
HOUSE BILL No. 1273

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3-1-3.5; IC 6-5.5-1-2.

Synopsis: Taxation of eminent domain proceeds. Provides that gain attributable to the sale or condemnation of real property located in Indiana resulting from a threatened, imminent, or actual exercise of the power of eminent domain is not subject to: (1) the adjusted gross income tax; (2) the financial institutions tax; or (3) local income taxes based on adjusted gross income.

Effective: January 1, 2008.

Cherry, Wolkins

January 11, 2007, read first time and referred to Committee on Ways and Means.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1273



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, AS AMENDED BY P.L.184-2006,
2 SECTION 3, AND AS AMENDED BY P.L.162-2006, SECTION 24,
3 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JANUARY 1, 2008]: Sec. 3.5. When used in this article,
5 the term "adjusted gross income" shall mean the following:
6 (a) In the case of all individuals, "adjusted gross income" (as
7 defined in Section 62 of the Internal Revenue Code), modified as
8 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).



- 1 (4) Subtract one thousand dollars (\$1,000) for:
 2 (A) each of the exemptions provided by Section 151(c) of the
 3 Internal Revenue Code;
 4 (B) each additional amount allowable under Section 63(f) of
 5 the Internal Revenue Code; and
 6 (C) the spouse of the taxpayer if a separate return is made by
 7 the taxpayer and if the spouse, for the calendar year in which
 8 the taxable year of the taxpayer begins, has no gross income
 9 and is not the dependent of another taxpayer.
 10 (5) Subtract:
 11 (A) *for taxable years beginning after December 31, 2004*, one
 12 thousand five hundred dollars (\$1,500) for each of the
 13 exemptions allowed under Section 151(c)(1)(B) of the Internal
 14 Revenue Code *for taxable years beginning after December 31,*
 15 ~~1996~~ *(as effective January 1, 2004)*; and
 16 (B) five hundred dollars (\$500) for each additional amount
 17 allowable under Section 63(f)(1) of the Internal Revenue Code
 18 if the adjusted gross income of the taxpayer, or the taxpayer
 19 and the taxpayer's spouse in the case of a joint return, is less
 20 than forty thousand dollars (\$40,000).
 21 This amount is in addition to the amount subtracted under
 22 subdivision (4).
 23 (6) Subtract an amount equal to the lesser of:
 24 (A) that part of the individual's adjusted gross income (as
 25 defined in Section 62 of the Internal Revenue Code) for that
 26 taxable year that is subject to a tax that is imposed by a
 27 political subdivision of another state and that is imposed on or
 28 measured by income; or
 29 (B) two thousand dollars (\$2,000).
 30 (7) Add an amount equal to the total capital gain portion of a
 31 lump sum distribution (as defined in Section 402(e)(4)(D) of the
 32 Internal Revenue Code) if the lump sum distribution is received
 33 by the individual during the taxable year and if the capital gain
 34 portion of the distribution is taxed in the manner provided in
 35 Section 402 of the Internal Revenue Code.
 36 (8) Subtract any amounts included in federal adjusted gross
 37 income under Section 111 of the Internal Revenue Code as a
 38 recovery of items previously deducted as an itemized deduction
 39 from adjusted gross income.
 40 (9) Subtract any amounts included in federal adjusted gross
 41 income under the Internal Revenue Code which amounts were
 42 received by the individual as supplemental railroad retirement

