

DEPARTMENT OF STATE REVENUE

Information Bulletin #12
Income Tax
October 2015
Effective Date: January 2016
(Replaces Bulletin #12 dated July 2014)

SUBJECT: Corporate Income Tax Rate

REFERENCE: [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](#)

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 or guidance 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.

SUMMARY OF CHANGES

This bulletin has been changed from the previous version to eliminate adjustments to adjusted gross income. Clarifies that an entity subject to the utility receipts tax also is subject to the adjusted gross income tax. Lists the annual tax rate decline that is in effect for the adjusted gross income tax and the financial institutions tax. Adds the alternative method of paying estimated tax to include the annualized income installment calculation. Eliminates the option for a S corporation nonresident shareholder to opt out of the composite filing requirement. Changes the definition of business income to include all income that is apportionable to the state under the Constitution of the United States. Eliminates the throwback provision contained in [IC 6-3-2-2](#) which required income to be apportioned to Indiana if the taxpayer is not taxable in the state of the purchaser.

GENERAL STATEMENT

A corporation doing business or an entity subject to the Indiana utility receipts tax under [IC 6-2.3](#) is subject to the adjusted gross income tax. A corporation defined as a taxpayer under [IC 6-5.5-1-17](#) is not subject to the adjusted gross income tax.

I. S CORPORATIONS

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 and 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% 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.

II. NONPROFIT ORGANIZATIONS

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(a) of the IRC. Political

organizations and homeowners organizations are not considered nonprofit organizations and therefore must file as regular corporations on Form IT-20.

III. INSURANCE COMPANIES

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 department. 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. A captive insurer subject to tax under [IC 27-1-2-2.3](#) is exempt from the adjusted gross income tax.

IV. FINANCIAL INSTITUTIONS

Financial institutions are subject to a franchise tax under [IC 6-5.5](#) at the following declining rates:

CY 2014	8.0%	CY 2019	6.25%
CY 2015	7.5%	CY 2020	6.0%
CY 2016	7.0%	CY 2021	5.5%
CY 2017	6.5%	CY 2022	5.0%
CY 2018	6.5%	After CY 2022	4.9%

The franchise tax extends to both resident and nonresident financial institutions and to all other corporate entities when 80% of their 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.)

V. 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%. Utility services include electrical energy, natural gas, water, steam, sewage, and telecommunication services. Entities subject to the utility receipts tax also are subject to the corporate adjusted gross income tax unless the entity is exempt from the adjusted gross income tax under [IC 6-3](#). (For further information concerning the utility receipts tax, see Commissioner's Directive #18.)

VI. CORPORATE ADJUSTED GROSS INCOME TAX

A. Decrease in Tax Rate

Beginning July 1, 2012, the adjusted gross income tax rate is being reduced. More specifically, the following rates apply during the periods listed below:

Before July 1, 2012	8.5%
After June 30, 2012, and before July 1, 2013	8.0%
After June 30, 2013, and before July 1, 2014	7.5%
After June 30, 2014, and before July 1, 2015	7.0%
After June 30, 2015, and before July 1, 2016	6.5%
After June 30, 2016, and before July 1, 2017	6.25%
After June 30, 2017, and before July 1, 2018	6.0%
After June 30, 2018, and before July 1, 2019	5.75%
After June 30, 2019, and before July 1, 2020	5.5%
After June 30, 2020, and before July 1, 2021	5.25%
After June 30, 2021	4.9%

B. How to Determine the Tax Rate for Calendar-Year Filers and Fiscal-Year Filers Whose Tax Year Endings Are Not June 30

Pursuant to [IC 6-3-2-1\(c\)](#), the following steps must be used to determine the tax rate if a taxpayer is subject to different tax rates for a taxable period:

STEP ONE: Multiply the rate in effect before the rate change by the number of months in the taxpayer's taxable year that precede the month the rate changed.

STEP TWO: Multiply the rate in effect after the rate change by the number of months in the taxpayer's taxable year that follow the month before the rate changed.

STEP THREE: Add the amounts in STEP ONE and STEP TWO, and then divide the sum by 12.

STEP FOUR: Round the rate determined under STEP THREE to the nearest 0.01%.

C. How to Determine the Tax Rate for Short Periods and 52/53-Week Filers

For taxpayers who file on a short period or 52/53-week period basis, for whom the steps outlined previously are not appropriate, the following steps should be used to determine the tax rate if a taxpayer is subject to different tax rates for a taxable period:

STEP ONE: Multiply the tax rate in effect on June 30 of the taxable period by the number of days in the taxpayer's taxable period that occurred before July 1 of the taxable year.

STEP TWO: Multiply the tax rate in effect on July 1 of the taxable period by the number of days in the taxpayer's taxable period that occurred after June 30 of the taxable year.

STEP THREE: Add the amounts in STEP ONE and STEP TWO, and then divide the sum by the total number of days in the taxpayer's taxable year.

STEP FOUR: Round the rate determined under STEP THREE to the nearest 0.01%.

D. Computation of Indiana Adjusted Gross Income

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 deducted from gross income under Section 198 of the IRC for the expensing of environmental remediation costs.

(14) 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.

E. Allocation of Nonbusiness Income

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 is apportionable to the state under the Constitution of the United States. For further information concerning the classification of business and nonbusiness income, refer to the annual return, its filing instructions, and the department's regulations.

F. Apportionment of Business Income

A corporation, other than a domestic insurance company, that has business income from both within and outside Indiana must apportion its income by means of the single-factor receipts formula under [IC 6-3-2-2](#). A domestic insurance company apportions its income based on Indiana premiums divided by premiums everywhere.

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.

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 and sales made from Indiana to the U.S. Government. Destination sales by an Indiana seller with 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.

G. Doing Business in Indiana

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.

VII. FILING REQUIREMENTS

Annual tax returns (Form IT-20) are required under the Adjusted Gross Income Tax Act. 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). Taxpayers do not need 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. Check the box "yes" in the header of the return indicating an extension of time to file has been granted. When a corporation does not need a federal extension of time and one is necessary for filing the state return, the corporation must submit a letter to the department requesting an extension of time to file 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% 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.

VIII. 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% of the voting stock of each subsidiary. 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.

IX. 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.

X. 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 Ave., Room N248, MS# 102, 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.

XI. 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.

XII. ACCOUNTING METHODS

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

XIII. 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% 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.

XIV. UNDERPAYMENT OF ESTIMATED TAX PENALTIES

To avoid the underpayment of estimated tax penalties, corporations are required to make quarterly payments equal to 20% of the final tax liability for the current year, or 25% of the corporation's liability for the previous tax year. A taxpayer may elect to use the annualized income installment calculation in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's adjusted gross income tax liability. 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% of the corporation's final adjusted gross income tax liability for the current year. For estimated payment dates, see Information Bulletin #11.

XV. TAX CREDITS

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

XVI. 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 of 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 Ave., Room N248, MS# 102, 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.

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Commissioner

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