

**2008 SYNOPSIS
OF LEGISLATION
AFFECTING THE
INDIANA DEPARTMENT
OF REVENUE**

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2008 ENROLLED ACTS

SENATE BILLS

SB 28, SECTION 1, IC 22-14-7 [EFFECTIVE UPON PASSAGE] provides that beginning July 2009 all cigarettes must be tested and certified for fire safety. The Department may inspect markings on the cigarette packaging to ensure that they have been tested and certified for fire safety. Cigarettes that are sold or offered for sale that do not comply with the performance measures are subject to forfeiture. Cigarettes that are seized by a law enforcement officer or the state fire marshal shall be turned over to the Department to be destroyed.

SB 190, SECTION 24, IC 6-2.5-7-5.5 [EFFECTIVE JULY 1, 2008] changes an internal reference to reflect a change due to a recodification of the statute concerning agricultural commodities.

SB 223, SECTION 1, IC 6-3.1-29-19 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] allows non Indiana coal to be used in a coal gasification power plant if the taxpayer certifies to the Indiana Economic Development Corporation (IEDC) that partial use of other coal will result in lower rates for Indiana retail utility customers.

SB 233, SECTION 1, IC 6-2.5-1-16.2 [EFFECTIVE JANUARY 1, 2009] defines digital audio works as the fixation of a series of musical, spoken or other sounds, including ring tones.

SECTION 2, IC 6-2.5-1-16.3 [EFFECTIVE JANUARY 1, 2009] defines digital audiovisual works as a series of related images that, when shown in succession, impart an impression of motion.

SECTION 3, IC 6-2.5-1-16.4 [EFFECTIVE JANUARY 1, 2009] defines digital books as works that are generally recognized as books.

SECTION 4, IC 6-2.5-1-18 [EFFECTIVE UPON PASSAGE] adds repair and replacement parts as components used in conjunction with durable medical equipment.

SECTION 5, IC 6-2.5-1-26.5 [EFFECTIVE JANUARY 1, 2009] defines specified digital products as digital audio works, digital audio visual works, and digital books.

SECTION 6, IC 6-2.5-4-16 [EFFECTIVE JANUARY 1, 2009] provides that when a person transfers specified digital products to an end user, the person is a retail merchant making a retail transaction that is subject to sales tax. An end user does not include a person who receives a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing distribution, or exhibition of a product to another person.

SECTION 7, IC 6-2.5-13-1 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that until December 31, 2009, sourcing of floral orders transmitted to another florist for delivery is sourced to the location of the florist that originally takes the floral order from the purchaser.

HOUSE BILLS

HB 1001, SECTION 22, IC 4-35-8-3 [EFFECTIVE JANUARY 1, 2009] provides that the tax revenue from the slot machines at horse race tracks will be deposited in the state general fund instead of the property tax reduction trust fund, which has been eliminated. SECTION 310, IC 6-2.5-2-2 [EFFECTIVE APRIL 1, 2008] increases the sales tax rate from 6% to 7%, and lists the amount of tax to be collected for transactions that are less than \$1.07.

SECTION 311, IC 6-2.5-6-7 [EFFECTIVE APRIL 1, 2008] requires a retail merchant to pay to the Department 7% of the retail merchant's gross retail income.

SECTION 312, IC 6-2.5-6-8 [EFFECTIVE APRIL 1, 2008] provides that a retail merchant's income exclusion ratio is the total gross retail income from transactions that are less than \$.08 divided by the total gross retail income for the tax year from all retail transactions.

SECTION 313, IC 6-2.5-6-10 [EFFECTIVE APRIL 1, 2008] for reporting periods beginning after June 30, 2008, the collection allowance is reduced to: 0.73% if the annual sales tax liability is less than \$60,000; 0.53% if the annual sales tax liability is greater than \$60,000 and less than \$600,000; and 0.26% if the annual sales tax liability exceeds \$600,000.

SECTION 314, IC 6-2.5-7-3 [EFFECTIVE APRIL 1, 2008] increases the sales tax rate to 7% when it is applied against the price of gasoline before the addition of state and federal taxes.

SECTION 315, IC 6-2.5-7-5 [EFFECTIVE APRIL 1, 2008] provides that when a retail merchant reports the sales tax for the sales of gasoline, in order to determine the amount of sales tax to be reported, the retail merchant shall multiply the gross receipts by 6.54%. Gross receipts includes the sales tax, but excludes state and federal gasoline and special fuel taxes.

SECTION 316, IC 6-2.5-8-1 [EFFECTIVE JULY 1, 2008] makes a technical change concerning reporting to the county assessor if there is no township assessor.