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- 1 annuities under 45 U.S.C. 231 and which are not deductible under
- 2 subdivision (1).
- 3 (10) Add an amount equal to the deduction allowed under Section
- 4 221 of the Internal Revenue Code for married couples filing joint
- 5 returns if the taxable year began before January 1, 1987.
- 6 (11) Add an amount equal to the interest excluded from federal
- 7 gross income by the individual for the taxable year under Section
- 8 128 of the Internal Revenue Code if the taxable year began before
- 9 January 1, 1985.
- 10 (12) Subtract an amount equal to the amount of federal Social
- 11 Security and Railroad Retirement benefits included in a taxpayer's
- 12 federal gross income by Section 86 of the Internal Revenue Code.
- 13 (13) In the case of a nonresident taxpayer or a resident taxpayer
- 14 residing in Indiana for a period of less than the taxpayer's entire
- 15 taxable year, the total amount of the deductions allowed pursuant
- 16 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
- 17 which bears the same ratio to the total as the taxpayer's income
- 18 taxable in Indiana bears to the taxpayer's total income.
- 19 (14) In the case of an individual who is a recipient of assistance
- 20 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
- 21 subtract an amount equal to that portion of the individual's
- 22 adjusted gross income with respect to which the individual is not
- 23 allowed under federal law to retain an amount to pay state and
- 24 local income taxes.
- 25 (15) In the case of an eligible individual, subtract the amount of
- 26 a Holocaust victim's settlement payment included in the
- 27 individual's federal adjusted gross income.
- 28 (16) For taxable years beginning after December 31, 1999,
- 29 subtract an amount equal to the portion of any premiums paid
- 30 during the taxable year by the taxpayer for a qualified long term
- 31 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
- 32 taxpayer's spouse, or both.
- 33 (17) Subtract an amount equal to the lesser of:
- 34 (A) for a taxable year:
- 35 (i) including any part of 2004, the amount determined under
- 36 subsection (f); and
- 37 (ii) beginning after December 31, 2004, two thousand five
- 38 hundred dollars (\$2,500); or
- 39 (B) the amount of property taxes that are paid during the
- 40 taxable year in Indiana by the individual on the individual's
- 41 principal place of residence.
- 42 (18) Subtract an amount equal to the amount of a September 11

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terrorist attack settlement payment included in the individual's federal adjusted gross income.

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

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) Subtract an amount equal to gain included in the individual's federal adjusted gross income that is attributable to the sale or condemnation of real property located in Indiana resulting from a threatened, imminent, or actual exercise of the power of eminent domain.

(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 this article 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

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level by 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.

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

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) Subtract an amount equal to gain included in the corporation's taxable income that is attributable to the sale or condemnation of real property located in Indiana resulting from a threatened, imminent, or actual exercise of the power of eminent domain.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined

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- 1 in Section 801 of the Internal Revenue Code), adjusted as follows:
- 2 (1) Subtract income that is exempt from taxation under this article
- 3 by the Constitution and statutes of the United States.
- 4 (2) Add an amount equal to any deduction allowed or allowable
- 5 under Section 170 of the Internal Revenue Code.
- 6 (3) Add an amount equal to a deduction allowed or allowable
- 7 under Section 805 or Section 831(c) of the Internal Revenue Code
- 8 for taxes based on or measured by income and levied at the state
- 9 level by any state.
- 10 (4) Subtract an amount equal to the amount included in the
- 11 company's taxable income under Section 78 of the Internal
- 12 Revenue Code.
- 13 (5) Add or subtract the amount necessary to make the adjusted
- 14 gross income of any taxpayer that owns property for which bonus
- 15 depreciation was allowed in the current taxable year or in an
- 16 earlier taxable year equal to the amount of adjusted gross income
- 17 that would have been computed had an election not been made
- 18 under Section 168(k) of the Internal Revenue Code to apply bonus
- 19 depreciation to the property in the year that it was placed in
- 20 service.
- 21 (6) Add an amount equal to any deduction allowed under Section
- 22 172 or Section 810 of the Internal Revenue Code.
- 23 (7) Add or subtract the amount necessary to make the adjusted
- 24 gross income of any taxpayer that placed Section 179 property (as
- 25 defined in Section 179 of the Internal Revenue Code) in service
- 26 in the current taxable year or in an earlier taxable year equal to
- 27 the amount of adjusted gross income that would have been
- 28 computed had an election for federal income tax purposes not
- 29 been made for the year in which the property was placed in
- 30 service to take deductions under Section 179 of the Internal
- 31 Revenue Code in a total amount exceeding twenty-five thousand
- 32 dollars (\$25,000).
- 33 (8) Add an amount equal to the amount that a taxpayer claimed as
- 34 a deduction for domestic production activities for the taxable year
- 35 under Section 199 of the Internal Revenue Code for federal
- 36 income tax purposes.
- 37 **(9) Subtract an amount equal to gain included in the**
- 38 **company's taxable income that is attributable to the sale or**
- 39 **condemnation of real property located in Indiana resulting**
- 40 **from a threatened, imminent, or actual exercise of the power**
- 41 **of eminent domain.**
- 42 (d) In the case of insurance companies subject to tax under Section

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1 831 of the Internal Revenue Code and organized under Indiana law, the
 2 same as "taxable income" (as defined in Section 832 of the Internal
 3 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 allowed or allowable
 7 under Section 170 of the Internal Revenue Code.

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

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

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

23 (6) Add an amount equal to any deduction allowed under Section
 24 172 of the Internal Revenue Code.

