



February 23, 1999

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## SENATE BILL No. 535

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DIGEST OF SB 535 (Updated February 18, 1999 4:40 pm - DI 44)

**Citations Affected:** IC 6-3; IC 6-5.5; noncode.

**Synopsis:** Repeal half of property tax add-back. Provides that fifty percent of property taxes deductible under the Internal Revenue Code are not to be added back to income in determining Indiana adjusted gross income tax or the financial institutions tax. (Current law requires that all of such property taxes be added back to income.)

**Effective:** January 1, 1999 (retroactive).

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**Mills, Ford**

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January 21, 1999, read first time and referred to Committee on Finance.  
February 22, 1999, amended, reported favorably — Do Pass.

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SB 535—LS 6638/DI 44+



February 23, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## SENATE BILL No. 535

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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 6-3-1-3.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:  
3 Sec. 3.5. When used in IC 6-3, the term "adjusted gross income" shall  
4 mean the following:

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

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

10 (2) Add an amount equal to:

11 (A) any deduction or deductions allowed or allowable pursuant  
12 to Section 62 of the Internal Revenue Code for taxes based on  
13 or measured by income and levied at the state level by any  
14 state of the United States; ~~or~~ **and**

15 (B) **fifty percent (50%) of any deduction or deductions**  
16 **allowed or allowable under Section 62 of the Internal**  
17 **Revenue Code** for taxes on property levied by any subdivision

SB 535—LS 6638/DI 44+



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- 1 of any state of the United States.
- 2 (3) Subtract one thousand dollars (\$1,000), or in the case of a  
3 joint return filed by a husband and wife, subtract for each spouse  
4 one thousand dollars (\$1,000).
- 5 (4) Subtract one thousand dollars (\$1,000) for:  
6 (A) each of the exemptions provided by Section 151(c) of the  
7 Internal Revenue Code;  
8 (B) each additional amount allowable under Section 63(f) of  
9 the Internal Revenue Code; and  
10 (C) the spouse of the taxpayer if a separate return is made by  
11 the taxpayer and if the spouse, for the calendar year in which  
12 the taxable year of the taxpayer begins, has no gross income  
13 and is not the dependent of another taxpayer.
- 14 (5) Subtract five hundred dollars (\$500) for each of the  
15 exemptions allowed under Section 151(c)(1)(B) of the Internal  
16 Revenue Code for taxable years beginning after December 31,  
17 1996, and before January 1, 2001. This amount is in addition to  
18 the amount subtracted under subdivision (4).
- 19 (6) Subtract an amount equal to the lesser of:  
20 (A) that part of the individual's adjusted gross income (as  
21 defined in Section 62 of the Internal Revenue Code) for that  
22 taxable year that is subject to a tax that is imposed by a  
23 political subdivision of another state and that is imposed on or  
24 measured by income; or  
25 (B) two thousand dollars (\$2,000).
- 26 (7) Add an amount equal to the total capital gain portion of a  
27 lump sum distribution (as defined in Section 402(e)(4)(D) of the  
28 Internal Revenue Code) if the lump sum distribution is received  
29 by the individual during the taxable year and if the capital gain  
30 portion of the distribution is taxed in the manner provided in  
31 Section 402 of the Internal Revenue Code.
- 32 (8) Subtract any amounts included in federal adjusted gross  
33 income under Internal Revenue Code Section 111 as a recovery  
34 of items previously deducted as an itemized deduction from  
35 adjusted gross income.
- 36 (9) Subtract any amounts included in federal adjusted gross  
37 income under the Internal Revenue Code which amounts were  
38 received by the individual as supplemental railroad retirement  
39 annuities under 45 U.S.C. 231 and which are not deductible under  
40 subdivision (1).
- 41 (10) Add an amount equal to the deduction allowed under Section  
42 221 of the Internal Revenue Code for married couples filing joint

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1 returns if the taxable year began before January 1, 1987.

2 (11) Add an amount equal to the interest excluded from federal  
3 gross income by the individual for the taxable year under Section  
4 128 of the Internal Revenue Code if the taxable year began before  
5 January 1, 1985.

6 (12) Subtract an amount equal to the amount of federal Social  
7 Security and Railroad Retirement benefits included in a taxpayer's  
8 federal gross income by Section 86 of the Internal Revenue Code.

9 (13) In the case of a nonresident taxpayer or a resident taxpayer  
10 residing in Indiana for a period of less than the taxpayer's entire  
11 taxable year, the total amount of the deductions allowed pursuant  
12 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount  
13 which bears the same ratio to the total as the taxpayer's income  
14 taxable in Indiana bears to the taxpayer's total income.

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

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

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

26 (2) Add an amount equal to any deduction or deductions allowed  
27 or allowable pursuant to Section 170 of the Internal Revenue  
28 Code.

