

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 247 be amended to read as follows:

- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004,  
4 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3.5. When used in this  
6 article, the term "adjusted gross income" shall mean the following:  
7           (a) In the case of all individuals, "adjusted gross income" (as defined  
8 in Section 62 of the Internal Revenue Code), modified as follows:  
9           (1) Subtract income that is exempt from taxation under this article  
10 by the Constitution and statutes of the United States.  
11           (2) Add an amount equal to any deduction or deductions allowed  
12 or allowable pursuant to Section 62 of the Internal Revenue Code  
13 for taxes based on or measured by income and levied at the state  
14 level by any state of the United States.  
15           (3) Subtract one thousand dollars (\$1,000), or in the case of a  
16 joint return filed by a husband and wife, subtract for each spouse  
17 one thousand dollars (\$1,000).  
18           (4) Subtract one thousand dollars (\$1,000) for:  
19           (A) each of the exemptions provided by Section 151(c) of the  
20 Internal Revenue Code;  
21           (B) each additional amount allowable under Section 63(f) of the  
22 Internal Revenue Code; and  
23           (C) the spouse of the taxpayer if a separate return is made by  
24 the taxpayer and if the spouse, for the calendar year in which

1 the taxable year of the taxpayer begins, has no gross income  
2 and is not the dependent of another taxpayer.

3 (5) Subtract:

4 (A) one thousand five hundred dollars (\$1,500) 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

8 (B) five hundred dollars (\$500) for each additional amount  
9 allowable under Section 63(f)(1) of the Internal Revenue Code  
10 if the adjusted gross income of the taxpayer, or the taxpayer  
11 and the taxpayer's spouse in the case of a joint return, is less  
12 than forty thousand dollars (\$40,000).

13 This amount is in addition to the amount subtracted under  
14 subdivision (4).

15 (6) Subtract an amount equal to the lesser of:

16 (A) that part of the individual's adjusted gross income (as  
17 defined in Section 62 of the Internal Revenue Code) for that  
18 taxable year that is subject to a tax that is imposed by a political  
19 subdivision of another state and that is imposed on or measured  
20 by income; or

21 (B) two thousand dollars (\$2,000).

22 (7) Add an amount equal to the total capital gain portion of a lump  
23 sum distribution (as defined in Section 402(e)(4)(D) of the  
24 Internal Revenue Code) if the lump sum distribution is received by  
25 the individual during the taxable year and if the capital gain portion  
26 of the distribution is taxed in the manner provided in Section 402  
27 of the Internal Revenue Code.

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

32 (9) Subtract any amounts included in federal adjusted gross  
33 income under the Internal Revenue Code which amounts were  
34 received by the individual as supplemental railroad retirement  
35 annuities under 45 U.S.C. 231 and which are not deductible under  
36 subdivision (1).

37 (10) Add an amount equal to the deduction allowed under Section  
38 221 of the Internal Revenue Code for married couples filing joint  
39 returns if the taxable year began before January 1, 1987.

40 (11) Add an amount equal to the interest excluded from federal  
41 gross income by the individual for the taxable year under Section  
42 128 of the Internal Revenue Code if the taxable year began before  
43 January 1, 1985.

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

- 1 (13) In the case of a nonresident taxpayer or a resident taxpayer  
2 residing in Indiana for a period of less than the taxpayer's entire  
3 taxable year, the total amount of the deductions allowed pursuant  
4 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount  
5 which bears the same ratio to the total as the taxpayer's income  
6 taxable in Indiana bears to the taxpayer's total income.
- 7 (14) In the case of an individual who is a recipient of assistance  
8 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or  
9 IC 12-15-7, subtract an amount equal to that portion of the  
10 individual's adjusted gross income with respect to which the  
11 individual is not allowed under federal law to retain an amount to  
12 pay state and local income taxes.
- 13 (15) In the case of an eligible individual, subtract the amount of a  
14 Holocaust victim's settlement payment included in the individual's  
15 federal adjusted gross income.
- 16 (16) For taxable years beginning after December 31, 1999,  
17 subtract an amount equal to the portion of any premiums paid  
18 during the taxable year by the taxpayer for a qualified long term  
19 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the  
20 taxpayer's spouse, or both.
- 21 (17) Subtract an amount equal to the lesser of:  
22 (A) for a taxable year:  
23 (i) including any part of 2004, the amount determined under  
24 subsection (f); and  
25 (ii) beginning after December 31, 2004, two thousand five  
26 hundred dollars (\$2,500); or  
27 (B) the amount of property taxes that are paid during the  
28 taxable year in Indiana by the individual on the individual's  
29 principal place of residence.
- 30 (18) Subtract an amount equal to the amount of a September 11  
31 terrorist attack settlement payment included in the individual's  
32 federal adjusted gross income.
- 33 (19) Add or subtract the amount necessary to make the adjusted  
34 gross income of any taxpayer that owns property for which bonus  
35 depreciation was allowed in the current taxable year or in an earlier  
36 taxable year equal to the amount of adjusted gross income that  
37 would have been computed had an election not been made under  
38 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply  
39 bonus depreciation to the property in the year that it was placed in  
40 service.
- 41 **(20) Subject to subsection (g), add an amount equal to**  
42 **intangibles payments described in section 34 of this chapter**  
43 **that are directly or indirectly paid, accrued, or incurred to a**  
44 **related member during the taxable year to the extent the**  
45 **intangibles payments are deductible in calculating federal**