SECTION 317, IC 6-2.5-10-1 [EFFECTIVE MAY 1, 2008] changes the distribution of the sales tax to provide the following deposits of sales tax revenue: 99.178% to the general fund; 0.67% to the public mass transportation fund; 0.029% to the industrial rail service fund; and 0.123% to the commuter rail service fund.

SECTION 318, IC 6-3-2-6 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] increases the renter's income tax deduction from \$2,500 to \$3,000.

SECTION 319, IC 6-3-4-4.1 [EFFECTIVE JANUARY 1, 2009] provides that an individual filing an estimated tax return must designate an amount that represents state adjusted gross income tax liability, and an amount that represents estimated local option income tax liability.

SECTION 320, IC 6-3-4-15.7 [EFFECTIVE JANUARY 1, 2009] requires a person that requests withholding of adjusted gross income tax from an annuity, pension, or retirement plan shall designate the amount that represents state adjusted gross income tax and the amount that represents local option income tax. The Department is required to adopt guidelines to assist taxpayers in making the required designations.

SECTION 321, IC 6-3-4-16 [EFFECTIVE JULY 1, 2008] provides for individual income tax returns filed after December 31, 2010, the Department will implement a system of crosschecks between the employer W-2 forms and the individual taxpayer's W-2 forms.

SECTION 322, IC 6-3-4-17 [EFFECTIVE JULY 1, 2008] provides that after December 31, 2010, the Department and the Office of Management and Budget shall develop a quarterly report that summarizes the amount reported to and processed by the Department for individual estimated tax and monthly withholding by employers for each county. The report shall be distributed to the county auditors within 45 days after the end of the calendar quarter.

SECTION 323, IC 6-3-7-3 [EFFECTIVE JANUARY 1, 2009] provides that 100% of the individual income tax will be deposited in the state general fund.

SECTION 324, IC 6-3.1-11-19 [EFFECTIVE JULY 1, 2008 (RETROACTIVE)] makes a technical change to the industrial recovery site tax credit repealing the language concerning the property tax credit for inventory.

SECTION 325, IC 6-3.1-21-6 [EFFECTIVE JANUARY 1, 2009] increases the earned income tax credit from 6% of the federal credit to 9% of the federal credit.

SECTION 327, IC 6-3.5-1.1-9 [EFFECTIVE JULY 1, 2008] requires the budget agency to provide to a county council a summary of calculations concerning the amount of CAGIT reported on individual income tax returns processed by the Department during the previous fiscal year, adjustments for over distributions in prior years, adjustments for clerical or mathematical errors in prior years, adjustments for tax rate changes, and the amount of the excess account balances to be distributed.

SECTION 330, IC 6-3.5-1.1-18 [EFFECTIVE JANUARY 1, 2009] requires employers to report the amount of county tax attributable to each county each time the employer remits the tax withheld.

SECTION 332, IC 6-3.5-1.1-25 [EFFECTIVE JULY 1, 2008] provides that if a county adopts a rate of 0.25% for levy relief and property tax replacement credits combined or singly, the county can adopt a rate not to exceed 0.25% for public safety.

SECTION 333, IC 6-3.5-1.1-26 [EFFECTIVE UPON PASSAGE] authorizes Lake County to adopt CAGIT for property tax levy reduction or property tax replacement credits. The tax revenue can be: distributed to a municipality based on the tax collected from the taxpayers located in the municipality; and if it is collected from taxpayers in an unincorporated area, the revenue shall be distributed to the unincorporated area of the county and used for property tax replacement credits. The Lake County revenue can also be split so that 60% is used for property tax replacement credits and 40% is used for levy reduction.

SECTION 338, IC 6-3.5-6-17 [EFFECTIVE JULY 1, 2008] requires the budget agency to provide to a county council a summary of calculations concerning the amount of COIT reported on individual income tax returns processed by the Department during the previous fiscal year, adjustments for over distributions in prior years, adjustments for clerical or mathematical errors in prior years, adjustments for tax rate changes, and the amount of the excess account balances to be distributed.

SECTION 340, IC 6-3.5-6-22 [EFFECTIVE JANUARY 1, 2009] requires employers to report the amount of county tax attributable to each county each time the employer remits the tax withheld.

SECTION 342, IC 6-3.5-6-31 [EFFECTIVE JULY 1, 2008] provides that if a county adopts a rate of 0.25% for levy relief and property tax replacement credits combined or singly, the county can adopt a rate not to exceed 0.25% for public safety.

