
DEPARTMENT OF STATE REVENUE

Information Bulletin #12
Income Tax
August 2011
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DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Corporate Income Taxes

REFERENCES: [IC 6-2.3](#); [IC 6-3-2](#); [IC 6-3-3](#); [IC 6-3-4](#); [IC 6-3.1](#); [IC 6-5.5-1-17](#); [IC 27-1-18-2](#)

EFFECTIVE: Upon publication

GENERAL STATEMENT

A corporation doing business or an entity subject to the utility receipts tax under [IC 6-2.3](#) in Indiana, other than a corporation defined as a taxpayer under [IC 6-5.5-1-17](#), is subject to the adjusted gross income tax.

S CORPORATION

A corporation is exempt from the corporate adjusted gross income tax if it is a corporation that is exempt from the federal income tax under Section 1363 of the Internal Revenue Code (IRC). However, the income of an S corporation that is subject to income tax under the IRC, such as excess net passive income, capital gains, and built-in capital gains, will be subject to the Indiana corporate adjusted gross income tax.

The S corporation must comply with the requirements of [IC 6-3-4-13](#) by withholding the amounts prescribed by the Department at the time it pays or credits amounts to a nonresident shareholder as dividends or as a share of the corporation's undistributed taxable income. Failure to withhold and pay the amount required will subject the corporation to a 20 percent penalty of the tax required under [IC 6-3-4-13](#) and [IC 6-8.1-10-2.1\(h\)](#).

A qualified S corporation is required to file an annual information return on Form IT-20S. The return is due on the 15th day of the 4th month following the close of its taxable year.

Beginning Jan. 1, 2008, an S corporation is required to file a composite adjusted gross income tax return on behalf of all its shareholders who are not residents of Indiana. The nonresident shareholders participating in the composite return will be relieved of the obligation to file an individual adjusted gross income tax return. The S corporation shall take credit for all withholding amounts attributed to nonresidents included in the composite return. Any overpayment or underpayment of tax shall be reconciled on Form IT-20S.

NONPROFIT ORGANIZATION

A nonprofit organization is subject to the adjusted gross income tax, unless the income is specifically exempted from taxation under the provisions of [IC 6-3-2-2.8](#) and [IC 6-3-2-3.1](#). A nonprofit organization will be subject to tax on income derived from an unrelated trade or business as defined in Section 513 of the IRC. Political organizations and homeowners organizations are not considered nonprofit organizations and therefore must file as regular corporations on Form IT-20.

INSURANCE COMPANY

A foreign insurance company (one organized under the laws of a state other than Indiana) is required by [IC 27-1-18-2](#) to pay the insurance premium tax to the Indiana Department of Insurance. Paying the premium tax exempts a foreign corporation from the adjusted gross income tax. A domestic insurance company is exempt from the adjusted gross income tax if it elects to pay the premium tax.

FINANCIAL INSTITUTIONS

Financial institutions are subject to a franchise tax under [IC 6-5.5](#) at a rate of 8.5 percent. The franchise tax extends to both resident and nonresident financial institutions and to all other corporate entities when 80 percent of gross income is derived from activities that encompass the business of a financial institution. The business of a financial institution is defined as activities authorized by the Federal Reserve Board; the making, acquiring, selling, or servicing of loans or extensions of credit; or operating a credit, debit card, or charge card business. Entities subject to this tax must file Form FIT-20. (For more information, see Commissioner's Directive #14.)

UTILITY RECEIPTS TAX

The utility receipts tax is an income tax imposed on the gross receipts from the retail sale of utility services. The tax rate is 1.4 percent. Utility services include electrical energy, natural gas, water, steam, sewage, and telecommunication services. (For further information concerning the utility receipts tax, see Commissioner's Directive #18.)

CORPORATE ADJUSTED GROSS INCOME TAX

The adjusted gross income tax rate is 8.5 percent. However, beginning July 1, 2012, the rate is reduced by one-half of one percent for each of the next four years when it will be 6.5 percent after June 30, 2015.