1           **adjusted gross income under the Internal Revenue Code.**

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

4           (1) Subtract income that is exempt from taxation under this article  
5 by the Constitution and statutes of the United States.

6           (2) Add an amount equal to any deduction or deductions allowed  
7 or allowable pursuant to Section 170 of the Internal Revenue  
8 Code.

9           (3) Add an amount equal to any deduction or deductions allowed  
10 or allowable pursuant to Section 63 of the Internal Revenue Code  
11 for taxes based on or measured by income and levied at the state  
12 level by any state of the United States.

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

16           (5) Add or subtract the amount necessary to make the adjusted  
17 gross income of any taxpayer that owns property for which bonus  
18 depreciation was allowed in the current taxable year or in an earlier  
19 taxable year equal to the amount of adjusted gross income that  
20 would have been computed had an election not been made under  
21 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply  
22 bonus depreciation to the property in the year that it was placed in  
23 service.

24           **(6) Subject to subsection (g), add an amount equal to**  
25 **intangibles payments described in section 34 of this chapter**  
26 **that are directly or indirectly paid, accrued, or incurred to a**  
27 **related member during the taxable year to the extent the**  
28 **intangibles payments are deductible in calculating federal**  
29 **taxable income under the Internal Revenue Code.**

30           (c) In the case of life insurance companies (as defined in Section  
31 816(a) of the Internal Revenue Code) that are organized under Indiana  
32 law, the same as "life insurance company taxable income" (as defined  
33 in Section 801 of the Internal Revenue Code), adjusted as follows:

34           (1) Subtract income that is exempt from taxation under this article  
35 by the Constitution and statutes of the United States.

36           (2) Add an amount equal to any deduction allowed or allowable  
37 under Section 170 of the Internal Revenue Code.

38           (3) Add an amount equal to a deduction allowed or allowable  
39 under Section 805 or Section 831(c) of the Internal Revenue Code  
40 for taxes based on or measured by income and levied at the state  
41 level by any state.

42           (4) Subtract an amount equal to the amount included in the  
43 company's taxable income under Section 78 of the Internal  
44 Revenue Code.

45           (5) Add or subtract the amount necessary to make the adjusted

1 gross income of any taxpayer that owns property for which bonus  
 2 depreciation was allowed in the current taxable year or in an earlier  
 3 taxable year equal to the amount of adjusted gross income that  
 4 would have been computed had an election not been made under  
 5 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply  
 6 bonus depreciation to the property in the year that it was placed in  
 7 service.

8 **(6) Subject to subsection (g), add an amount equal to**  
 9 **intangibles payments described in section 34 of this chapter**  
 10 **that are directly or indirectly paid, accrued, or incurred to a**  
 11 **related member during the taxable year to the extent the**  
 12 **intangibles payments are deductible in calculating federal**  
 13 **taxable income under the Internal Revenue Code.**

14 (d) In the case of insurance companies subject to tax under Section  
 15 831 of the Internal Revenue Code and organized under Indiana law, the  
 16 same as "taxable income" (as defined in Section 832 of the Internal  
 17 Revenue Code), adjusted as follows:

18 (1) Subtract income that is exempt from taxation under this article  
 19 by the Constitution and statutes of the United States.

20 (2) Add an amount equal to any deduction allowed or allowable  
 21 under Section 170 of the Internal Revenue Code.