SECTION 343, IC 6-3.5-6-32 [EFFECTIVE UPON PASSAGE] authorizes Lake County to adopt COIT for property tax levy reduction or property tax replacement credits. The tax revenue can be: distributed to a municipality based on the tax collected from the taxpayers located in the municipality; and if it is collected from taxpayers in an unincorporated area, the revenue shall be distributed to the unincorporated area of the county and used for property tax replacement credits. The Lake County revenue can also be split so that 60% is used for property tax replacement credits and 40% is used for levy reduction.

SECTION 345, IC 6-3.5-7-11 [EFFECTIVE JULY 1, 2008] requires the budget agency to provide to a county council a summary of calculations concerning the amount of CREDIT reported on individual income tax returns processed by the Department during the previous fiscal year, adjustments for over distributions in prior years, adjustments for clerical or mathematical errors in prior years, adjustments for tax rate changes, and the amount of the excess account balances to be distributed.

SECTION 348, IC 6-3.5-7-18 [EFFECTIVE JANUARY 1, 2009] requires employers to report the amount of county tax attributable to each county each time the employer remits the tax withheld.

SECTION 358, IC 6-8.1-1-1 [EFFECTIVE JANUARY 1, 2009] repeals the reference to the municipal option income tax in the listed taxes.

SECTION 359, IC 6-8.1-7-1 [EFFECTIVE JULY 1, 2008] changes a reference from the county office of family and children to the local office of the division of family resources.

SECTION 828, NONCODE [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides an income tax deduction for property taxes paid in 2008 that would have been due in 2007, if the county had sent the bills out in a timely manner. The amount of the deduction is the amount of property taxes paid in 2008, less any amount paid in 2007 for 2007 that were not due until 2008.

SECTION 845, NONCODE [EFFECTIVE APRIL 1, 2008] provides that the change in the collection allowance will apply to reporting periods beginning after June 30, 2008. This SECTION also provides that transactions will be considered as having occurred after March 31, 2008 to the extent delivery of the property to the purchaser is made after that date. A transaction will be considered as having occurred before April 1, 2008 to the extent that an agreement of the parties was entered into before April 1, 2008, and payment for the property furnished in the transaction is made before April 1, 2008, even if delivery occurs after March 31, 2008. With respect to utility services including satellite and cable television transactions for which the charges are collected upon original statements and billings dated after April 30, 2008 shall be considered as having occurred after March 31, 2008.

SECTION 846, NONCODE [EFFECTIVE UPON PASSAGE] extends the dates for adoption and implementation of LOIT rates in 2008 to be used for property tax relief, levy limits and public safety. The following chart provides the dates for adoption and implementation of the tax rates:

ADOPTION	IMPLEMENTATION
Before Oct. 1, 2008	Oct. 1, 2008

Oct. 1 to Oct. 15, 2008
Oct. 16 to Nov. 15, 2008
Nov. 16 to Dec. 31, 2008

Nov. 1, 2008
Dec. 1, 2008
Jan. 1, 2009

HB 1010, SECTION 9, [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] extends the deadlines for imposition of CAGIT and COIT to December 31, 2007 from the original deadline of August 1, 2007, depending on the date the ordinance is adopted if it is adopted after August 1, 2007.

HB 1125, SECTION 7, IC 6-2.3-3-5 [EFFECTIVE UPON PASSAGE] provides that the sale of natural gas to a generator of electricity for use by the purchaser in generating electricity for resale is exempt from the utility receipts tax and the utility services use tax. SECTION 8, IC 6-2.5-4-16 [EFFECTIVE JULY 1, 2008] provides that the sales tax only applies to the rental of an aircraft and not to the cost of flight instruction when a person rents an aircraft used in conjunction with flight instruction services.

SECTION 9, IC 6-2.5-5-41 [EFFECTIVE JULY 1, 2008] provides that the sales tax exemption for media production expenditures is extended until December 31, 2011.

SECTION 10, IC 6-2.5-6-1 [EFFECTIVE JANUARY 1, 2009] provides that if a retail merchant's annual sales tax liability is less than \$1,000, the retail merchant is only required to file an annual return. A person that remits sales tax by electronic funds transfer is required to file a monthly return instead of a quarterly recap.

SECTION 11, IC 6-3-1-3.5 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the federal tax rebate distributed in 2008 will not be considered as adjusted gross income in Indiana.

SECTION 12, IC 6-3-1-11 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the definition of Indiana adjusted gross income is amended to coincide with the federal definition used in the Internal Revenue Code.

