITTEE REPORT
DIGEST FOR HB 1157**

Citations Affected: IC 6-8.1-9-1.

Synopsis: Various tax issues. 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 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. 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.. Provides for an extension of time to file a claim for a refund if a taxpayer's federal income tax liability is modified by the Internal Revenue Service and the modification results in a reduction of the tax legally due. Permits Indianapolis and Lafayette to retroactively grant tax abatements that were offered to a property owner if the property owner has fulfilled all expectations. (This conference committee report does the following: (1) Provides for an extension of time to file a claim for a refund if a taxpayer's federal income tax liability is modified by the Internal Revenue Service and the modification results in a reduction of the tax legally due. (2) Permits Indianapolis and Lafayette to retroactively grant tax abatements that were offered to a property owner if the property owner has fulfilled all expectations.)

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Effective: January 1, 1997 (retroactive); January 1, 1999.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1157 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Page 19, between lines 19 and 20, begin a new paragraph and
2 insert:
3 "SECTION 19. IC 6-8.1-9-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 1. (a) If a person
5 has paid more tax than the person determines is legally due for a
6 particular taxable period, the person may file a claim for a refund with
7 the department. **Except as provided in subsections (f) and (g)**, in
8 order to obtain the refund, the person must file the claim with the
9 department within three (3) years after the latter of the following:
10 (1) The due date of the return.
11 (2) The date of payment.
12 For purposes of this section, the due date for a return filed for the state
13 gross retail or use tax, the gasoline tax, the special fuel tax, the motor
14 carrier fuel tax, the oil inspection fee, or the petroleum severance tax
15 is the end of the calendar year which contains the taxable period for
16 which the return is filed. The claim must set forth the amount of the
17 refund to which the person is entitled and the reasons that the person
18 is entitled to the refund.
19 (b) When the department receives a claim for refund, the
20 department shall consider the claim for refund and may hold a hearing
21 on the claim for refund to obtain and consider additional evidence.
22 After considering the claim and all evidence relevant to the claim, the
23 department shall issue a decision on the claim, stating the part, if any,
24 of the refund allowed and containing a statement of the reasons for any

1 part of the refund that is denied. The department shall mail a copy of
 2 the decision to the person who filed the claim. If the department allows
 3 the full amount of the refund claim, a warrant for the payment of the
 4 claim is sufficient notice of the decision.

5 (c) If the person disagrees with any part of the department's
 6 decision, he may appeal the decision, regardless of whether or not he
 7 protested the tax payment or whether or not the person has accepted a
 8 refund. The person must file the appeal with the tax court. The tax
 9 court does not have jurisdiction to hear a refund appeal suit, if:

10 (1) the appeal is filed more than three (3) years after the date the
 11 claim for refund was filed with the department;

12 (2) the appeal is filed more than ninety (90) days after the date
 13 the department mails the decision of denial to the person; or

14 (3) the appeal is filed both before the decision is issued and
 15 before the one hundred eighty-first day after the date the person
 16 files the claim for refund with the department.

17 (d) The tax court shall hear the appeal de novo and without a jury,
 18 and after the hearing may order or deny any part of the appealed
 19 refund. The court may assess the court costs in any manner that it feels
 20 is equitable. The court may enjoin the collection of any of the listed
 21 taxes under IC 33-3-5-11. The court may also allow a refund of taxes,
 22 interest, and penalties that have been paid to and collected by the
 23 department.

24 (e) With respect to the motor vehicle excise tax, this section
 25 applies only to penalties and interest paid on assessments of the motor
 26 vehicle excise tax. Any other overpayment of the motor vehicle excise
 27 tax is subject to IC 6-6-5.

28 **(f) If a taxpayer's federal income tax liability for a taxable**
 29 **year is modified by the Internal Revenue Service, and the**
 30 **modification would result in a reduction of the tax legally due, the**
 31 **due date by which the taxpayer must file a claim for refund with**
 32 **the department is the later of:**

33 **(1) the date determined under subsection (a); or**

34 **(2) the date that is six (6) months after the date on which the**
 35 **taxpayer is notified of the modification by the Internal**
 36 **Revenue Service.**

37 **(g) If an agreement to extend the assessment time period is**
 38 **entered into under IC 6-8.1-5-2(e), the period during which a**
 39 **person may file a claim for a refund under subsection (a) is**
 40 **extended to the same date to which the assessment time period is**
 41 **extended."**

42 Page 21, between lines 27 and 28, begin a new paragraph and
 43 insert:

44 "SECTION 26. [EFFECTIVE JANUARY 1, 1997
 45 (RETROACTIVE)]: (a) **This SECTION applies to a property owner**
 46 **who:**

47 **(1) before January 1, 1997, received notice from a:**

48 **(A) city that is a consolidated city; or**

49 **(B) city having a population of more than forty-three**
 50 **thousand seven hundred (43,700) but less than**
 51 **forty-four thousand seven hundred (44,700);**

- 1 offering to provide property tax deductions to the property
 2 owner under IC 6-1.1-12.1;
- 3 (2) has fulfilled all expectations of the city concerning job
 4 creation or retention, capital investment, and other
 5 requirements imposed by the city; and
- 6 (3) is not eligible for the property tax deductions described
 7 in the agreement due to the failure of the property owner or
 8 the city, or both, to comply with one (1) or more
 9 requirements of IC 6-1.1-12.1.
- 10 (b) This subsection applies only to a city described in
 11 subsection (a)(1)(A). Notwithstanding IC 6-1.1-12.1, the city may
 12 grant the property tax deductions described in subsection (a) if,
 13 before July 1, 1998, both the property owner and the city complete
 14 all the procedures required by IC 6-1.1-12.1 that would have been
 15 necessary to grant the property tax deductions described in
 16 subsection (a).
- 17 (c) This subsection applies only to a city described in
 18 subsection (a)(1)(B). Notwithstanding IC 6-1.1-12.1, if a property
 19 owner has received a notice from the city offering to provide a
 20 property tax deduction, the county auditor shall make the
 21 appropriate deduction described in subsection (a) if, before July 1,
 22 1998:
- 23 (1) the property owner complies with all requirements of
 24 IC 6-1.1-12.1 that would have been necessary to grant the
 25 deduction described in subsection (a); and
- 26 (2) the mayor of the city consents to the granting of the
 27 deduction.
- 28 (d) Property tax deductions granted under this SECTION
 29 apply to property taxes first due and payable after December 31,
 30 1996.
- 31 (e) This SECTION expires July 2, 1998."
 32 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1157 as reprinted February 24, 1998.)

Conference Committee Report
on
House Bill 1157

Signed by:

Senator Skillman

Representative Bailey

Senator Lewis

Representative Pond

Senate Conferees

House Conferees