22 (3) Add an amount equal to a deduction allowed or allowable  
 23 under Section 805 or Section 831(c) of the Internal Revenue Code  
 24 for taxes based on or measured by income and levied at the state  
 25 level by any state.

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

29 (5) Add or subtract the amount necessary to make the adjusted  
 30 gross income of any taxpayer that owns property for which bonus  
 31 depreciation was allowed in the current taxable year or in an earlier  
 32 taxable year equal to the amount of adjusted gross income that  
 33 would have been computed had an election not been made under  
 34 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply  
 35 bonus depreciation to the property in the year that it was placed in  
 36 service.

37 **(6) Subject to subsection (g), add an amount equal to**  
 38 **intangibles payments described in section 34 of this chapter**  
 39 **that are directly or indirectly paid, accrued, or incurred to a**  
 40 **related member during the taxable year to the extent the**  
 41 **intangibles payments are deductible in calculating federal**  
 42 **taxable income under the Internal Revenue Code.**

43 (e) In the case of trusts and estates, "taxable income" (as defined for  
 44 trusts and estates in Section 641(b) of the Internal Revenue Code)  
 45 adjusted as follows:

1 (1) Subtract income that is exempt from taxation under this article  
2 by the Constitution and statutes of the United States.

3 (2) Subtract an amount equal to the amount of a September 11  
4 terrorist attack settlement payment included in the federal adjusted  
5 gross income of the estate of a victim of the September 11  
6 terrorist attack or a trust to the extent the trust benefits a victim  
7 of the September 11 terrorist attack.

8 (3) Add or subtract the amount necessary to make the adjusted  
9 gross income of any taxpayer that owns property for which bonus  
10 depreciation was allowed in the current taxable year or in an earlier  
11 taxable year equal to the amount of adjusted gross income that  
12 would have been computed had an election not been made under  
13 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply  
14 bonus depreciation to the property in the year that it was placed in  
15 service.

16 **(4) Subject to subsection (g), add an amount equal to**  
17 **intangibles payments described in section 34 of this chapter**  
18 **that are directly or indirectly paid, accrued, or incurred to a**  
19 **related member during the taxable year to the extent the**  
20 **intangibles payments are deductible in calculating federal**  
21 **taxable income under the Internal Revenue Code.**

22 (f) This subsection applies only to the extent that an individual paid  
23 property taxes in 2004 that were imposed for the March 1, 2002,  
24 assessment date or the January 15, 2003, assessment date. The  
25 maximum amount of the deduction under subsection (a)(17) is equal to  
26 the amount determined under STEP FIVE of the following formula:

27 STEP ONE: Determine the amount of property taxes that the  
28 taxpayer paid after December 31, 2003, in the taxable year for  
29 property taxes imposed for the March 1, 2002, assessment date  
30 and the January 15, 2003, assessment date.

31 STEP TWO: Determine the amount of property taxes that the  
32 taxpayer paid in the taxable year for the March 1, 2003,  
33 assessment date and the January 15, 2004, assessment date.

34 STEP THREE: Determine the result of the STEP ONE amount  
35 divided by the STEP TWO amount.

36 STEP FOUR: Multiply the STEP THREE amount by two thousand  
37 five hundred dollars (\$2,500).

38 STEP FIVE: Determine the sum of the STEP THREE amount and  
39 two thousand five hundred dollars (\$2,500).

40 **(g) An adjustment under subsection (a)(20), (b)(6), (c)(6),**  
41 **(d)(6), or (e)(4) is not required to the extent that:**

42 **(1) the taxpayer establishes by a preponderance of the**  
43 **evidence, as determined by the department, that the**  
44 **adjustment is unreasonable;**

45 **(2) the taxpayer and the department agree in writing to the**

1 application or use of an alternative method of apportionment  
2 under IC 6-3-2-2(1); or

3 (3) the intangibles payments are being paid or incurred to a  
4 related member organized under the laws of a country other  
5 than the United States, and the other country has entered  
6 into a comprehensive income tax treaty with the United  
7 States.