SECTION 13, IC 6-3-3-12 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that if a person makes a nonqualified withdrawal from a 529 savings account, and is not required to file an annual Indiana income tax return, the Department has the authority to issue a demand notice to the person. This section also provides that a withdrawal from the college choice 529 education savings plan transferred to another qualified tuition program is a nonqualified withdrawal.

SECTION 14, IC 6-3-4-1.5 [EFFECTIVE JANUARY 1, 2009] provides that a professional preparer is not required to file a return in an electronic format if the taxpayer requests in writing that the return not be filed electronically. After December 31, 2010, a professional preparer that does not comply with electronic filing procedures will be subject to a penalty of \$50 for each return not filed in an electronic format with a maximum penalty of \$25,000 per year.

SECTION 15, IC 6-3-4-4.1 [EFFECTIVE JANUARY 1, 2009] provides that an estimated tax payment made by a nonresident alien must be computed by applying only one personal exemption regardless of the total number of exemptions the person may claim on the taxpayer's annual return.

SECTION 16, IC 6-3-4-8 [EFFECTIVE JANUARY 1, 2009] provides that an employer withholding taxes for a nonresident alien is required to limit the number of exemptions claimed to one per employee.

SECTION 17, IC 6-3.1-21-6 [EFFECTIVE JANUARY 1, 2009] provides that a nonresident taxpayer claiming the earned income tax credit is required to apportion the amount of the credit on the same basis that Indiana income is apportioned.

SECTION 18, IC 6-3.1-32-9 [EFFECTIVE JULY 1, 2008] provides that the media production income tax credit is limited to \$5,000,000 for all taxpayers in a state fiscal year.

SECTION 19, IC 6-3.1-32-11 [EFFECTIVE JULY 1, 2008] provides that if a taxpayer has more than \$6,000,000 in qualified media production expenditures, the Indiana Economic Development Corporation determines the amount of credit that the taxpayer is eligible to claim within the \$5,000,000 limitation established for all taxpayers.

SECTION 20, IC 6-3.1-32-13 [EFFECTIVE JULY 1, 2008] provides that the maximum movie production tax credit that can be claimed for projects approved by the Indiana Economic Development Corporation is eliminated, because of the total limitation of \$5,000,000 for all projects.

SECTION 22, IC 6-6-5.1 [EFFECTIVE JANUARY 1, 2009] creates an excise tax on recreational vehicles and truck campers. The excise tax replaces the personal property tax that the owner of these vehicles is required to pay.

SECTION 23, IC 6-7-1-17 [EFFECTIVE JULY 1, 2008] provides that a cigarette distributor must be current on all listed taxes to have the distributor's license issued or renewed. If a distributor is purchasing cigarette stamps on credit, the payment shall be made by electronic funds transfer.

SECTION 24, IC 6-8-12-1 [EFFECTIVE JULY 1, 2008] provides that the NCAA is added to the NFL as an eligible entity to receive tax incentives if Indianapolis hosts a qualified event.

SECTION 25, IC 6-8-12-2 [EFFECTIVE JULY 1, 2008] provides that the Men's or Women's Final Four is added to the Super Bowl as eligible qualified events for which the state will provide tax incentives.

SECTION 26, IC 6-8-12-3 [EFFECTIVE JULY 1, 2008] provides that salaries and wages paid to employees of the NCAA that are normally subject to adjusted gross income tax will continue to be subject to adjusted gross income tax even if the salaries and wages are paid in connection with an NCAA Final Four event.

SECTION 27, IC 6-8.1-1-1 [EFFECTIVE JANUARY 1, 2009] adds the RV excise tax as a listed tax.

SECTION 28, IC 6-8.1-5-2 [EFFECTIVE JANUARY 1, 2009] provides that if a person fails to pay the RV excise tax the person is considered to have failed to file a return for purposes of penalties imposed by the Department.

SECTION 29, IC 6-8.1-7-1 [EFFECTIVE JANUARY 1, 2009] provides that the Department can release information to the BMV concerning evasion of the RV excise tax if the information is used for enforcement and collection purposes. Confidential information may be revealed upon request from the chief law enforcement officer of a state or local law enforcement agency, when the information is to be kept confidential and used for official purposes.

SECTION 30, IC 6-8.1-9-1 [EFFECTIVE JANUARY 1, 2009] changes a reference to an internal code cite.

SECTION 31, IC 6-8.1-10-3.5 [EFFECTIVE JANUARY 1, 2009] provides that if a person fails to file an individual income tax return where no remittance is due, the person

is subject to a penalty of \$10 per day for each day the return is late, to a maximum of \$500.