Indiana adjusted gross income is computed by using net federal taxable income from the federal Form 1120 with the following adjustments:

- (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 charitable contribution deduction allowed pursuant to Section 170 of the IRC.
- (3) Add an amount equal to any deduction or deductions allowed pursuant to Section 63 of the IRC for taxes based on or measured by income and levied at the state 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 IRC for dividends received from foreign corporations by domestic corporations choosing foreign tax credit.
- (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 IRC 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 IRC for a net operating loss deduction.
- (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 IRC) 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 IRC in a total amount exceeding \$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 IRC 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 IRC) for federal income tax purposes.
- (10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the IRC) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).
- (11) Subtract income that is:
 - (A) exempt from taxation under [IC 6-3-2-21.7](#); and
 - (B) included in the corporation's taxable income under the IRC.
- (12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after Dec. 31, 2008, and before Jan. 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the IRC. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after Dec. 31, 2008, and before Jan. 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the IRC.
- (13) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified

restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the IRC equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(14) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the IRC equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the IRC equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(16) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the IRC to expense costs for qualified refinery property 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.

(17) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the IRC to expense costs for a qualified film or television production 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.

(18) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 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 the loss not been treated as an ordinary loss.

(19) Add the amount deducted from gross income under Section 198 of the IRC for the expensing of environmental remediation costs.

(20) Add the amount deducted from gross income under Section 179E of the IRC for any qualified advanced mine safety equipment property.

(21) Add the amount necessary to make the adjusted gross income of any taxpayer that placed any qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(iv) of the IRC equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed into service.

(22) Add the amount necessary to make the adjusted gross income of any taxpayer that placed a motorsports entertainment complex in service during the taxable year and that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the IRC equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed into service.

(23) Add the amount deducted under Section 195 of the IRC for start-up expenditures that exceeds the amount the taxpayer could deduct under Section 195 of the IRC before it was amended by the Small Business Jobs Act of 2010 (P.L. 111-240).

(24) Add the amount excluded from federal gross income under Section 103 of the IRC for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after Dec. 31, 2011.

The nonbusiness income of a corporation is specifically allocated under [IC 6-3-2-2\(g\)](#) through (k). Nonbusiness income is only that income that is not considered business income. Business income is all income that arises from the conduct of trade or business operations of the taxpayer. For further information concerning the classification of business and nonbusiness income, refer to the annual return, its filing instructions, and the Department's regulations.

Beginning Jan. 1, 2011, a corporation that has business income from both within and outside Indiana, the corporation, other than a domestic insurance company, must apportion its income by means of the single-factor sales formula under [IC 6-3-2-2](#).

For Indiana adjusted gross income tax purposes, the term doing business generally means the operation of any business enterprise or activity in Indiana including but not limited to the following:

- Maintenance of an office, a warehouse, a construction site, or another place of business in Indiana.
- Maintenance of an inventory of merchandise or material for sale, distribution, or manufacture.
- The sale or distribution of merchandise to customers in Indiana directly from company-owned or -operated vehicles when the title of merchandise is transferred from the seller or distributor to the customer at the time of sale or distribution.
- The rendering of a service to customers in Indiana.
- The ownership, rental, or operation of business or property (real or personal) in Indiana.
- Acceptance of orders in Indiana with no right of approval or rejection in another state.
- Interstate transportation.
- Maintenance of a public utility.

The apportionment factor to be applied to a corporation's business income to determine the amount taxable by Indiana is a single factor based on receipts. For all taxable years beginning after Dec.31, 2010, Indiana's apportioned income will be determined by using only the sales factor.

The sales factor is determined by dividing the taxpayer's total Indiana sales by the taxpayer's total sales everywhere. The numerator of the sales factor includes all sales made in Indiana, sales made from Indiana to the U.S. government, and sales made from Indiana to a state that does not have jurisdiction to tax the activities of the seller. Destination sales by an Indiana seller that has activities in the state of destination, other than mere solicitation, will not be included in the numerator of the sales factor regardless of whether the destination state levies a tax. For more information on the determination of Indiana source income, see [IC 6-3-2-2](#). As used in this paragraph, the term everywhere does not include sales of a foreign corporation in a place that is outside the United States.

FILLING *[sic]* REQUIREMENTS

Annual tax returns are required under the Adjusted Gross Income Tax Act (Form IT-20). The due date for the IT-20 return is the 15th day of the 4th month following the close of the taxable year.

The Department accepts the federal extension of time applications (Form 7004), and it is not necessary to contact the Department prior to filing the annual return. A copy of the federal extension of time must be attached to the return when it is filed. When a corporation does not need a federal extension of time and one is necessary for filing the state return, a letter requesting such an extension should be submitted to the Department prior to the due date of the annual return.