8 SECTION 2. IC 6-3-1-34 IS ADDED TO THE INDIANA CODE AS  
9 A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY  
10 1, 2004 (RETROACTIVE)]: **Sec. 34. As used in this article,**  
11 **"intangibles payment" means a payment directly connected to the**  
12 **use, maintenance, or management of:**

- 13 (1) stock;  
14 (2) bonds;  
15 (3) interests in partnerships;  
16 (4) licenses;  
17 (5) trademarks;  
18 (6) copyrights;  
19 (7) trade names;  
20 (8) trade dress;  
21 (9) service marks;  
22 (10) mask works;  
23 (11) trade secrets;  
24 (12) patents; or  
25 (13) any other similar types of intangible assets, as  
26 determined by the department.

27 SECTION 3. IC 6-3-1-35 IS ADDED TO THE INDIANA CODE AS  
28 A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY  
29 1, 2004 (RETROACTIVE)]: **Sec. 35. For purposes of this chapter,**  
30 **"related member" means, with respect to any taxpayer during all**  
31 **or any part of a taxable year:**

- 32 (1) a person or corporation that is a related entity;  
33 (2) a person or corporation that is a component member (as  
34 defined in Section 1563(b) of the Internal Revenue Code);  
35 (3) a person or corporation to or from which there is  
36 attribution of stock ownership in accordance with Section  
37 1563(e) of the Internal Revenue Code; or  
38 (4) a person, corporation, partnership, or any other pass  
39 through entity that, notwithstanding its form of organization,  
40 bears the same relationship to the taxpayer as a person or  
41 corporation described in subdivision (1), (2), or (3).

42 SECTION 4. IC 6-3-1-36 IS ADDED TO THE INDIANA CODE AS  
43 A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY

1, 2004 (RETROACTIVE)]; **Sec. 36. As used in this chapter, "related entity" means:**

**(1) a stockholder who is:**

**(A) an individual; or**

**(B) a member of the stockholder's family set forth in Section 318 of the Internal Revenue Code;**

**if the stockholder and the members of the stockholder's family directly, indirectly, beneficially, or constructively own a total of at least fifty percent (50%) of the value of the taxpayer's outstanding stock;**

**(2) a:**

**(A) stockholder; or**

**(B) stockholder's partnership, estate, trust, corporation, or other pass through entity;**

**if the stockholder and the stockholder's partnership, estate, trust, or corporation directly, indirectly, beneficially, or constructively own a total of at least fifty percent (50%) of the value of the taxpayer's outstanding stock; or**

**(3) a:**

**(A) corporation; or**

**(B) party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Internal Revenue Code;**

**if the taxpayer directly, indirectly, beneficially, or constructively owns a total of at least fifty percent (50%) of the value of the corporation's outstanding stock.**

**The attribution rules of the Internal Revenue Code apply for purposes of determining whether the ownership requirements of this definition have been met.**

SECTION 5. IC 6-5.5-1-2, AS AMENDED BY P.L.105-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (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**

- 1 taxes based on or measured by income and levied at the state  
 2 level by a state of the United States or levied at the local level  
 3 by any subdivision of a state of the United States.
- 4 (D) The amount of interest excluded under Section 103 of the  
 5 Internal Revenue Code or under any other federal law, minus  
 6 the associated expenses disallowed in the computation of  
 7 taxable income under Section 265 of the Internal Revenue  
 8 Code.
- 9 (E) An amount equal to the deduction allowed under Section  
 10 172 or 1212 of the Internal Revenue Code for net operating  
 11 losses or net capital losses.
- 12 (F) For a taxpayer that is not a large bank (as defined in  
 13 Section 585(c)(2) of the Internal Revenue Code), an amount  
 14 equal to the recovery of a debt, or part of a debt, that becomes  
 15 worthless to the extent a deduction was allowed from gross  
 16 income in a prior taxable year under Section 166(a) of the  
 17 Internal Revenue Code.
- 18 (G) ~~Add~~ The amount necessary to make the adjusted gross  
 19 income of any taxpayer that owns property for which bonus  
 20 depreciation was allowed in the current taxable year or in an  
 21 earlier taxable year equal to the amount of adjusted gross  
 22 income that would have been computed had an election not  
 23 been made under Section 168(k)(2)(C)(iii) of the Internal  
 24 Revenue Code to apply bonus depreciation to the property in  
 25 the year that it was placed in service.
- 26 **(H) An amount equal to:**
- 27 **(i) interest expenses and costs; and**
- 28 **(ii) intangible expenses and costs;**
- 29 **directly paid, accrued, or incurred to or in connection with**  
 30 **one (1) or more transactions with one (1) or more related**  
 31 **members in the taxable year.**
- 32 (2) Subtract the following amounts:
- 33 (A) Income that the United States Constitution or any statute  
 34 of the United States prohibits from being used to measure the  
 35 tax imposed by this chapter.
- 36 (B) Income that is derived from sources outside the United  
 37 States, as defined by the Internal Revenue Code.
- 38 (C) An amount equal to a debt or part of a debt that becomes  
 39 worthless, as permitted under Section 166(a) of the Internal  
 40 Revenue Code.
- 41 (D) An amount equal to any bad debt reserves that are included  
 42 in federal income because of accounting method changes  
 43 required by Section 585(c)(3)(A) or Section 593 of the Internal  
 44 Revenue Code.
- 45 (E) ~~Subtract~~ The amount necessary to make the adjusted gross

