



Indiana Department of Revenue

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Income Tax Information Bulletin #12

Subject: Corporate Income Tax Overview

Publication Date: October 2023

Effective Date: Upon Publication

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

Replaces Bulletin #12, dated February 2020

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Summary of Changes

Other than technical, nonsubstantive changes, this bulletin has been changed to clarify the department's positions on apportionment and business/nonbusiness income, as well as to incorporate information previously found in [Tax Policy Directive #6](#). In addition, this bulletin has been changed to provide additional information related to the pass through entity tax for S corporations and to clarify that pass through entity tax and other withholding taxes are treated as estimated payments for purposes of estimated tax penalties. This bulletin has also been changed to reflect the new requirement for electronic filing and exceptions to the penalty. Finally, this bulletin has been updated to reflect the repeal of the Utility Receipts Tax.

Introduction

In general, a C corporation doing business in Indiana is subject to the adjusted gross income tax. However, a corporation defined as a taxpayer under IC 6-5.5-1-17 is not subject to the adjusted gross income tax.

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 fourth 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 included in the composite return and with no Indiana source income other than from S corporations and partnerships 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.

Effective for taxable years beginning in 2022, an S corporation can elect to be subject to Indiana pass through entity tax. If an S corporation makes an election, it must remit pass through entity tax based on its shareholders' incomes. In addition, an S corporation that does not elect to be subject to pass through entity tax may remit pass through entity tax paid by another entity (e.g., a partnership owned by an S corporation). For further information on the pass through entity tax, please refer to Income Tax Information Bulletin #72B, available at in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/.

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 Internal Revenue Code. Political organizations and homeowners' organizations are not considered nonprofit organizations and therefore must file as regular corporations on Form IT-20, though certain political organizations using the same federal identification number as a nonprofit may use the Form IT-20NP. For further information on other income tax and filing provisions pertaining to nonprofit organizations, refer to Income Tax Information Bulletin #17, available at in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/.

Insurance Companies

A foreign insurance company (one organized under the laws of a state other than Indiana) doing business in Indiana is required by IC 27-1-18-2 to pay the insurance premium tax to the

department of insurance. Paying the premium tax exempts a foreign corporation from the adjusted gross income tax on its insurance business income. 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. For further information on other income and sales tax provisions pertaining to insurance companies, refer to General Tax Information Bulletin #306, available at in.gov/dor/legal-resources/tax-library/information-bulletins/general-tax-information-bulletins/.

In addition, beginning in 2023, a nonprofit agricultural organization subject to the nonprofit agricultural organization health coverage tax may elect to be subject to adjusted gross income tax upon election by the nonprofit agricultural organization.

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 rate in effect for a taxable year is determined on the first day of the taxable year, even if the rate changes during a taxable year.

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 concerning the financial institutions tax, please refer to General Tax Information Bulletin #200, available at in.gov/dor/legal-resources/tax-library/information-bulletins/general-tax-information-bulletins/.

Utility Receipts Tax

The utility receipts tax was an income tax imposed on the gross receipts from the retail sale of utility services. 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. The tax rate is 1.4% for taxable years beginning before Jan. 1, 2021, and then 1.40% for the 2021 tax year and 1.46% for the 2022 tax year.

Effective July 1, 2022, House Enrolled Act 1002 (2022) repealed the Utility Receipts Tax and the Utility Services Use Tax. The 2022 tax year will be the last filing period for Utility Receipts Tax. The tax applies to taxable gross receipts occurring before July 1, 2022. Taxpayers subject to this tax

must file Form URT-1, Indiana Utility Receipts Tax Return, for tax year 2022. Instructions on completing Form URT-1 will be updated to reflect the repeal of this law. Although the Utility Receipts Tax is repealed, taxpayers subject to this tax must still file any past-due returns and pay taxes due to DOR. For further information concerning the utility receipts tax, please refer to General Tax Information Bulletin #201, available at in.gov/dor/legal-resources/tax-library/information-bulletins/general-tax-information-bulletins/.

Corporate Adjusted Gross Income Tax

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%

How to Determine the Tax Rate for Tax Years with Different Tax Rates

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 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%.

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 adjustments required by IC 6-3-1-3.5(b), (d), or (e), depending on the type of corporation. Though Indiana adjusted gross income includes deductions under IC 6-3-2, the

deductions allowable under IC 6-3-2 generally are **not** allowable in determining net operating losses.

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 U.S. Constitution. This provision should be interpreted such that all income earned by a business shall be presumed to be apportionable business income unless it clearly does not relate to the operation of the taxpayer's unitary business. The taxpayer's unitary business in this case is not to be confused with a unitary group, filing as a combined/unitary group, or similar concepts for affiliated companies.