29 (3) Add an amount equal to:

30 (A) any deduction or deductions allowed or allowable pursuant  
31 to Section 63 of the Internal Revenue Code for taxes based on  
32 or measured by income and levied at the state level by any  
33 state of the United States; ~~or~~ **and**

34 (B) **fifty percent (50%) of any deduction or deductions**  
35 **allowed or allowable under Section 63 of the Internal**  
36 **Revenue Code** for taxes on property levied by any subdivision  
37 of any state of the United States.

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

41 (c) In the case of trusts and estates, "taxable income" (as defined for  
42 trusts and estates in Section 641(b) of the Internal Revenue Code)



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1 reduced by income that is exempt from taxation under IC 6-3 by the  
2 Constitution and statutes of the United States.

3 SECTION 2. IC 6-5.5-1-2 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:  
5 Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted  
6 gross income" means taxable income as defined in Section 63 of the  
7 Internal Revenue Code, adjusted as follows:

8 (1) Add the following amounts:

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

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

14 (C) An amount equal to:

15 (A) a deduction or deductions allowed or allowable under  
16 Section 63 of the Internal Revenue Code for taxes based on or  
17 measured by income and levied at the state level by a state of  
18 the United States or levied at the local level by any subdivision  
19 of a state of the United States; ~~or and~~

20 (B) **fifty percent (50%) of any deduction or deductions**  
21 **allowed or allowable under Section 63 of the Internal**  
22 **Revenue Code** for taxes on property levied by a state or a  
23 subdivision of a state of the United States.

24 (D) The amount of interest excluded under Section 103 of the  
25 Internal Revenue Code or under any other federal law, minus  
26 the associated expenses disallowed in the computation of  
27 taxable income under Section 265 of the Internal Revenue  
28 Code.

29 (E) An amount equal to the deduction allowed under Section  
30 172 or 1212 of the Internal Revenue Code for net operating  
31 losses or net capital losses.

32 (F) For a taxpayer that is not a large bank (as defined in  
33 Section 585(c)(2) of the Internal Revenue Code), an amount  
34 equal to the recovery of a debt, or part of a debt, that becomes  
35 worthless to the extent a deduction was allowed from gross  
36 income in a prior taxable year under Section 166(a) of the  
37 Internal Revenue Code.

38 (2) Subtract the following amounts:

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

42 (B) Income that is derived from sources outside the United

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

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1 certificate reserves (as defined by the Investment Company Act  
2 of 1940) is to the company's total assets) is at least fifty percent  
3 (50%) of the company's gross payments upon investment  
4 contracts plus gross income from all other sources except  
5 dividends from subsidiaries for the taxable year. The term  
6 "investment contract" means an instrument listed in clauses (A)  
7 through (G).  
8 SECTION 3. [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]  
9 **IC 6-3-1-3.5 and IC 6-5.5-1-2, both as amended by this act, apply**  
10 **to taxable years beginning after December 31, 1998.**  
11 SECTION 4. **An emergency is declared for this act.**

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SENATE MOTION

Mr. President: I move that Senator Ford be added as second author of Senate Bill 535.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 535, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 10, after "to" insert ":".

Page 1, line 10, before "any" begin a new line double block indented and insert:

**"(A)".**

Page 1, line 13, delete "." and insert ";".

Page 1, line 13, after "or" insert **"and"**.

Page 1, line 13, before "for" begin a new line double block indented and insert:

**"(B) fifty percent (50%) of any deduction or deductions allowed or allowable under Section 62 of the Internal Revenue Code".**

Page 1, line 13, reset in roman "for taxes on property".

Page 1, reset in roman line 14.

Page 3, line 25, after "to" insert ":".

Page 3, line 25, before "any" begin a new line double block indented and insert:

**"(A)".**

Page 3, line 28, delete "." and insert ";".

Page 3, line 28, after "or" insert **"and"**.

Page 3, line 28, before "for" begin a new line double block indented and insert:

**"(B) fifty percent (50%) of any deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code".**

Page 3, line 28, reset in roman "for taxes on property".

Page 3, reset in roman line 29.

Page 4, line 6, after "to" insert ":".

Page 4, line 6, before "a" begin a new line double block indented and insert:

**"(A)".**

Page 4, line 10, delete "." and insert ";".

Page 4, line 10, after "or" insert **"and"**.

Page 4, line 10, before "for" begin a new line double block indented and insert:

**"(B) fifty percent (50%) of any deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code".**



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Page 4, line 10, reset in roman "for taxes".

Page 4, reset in roman lines 11 through 12.

and when so amended that said bill do pass.

(Reference is to SB 535 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 14, Nays 0.

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