1 income of any taxpayer that owns property for which bonus  
 2 depreciation was allowed in the current taxable year or in a  
 3 earlier taxable year equal to the amount of adjusted gross  
 4 income that would have been computed had an election not  
 5 been made under Section 168(k)(2)(C)(iii) of the Internal  
 6 Revenue Code to apply bonus depreciation.

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

11 (c) In the case of an investment company, "adjusted gross income"  
 12 means the **sum of the** company's federal taxable income, **as adjusted**  
 13 **under subsection (e)**, multiplied by the quotient of:

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

18 (2) the total amount of gross payments collected during the  
 19 taxable year by the company from the business upon investment  
 20 contracts issued by the company and held by persons residing  
 21 within Indiana and elsewhere.

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

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

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

29 (A) a so-called bond;

30 (B) a share;

31 (C) a coupon;

32 (D) a certificate of membership;

33 (E) an agreement;

34 (F) a pretended agreement; or

35 (G) other evidences of obligation;

36 entitling the holder to anything of value at some future date, if the  
 37 gross payments received by the company during the taxable year  
 38 on outstanding investment contracts, plus interest and dividends  
 39 earned on those contracts (by prorating the interest and dividends  
 40 earned on investment contracts by the same proportion that  
 41 certificate reserves (as defined by the Investment Company Act  
 42 of 1940) is to the company's total assets) is at least fifty percent  
 43 (50%) of the company's gross payments upon investment  
 44 contracts plus gross income from all other sources except  
 45 dividends from subsidiaries for the taxable year. The term  
 46 "investment contract" means an instrument listed in clauses (A)

1 through (G).

2 **(e) The federal adjusted gross income of an investment**  
3 **company shall be adjusted by adding an amount equal to:**

4 **(1) interest expenses and costs; and**

5 **(2) intangible expenses and costs;**

6 **directly or indirectly paid, accrued, or incurred to or in connection**  
7 **with one (1) or more transactions with one (1) or more related**  
8 **members in the taxable year.**

9 **(f) An adjustment under subsection (a)(1)(H) or (e) is not**  
10 **required to the extent that:**

11 **(1) the taxpayer establishes by a preponderance of the**  
12 **evidence, as determined by the department, that the**  
13 **adjustment is unreasonable;**

14 **(2) the taxpayer and the department agree in writing to the**  
15 **application or use of an alternative method of**  
16 **apportionment; or**

17 **(3) the intangibles payments are being paid or incurred to a**  
18 **related member organized under the laws of a country other**  
19 **than the United States, and the other country has entered**  
20 **into a comprehensive income tax treaty with the United**  
21 **States.**

22 SECTION 6. IC 6-5.5-1-10.5 IS ADDED TO THE INDIANA CODE  
23 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
24 JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 10.5. For purposes of**  
25 **this chapter, "intangible investments" means investments in:**

26 **(1) patents;**

27 **(2) patent applications;**

28 **(3) trademarks;**

29 **(4) trade names;**

30 **(5) copyrights;**

31 **(6) similar types of intangible assets; and**

32 **(7) debt obligations of related members.**

33 SECTION 7. IC 6-5.5-1-12.5 IS ADDED TO THE INDIANA CODE  
34 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
35 JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 12.5. For purposes of**  
36 **this chapter, "related member" means, with respect to any**  
37 **taxpayer during all or any part of a taxable year an entity:**

38 **(1) that is a related entity;**

39 **(2) that is a component member (as defined in Section**  
40 **1563(b) of the Internal Revenue Code);**

41 **(3) to or from which there is attribution of stock ownership**  
42 **in accordance with Section 1563(e) of the Internal Revenue**  
43 **Code; or**