Income that is derived from isolated sales, leases, assignments, licenses, and other infrequently occurring dispositions, transfers, or transactions involving property, including transactions made in the full or partial liquidation or the winding up of any portion of the taxpayer's business, is apportionable income, if the property is or was related to the taxpayer's business. Income from the licensing of an intangible asset, such as a patent, copyright, trademark, service mark, know-how, trade secrets, or the like, that was developed or acquired for use by the taxpayer in its business, constitutes apportionable income whether or not the licensing itself constituted the operation of a separate business, and whether or not the taxpayer remains in the same line of business from or for which the intangible asset was developed or acquired. Note that property may be utilized as part of a business even if that property consists of equity, debt or other contractual assets related to another business with which the taxpayer is not itself unitary.

For further information concerning the classification of business and nonbusiness income, refer to the annual return, its filing instructions, and the department's regulations.

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.

Receipts from the sale of goods are apportioned based on a single-factor sales approach. The sales factor is determined by dividing the taxpayer's total Indiana receipts by the taxpayer's total receipts 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 to a purchaser outside Indiana (other than the U.S. Government) will not be included in the numerator of the sales factor. For more information on the determination of Indiana source income, please refer to IC 6-3-2-2 and IC 6-3-2-2.2. As used in this paragraph, the term everywhere does not include sales of a foreign corporation in a place that is outside the U.S.

For tax years ending before Jan. 1, 2019, receipts from the provision of services and most intangible personal property are apportioned to Indiana if the greater portion of the income-

producing activity is performed in Indiana than in any other state, based on the cost of performance.

For tax years beginning after Dec. 31, 2018, receipts from the provision of services and most intangible personal property, other than telecommunications and broadcast services, are apportioned based on the extent the market for those sales were in Indiana. (For more detail on how the market for receipts from the provision of services is determined, please refer to IC 6-3-2-2.)

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 not precluded by the U.S. Constitution and/or federal law (e.g., P.L. 86-272), 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.

Effective for tax years beginning on or after Jan. 1, 2019, income derived from Indiana shall be taxable to the fullest extent permitted by the U.S. Constitution and federal law, regardless of whether the taxpayer has a physical presence in Indiana. Subject to the limitations of P.L. 86-272, taxpayers may incur a filing obligation based on an economic presence in Indiana. The economic presence in Indiana must be more than of a de minimis nature.

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 fifth month following the close of the taxable year.

The department accepts the federal extension of time application (Form 7004). Taxpayers do not need to contact the department prior to filing the annual return if the taxpayer requests a federal extension. 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 or electronically via

INTIME at intime.dor.in.gov/eServices/, 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 and the balance of tax and interest due is paid on or before the extended 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. Please refer to Departmental Notice #3 for interest rates, available at in.gov/dor/legal-resources/tax-library/. For taxable years ending after Dec. 31, 2021, Form IT-20 generally must be filed electronically if the taxpayer has federal gross income of \$1 million or more. The amount of gross income is based on Line 10 of the federal Form 1120 and is determined before allocation and apportionment. The statutory requirement includes amended returns in addition to originally-filed returns. The penalty for failure to file an IT-20 electronically when required to do so is 10% of the adjusted gross income tax reported on the IT-20.

The requirement to file electronically does not apply if:

- (1) for taxable years beginning in 2021 or 2022, the corporation is using software that was not approved by the department for electronic filing prior to publication of this bulletin;
- (2) the department does not accept an attempted electronic filing from the corporation;
- (3) the department requests that a return be filed on paper;
- (4) the corporation is filing a return that has a calculation or other required information that requires an attachment other than a form or schedule prescribed by the department;
- (5) the corporation is filing an IT-20NP or FIT-20; or
- (6) the corporation is filing an amended IT-20. The department is authorized to impose a penalty in this situation but at this time will not impose the penalty.

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, members included must meet the definition of an "affiliated group" as provided in IRC § 1504. 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 request written permission from the department's Tax Policy Division at least 90 days prior to the due date of the return. A request should be mailed or electronically submitted to the department in the manner described in the Requests for Alternative Apportionment section below.

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's Tax Policy Division for permission to use an alternative method. A request should be mailed or electronically submitted to the department in the manner described in the Requests for Alternative Apportionment section below.

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 department in the manner described in the Requests for Alternative Apportionment section below. A timely filed petition will be granted if combined reporting will more fairly reflect the unitary group's Indiana source income.

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 regardless of whether the combined return was filed pursuant to a prior petition.

The basic premise in filing combined/unitary returns is that all activities carried on by separate entities are part of a single unitary business. The department follows the decision of the California State Board of Equalization in the *Appeal of Finnigan Corporation* ("Finnigan"), Cal. St. Board of Equal., Jan 24, 1990 (88-SBE-022A). This decision only applies to corporations who file combined tax returns in Indiana and does not apply to corporations filing consolidated returns in Indiana.