25 (7) Add or subtract the amount necessary to make the adjusted
 26 gross income of any taxpayer that placed Section 179 property (as
 27 defined in Section 179 of the Internal Revenue Code) in service
 28 in the current taxable year or in an earlier taxable year equal to
 29 the amount of adjusted gross income that would have been
 30 computed had an election for federal income tax purposes not
 31 been made for the year in which the property was placed in
 32 service to take deductions under Section 179 of the Internal
 33 Revenue Code in a total amount exceeding twenty-five thousand
 34 dollars (\$25,000).

35 (8) Add an amount equal to the amount that a taxpayer claimed as
 36 a deduction for domestic production activities for the taxable year
 37 under Section 199 of the Internal Revenue Code for federal
 38 income tax purposes.

39 **(9) Subtract an amount equal to gain included in the**
 40 **company's taxable income that is attributable to the sale or**
 41 **condemnation of real property located in Indiana resulting**
 42 **from a threatened, imminent, or actual exercise of the power**

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of eminent domain.

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

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

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

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

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) Subtract an amount equal to gain included in the taxable income of the trust or estate that is attributable to the sale or condemnation of real property located in Indiana resulting from a threatened, imminent, or actual exercise of the power of eminent domain.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002,

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1 assessment date or the January 15, 2003, assessment date. The
 2 maximum amount of the deduction under subsection (a)(17) is equal
 3 to the amount determined under STEP FIVE of the following formula:

4 STEP ONE: Determine the amount of property taxes that the
 5 taxpayer paid after December 31, 2003, in the taxable year for
 6 property taxes imposed for the March 1, 2002, assessment date
 7 and the January 15, 2003, assessment date.

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

11 STEP THREE: Determine the result of the STEP ONE amount
 12 divided by the STEP TWO amount.

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

15 STEP FIVE: Determine the sum of the STEP FOUR amount and
 16 two thousand five hundred dollars (\$2,500).

17 SECTION 2. IC 6-5.5-1-2, AS AMENDED BY P.L.246-2005,
 18 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JANUARY 1, 2008]: Sec. 2. (a) Except as provided in subsections (b)
 20 through (d), "adjusted gross income" means taxable income as defined
 21 in Section 63 of the Internal Revenue Code, adjusted as follows:

22 (1) Add the following amounts:

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

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

28 (C) An amount equal to a deduction or deductions allowed or
 29 allowable under Section 63 of the Internal Revenue Code for
 30 taxes based on or measured by income and levied at the state
 31 level by a state of the United States or levied at the local level
 32 by any subdivision of a state of the United States.

33 (D) The amount of interest excluded under Section 103 of the
 34 Internal Revenue Code or under any other federal law, minus
 35 the associated expenses disallowed in the computation of
 36 taxable income under Section 265 of the Internal Revenue
 37 Code.

38 (E) An amount equal to the deduction allowed under Section
 39 172 or 1212 of the Internal Revenue Code for net operating
 40 losses or net capital losses.

41 (F) For a taxpayer that is not a large bank (as defined in
 42 Section 585(c)(2) of the Internal Revenue Code), an amount

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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.

(G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(I) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(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.

(E) The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an

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earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation.

(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(G) An amount equal to gain included in taxable income that is attributable to the sale or condemnation of real property located in Indiana resulting from a threatened, imminent, or actual exercise of the power of eminent domain.

(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:

- (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;

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1 (B) a share;
 2 (C) a coupon;
 3 (D) a certificate of membership;
 4 (E) an agreement;
 5 (F) a pretended agreement; or
 6 (G) other evidences of obligation;
 7 entitling the holder to anything of value at some future date, if the
 8 gross payments received by the company during the taxable year
 9 on outstanding investment contracts, plus interest and dividends
 10 earned on those contracts (by prorating the interest and dividends
 11 earned on investment contracts by the same proportion that
 12 certificate reserves (as defined by the Investment Company Act
 13 of 1940) is to the company's total assets) is at least fifty percent
 14 (50%) of the company's gross payments upon investment
 15 contracts plus gross income from all other sources except
 16 dividends from subsidiaries for the taxable year. The term
 17 "investment contract" means an instrument listed in clauses (A)
 18 through (G).

19 **SECTION 3. [EFFECTIVE JANUARY 1, 2008] IC 6-3-1-3.5 and**
 20 **IC 6-5.5-1-2, both as amended by this act, apply only to taxable**
 21 **years beginning after December 31, 2007.**

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