1           **(4) that, notwithstanding its form of organization, bears the**  
 2           **same relationship to the taxpayer as a person or corporation**  
 3           **described in subdivision (1), (2), or (3).**

4           SECTION 8. IC 6-5.5-1-12.6 IS ADDED TO THE INDIANA CODE  
 5 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 6 **JANUARY 1, 2004 (RETROACTIVE)]: Sec. 12.6. (a) As used in this**  
 7 **chapter, "intangible expenses and costs" includes expenses,**  
 8 **losses, and costs for, related to, or in connection directly or**  
 9 **indirectly with the direct or indirect:**

- 10           **(1) acquisition;**  
 11           **(2) use;**  
 12           **(3) maintenance or management;**  
 13           **(4) ownership;**  
 14           **(5) sale; or**  
 15           **(6) exchange;**

16 **of, or any other direct or indirect disposition of, intangible**  
 17 **investments to the extent that the amounts are allowed as**  
 18 **deductions or costs in determining taxable income before**  
 19 **operating loss deductions and special deductions for the taxable**  
 20 **year under the Internal Revenue Code.**

21           **(b) The term includes losses related to or incurred in**  
 22 **connection directly or indirectly with:**

- 23           **(1) factoring transactions;**  
 24           **(2) losses related to or incurred in connection directly or**  
 25 **indirectly with:**  
 26           **(A) discounting transactions;**  
 27           **(B) royalty, patent, technical, and copyright fees;**  
 28           **(C) licensing fees; and**  
 29           **(D) other similar expenses and costs.**

30           SECTION 9. IC 6-5.5-1-12.7 IS ADDED TO THE INDIANA CODE  
 31 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 32 **JANUARY 1, 2004 (RETROACTIVE)]: Sec. 12.7. For purposes of**  
 33 **this chapter, "interest expenses and costs" includes amounts**  
 34 **directly or indirectly allowed as deductions under Section 163 of**  
 35 **the Internal Revenue Code for purposes of determining taxable**  
 36 **income under the Internal Revenue Code.**

37           SECTION 10. IC 6-5.5-1-12.8 IS ADDED TO THE INDIANA  
 38 CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 39 **JANUARY 1, 2004 (RETROACTIVE)]: Sec. 12.8. As used in this**  
 40 **chapter, "related entity" means:**

- 41           **(1) a stockholder who is:**  
 42           **(A) an individual; or**  
 43           **(B) a member of the stockholder's family set forth in**

1           **Section 318 of the Internal Revenue Code;**  
 2           **if the stockholder and the members of the stockholder's**  
 3           **family directly, indirectly, beneficially, or constructively own**  
 4           **a total of at least fifty percent (50%) of the value of the**  
 5           **taxpayer's outstanding stock;**

6           **(2) a:**

7               **(A) stockholder; or**

8               **(B) stockholder's partnership, estate, trust, or**  
 9               **corporation;**

10           **if the stockholder and the stockholder's partnership, estate,**  
 11           **trust, or corporation directly, indirectly, beneficially, or**  
 12           **constructively own a total of at least fifty percent (50%) of**  
 13           **the value of the taxpayer's outstanding stock; or**

14           **(3) a:**

15               **(A) corporation; or**

16               **(B) party related to the corporation in a manner that**  
 17               **would require an attribution of stock from the corporation**  
 18               **to the party or from the party to the corporation under**  
 19               **the attribution rules of the Internal Revenue Code;**

20           **if the taxpayer directly, indirectly, beneficially, or**  
 21           **constructively owns a total of at least fifty percent (50%) of**  
 22           **the value of the corporation's outstanding stock.**

23           **The attribution rules of the Internal Revenue Code apply for**  
 24           **purposes of determining whether the ownership requirements of**  
 25           **this definition have been met."**

26           Page 3, line 10, delete "does" and insert "do".

27           Page 3, after line 41, begin a new paragraph and insert:

28           "SECTION 13. [EFFECTIVE JANUARY 1, 2004  
 29           (RETROACTIVE)] **The following provisions apply only to taxable**  
 30           **years beginning after December 31, 2003:**

31               **(1) IC 6-3-1-3.5, as amended by this act.**

32               **(2) IC 6-5.5-1-2, as amended by this act.**

33           **SECTION 14. An emergency is declared for this act."**

34           Renumber all SECTIONS consecutively.

(Reference is to ESB 247 as printed February 17, 2004.)

---

Representative Cochran