Under *Finnigan*, the Indiana sales of all corporations within a unitary group will be taken into account in apportioning unitary business income to Indiana. This includes sales attributable to entities that are not subject to Indiana taxation under 15 USC Section 381 (P.L. 86-272). The total business income apportioned to Indiana will then be assigned among the individual corporations taxable in Indiana. Each taxable corporation is assigned a share of the business income according

to its relative share (its percentage share without considering the nontaxable members' share) of the unitary groups' Indiana sales factors.

Example: Corporations A, B, C and D are engaged in a unitary business. Corporations A, C and D are taxable by Indiana, but Corporation B is exempt from taxation in Indiana under P.L. 86-272.

The basic computation necessary to determine the amounts of income apportioned from Indiana sources attributable to Corporations A, C, and D are reflected below:

Combined Apportionable Business Income

	Corp A	Corp B	Corp C	Corp D	Combined
Adjusted Gross Income	150,000	1,600,000	100,000	100,000	1,950,000

Apportionment Factor (All figures in \$1,000's)

	Total Everywhere	Corp A	Within Indiana Corp B	Corp C	Corp D	Total Indiana
Sales	114,500	3,500	10,000	2,000	500	16,000

Combined Indiana Apportionment Formula

Sales Percentage	3.06	8.73	1.75	.44	13.98
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Business Income Apportioned to Indiana

13.98% times 1,950,000 272,610.00

Requests for Alternative Apportionment and Filing

Corporations may petition the department if allocation and apportionment provisions of the Indiana income tax code do not fairly represent the taxpayer's income derived from sources within the state of Indiana.

A taxpayer may petition the department for, with respect to all or any part of the taxpayer's business activity, any of the following alternative methodologies:

- separate accounting;
- the inclusion of one or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or
- the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income, including permission to file a combined income tax return for a taxable year or years.

As part of the request, the taxpayer should provide information regarding how the standard apportionment regime does not fairly reflect Indiana-source income and how the alternative approach more fairly reflects Indiana-source income. In addition, if the request relates to the apportionment or allocation of income to Indiana, the department will request information regarding the taxpayer's apportionment and allocation to other jurisdictions.

A taxpayer petitioning for, or the department requiring, the use of an alternative method to effectuate an equitable allocation and apportionment of the taxpayer's income bears the burden of proof that the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within Indiana and that the alternative method to the allocation and apportionment provisions of the Indiana income tax code is reasonable.

Please send requests to file using alternative apportionment, which includes filing a combined return, to the Tax Policy Division at taxpolicy@dor.in.gov or the following address:

Tax Policy Division
Indiana Department of Revenue
100 N. Senate Ave., Room N248, MS# 102
Indianapolis, IN 46204

A request may also be submitted using the following link: intime.dor.in.gov/eServices/.

If the department grants permission to use an alternative reporting methodology, it will do so in writing. Any approved alternative reporting methodology will still be subject to future verification by the department. If the department finds that the approved alternative reporting methodology no longer fairly reflects Indiana-sourced income, the department may revoke the granting of alternative reporting methodology.

If the alternative filing methodology no longer fairly reflects Indiana sourced income due to a change in facts or law, the department may revoke the grant for any open periods after such change. However, if a revocation of an alternative filing methodology occurs for taxable years prior to the revocation, the taxpayer will be considered to have acted with reasonable care if the taxpayer acted in compliance with the alternative reporting methodology prior to its revocation.

If the department finds that the taxpayer misrepresented or failed to disclose facts material to the department's decision to grant the alternative reporting methodology, then the department may revoke the granting of alternative apportionment and impose such amounts of tax, interest, and penalties that would otherwise be due.

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% 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. A failure to make an estimated payment required to be made by electronic funds transfer will be considered as not being made prior to the due date for purposes of the penalty under IC 6-3-4-4.1.

If the corporation has taxes withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15, or has pass through entity tax under IC 6-3-2.1 paid on its behalf, those taxes will be treated as estimated taxes paid. In the absence of additional information such as income annualization applicable to the pass through entity, these payments will be considered to be made evenly for each quarter.

Underpayment Of Estimated Tax Penalties

To avoid the underpayment of estimated tax penalties, corporations are required to make quarterly payments equal to 25% of the final tax liability for the current year, or 25% of the corporation's liability for the previous tax year. A corporation subject to adjusted gross income tax 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 in lieu of the standard 25% of the prior-year or current-year liability. The penalty on corporate adjusted gross income 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, please refer to Income Tax Information Bulletin #11, available at in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/.

Tax Credits

Please refer to Income Tax Information Bulletin #59 for a complete list of available credits, available at in.gov/dor/legal-resources/tax-library/information-bulletins/income-tax-information-bulletins/.

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 department in the manner described in the Requests for Alternative Apportionment section above.

A corporation should request 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.

If you have any questions concerning this bulletin, contact the Tax Policy Division at taxpolicy@dor.in.gov.

A handwritten signature in black ink, reading "Robert J. Grennes, Jr." in a cursive style.

Robert J. Grennes, Jr.
Commissioner
Indiana Department of Revenue