An extension of time granted under [IC 6-8.1-6-1](#) waives the late payment penalty for the extension period on the balance of tax due provided 90 percent of the current year's total tax liability is paid on or prior to the original due date. Interest on the balance of tax due must be included with the return when it is filed. Interest is computed from the original due date until the date of payment. In October of each year, the Department establishes the interest rate for the next calendar year. See Departmental Notices #3 and #22 for interest rates.

SEPARATE ACCOUNTING

Indiana does not accept returns filed on a separate accounting basis without prior approval. If the apportionment provision does not fairly reflect the corporation's Indiana income, the corporation must petition the Department for permission to use an alternative method.

CONSOLIDATED REPORTING

The Adjusted Gross Income Tax Act provides for an election to file a consolidated return for a qualified affiliated group under [IC 6-3-4-14](#). To file a consolidated return for adjusted gross income tax purposes, the parent corporation must own at least 80 percent of the voting stock of each subsidiary. Each corporation in the affiliated group electing to file consolidated must be either incorporated in Indiana or be registered with the Secretary of State to do business in Indiana. The affiliated group may not include any corporation that does not have taxable income or loss derived from Indiana sources. If such an election is made for Indiana tax purposes, the Department should be notified by attaching a statement to the return that indicates those affiliated corporations electing to file a consolidated return. In addition, a worksheet must accompany the annual return supporting the consolidated adjusted gross income of the participating affiliates.

An election to file a consolidated return for Indiana purposes can be made by filing the consolidated return by the due date; if filed past the due date, a copy of the valid federal extension of time to file must be attached to the

return. An election to file a consolidated return cannot be made on a retroactive basis. Once an affiliated group elects to file consolidated for Indiana purposes, the group must follow that election for all subsequent years of filing. If the group wishes to revoke the election in a subsequent tax year, the group must obtain written permission from the Department at least 90 days prior to the due date of the return.

COMBINED REPORTING

A taxpayer may petition the Department for permission to file a combined income tax return for a tax year. However, the petition must be filed with the Department on or before 30 days after the end of the tax year for which permission is sought. The petition should be sent to the Tax Policy Division, 100 North Senate, N-280, Indianapolis, IN 46204. A timely filed petition will be granted if combined reporting will more fairly reflect the unitary group's Indiana source income. However, combined reporting is limited to the "water's-edge" of the United States.

A unitary group that has petitioned and received permission from the Department to file a combined return in Indiana may file one return for the unitary group, providing a schedule is attached showing the adjusted gross income tax due by member. In the alternative, the unitary group should file an Indiana return for each member doing business in Indiana. The taxpayer filing the combined return must petition the Department within 30 days after the end of the tax year for permission to discontinue the filing of a combined return.

ACCOUNTING PERIOD

The accounting period for the adjusted gross income tax must be the same as the accounting period adopted for federal income tax purposes.

ACCOUNTING METHODS

The Department requires use of the method of accounting used for federal income tax purposes.

ESTIMATED TAX REQUIREMENTS

A corporation whose estimated adjusted gross income tax liability exceeds \$2,500 for a taxable year must file quarterly estimated tax payments. The quarterly estimated tax payments are submitted with an appropriate Indiana voucher or by electronic funds transfer, depending on the amount of the payment due. The quarterly estimated payment must be equal to the lesser of 25 percent of the adjusted gross income tax liability for the taxable year, or the annualized income installment calculated by Section 6655(e) of the Internal Revenue Code as applied to the corporation's liability for adjusted gross income tax.

UNDERPAYMENT OF ESTIMATED TAX PENALTIES

To avoid the underpayment of estimated tax penalties, corporations are required to make quarterly payments equal to 20 percent of the final tax liability for the current year, or 25 percent of the corporation's liability for the previous tax year. The penalty on corporate adjusted gross income tax or utility receipts tax is assessed on the difference between the actual amount paid by the corporation for each quarter and 25 percent of the corporation's final adjusted gross income tax liability for the current year. For estimated payment dates, see Information Bulletin #11.

TAX CREDITS

See Information Bulletin #59 for a complete list of available credits.

SUMMARY

A corporation operating in Indiana that is not certain of its tax status should promptly apply to the Department for a determination of its status. Complete detailed information as to the corporation's operation should be submitted. All correspondence concerning the matter should be addressed to the Indiana Department of Revenue, Tax Policy Division, 100 North Senate Avenue, Room N280, Indiana Government Center North, Indianapolis, Indiana 46204-2253.

A corporation should ask for a determination of its tax status before commencing business in Indiana to avoid the possibility of costly penalties and interest charges for the delinquent filing of returns.

John Eckart
Commissioner

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