SECTION 32, IC 6-8.1-10-4 [EFFECTIVE JANUARY 1, 2009] provides that if a person fails to pay the RV excise tax, the person commits a Class A misdemeanor.

SECTION 33, IC 6-8.1-10-5 [EFFECTIVE JULY 1, 2008] provides that a person who makes a payment by credit card, debit card, or EFT where the payment is not honored when presented through normal banking channels, the person is subject to the same penalties as a taxpayer whose check payment is not honored by a financial institution.

SECTION 62, NONCODE [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the provision to update the Indiana Code to coincide with the Internal Revenue Code takes effect for taxable years beginning after December 31, 2007.

SECTION 63, NONCODE [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the definition of Indiana adjusted gross income contained in IC 6-3-1-3.5 takes effect for taxable years beginning after December 31, 2007.

SECTION 77, NONCODE [EFFECTIVE JANUARY 1, 2009] provides that estimated tax payments computed by nonresident aliens allowing for one personal exemption, and employers withholding adjusted gross income tax from nonresident aliens allowing for one personal exemption when calculating the amount of tax to be withheld applies to taxable years beginning after December 31, 2008.

SECTION 78, NONCODE [EFFECTIVE JANUARY 1, 2009] provides that for reporting periods beginning after December 31, 2008, a retail merchant whose annual sales tax liability that is less than \$1,000 is only required to file an annual return.

SECTION 79, NONCODE [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the amendments to the college choice 529 education savings plan income tax credit apply to taxable years beginning after December 31, 2007.

SECTION 80, NONCODE [EFFECTIVE JANUARY 1, 2009] provides that the amendments concerning the ability of a taxpayer to opt out of electronic filing when the return is completed by a professional preparer applies to returns filed after December 31, 2008.

SECTION 81, NONCODE [EFFECTIVE JANUARY 1, 2009] provides that the increase in the earned income tax credit, and the penalty for an individual who fails to file a return even if no remittance is due, applies to taxable years beginning after December 31, 2008.

HB 1137, NUMEROUS SECTIONS, [EFFECTIVE UPON PASSAGE] makes technical corrections and corrects internal code cites within various provisions of Title 6.

HB 1153, SECTION 13, IC 4-36 [EFFECTIVE JULY 1, 2008] authorizes taverns to sell pull tabs, tip boards, punchboards, and conduct raffles. Taverns, manufacturers and distributors are required to be licensed by the alcohol and tobacco commission before they can conduct gaming or sell gaming equipment. Applicants for a license must receive a tax clearance from the Department and may not be on the most recent tax warrant list. An excise tax is imposed on the distribution of gambling games in the amount of 10% of the price paid by the retailer that purchases the games. The entity distributing the pull tabs, punchboards, or tip boards is liable for the tax.

The Department will establish procedures for the distributor to account for the amount of tax collected, the number of games sold, the receipts for the sale of the games, and the

address of each retailer that purchased games from the distributor in the previous calendar month. All taxes are required to be remitted on a monthly basis. The Department shall prescribe the forms and reports required to be filed, and the contents of the reports. The Department is authorized to audit a licensee at any time. The Department shall deposit all taxes in the general fund.

SECTION 14, IC 6-2.5-5-43 [EFFECTIVE JULY 1, 2008] provides that the sale of gambling games to taverns are exempt from the sales tax.

SECTION 15, IC 6-8.1-1-1 [EFFECTIVE JULY 1, 2008] provides that the type II gambling game excise tax is a listed tax.

HB 1219, SECTION 1, IC 6-8.1-8-8.7 [EFFECTIVE MARCH 15, 2008, (RETROACTIVE)] provides that any person acting on behalf of the Department is not liable for any action taken in good faith to collect the Department's levy unless the action is contrary to the Department's direction, or the person acts with deliberate ignorance or disregard of the truth.

HB 1250, SECTION 3, IC 6-9-40 [EFFECTIVE UPON PASSAGE] authorizes Steuben County to adopt an ordinance to impose a 1% food and beverage tax. The tax is effective after the last day of the month that succeeds the month in which the ordinance was adopted. Half of the revenue will be distributed to the city of Angola, and the remainder is to be used by the county. The revenue from the tax can be used for infrastructure improvements, park and recreation improvements, police and law enforcement purposes and bond obligations for any infrastructure improvements.

HB 1341, SECTION 8, IC 6-3-2-13 [EFFECTIVE JULY 1, 2008] changes the reference to the port commission to the ports of Indiana within the maritime opportunity district tax deduction.

HB 1388-2007, VETO OVERRIDE, SECTION 1, IC 6-2.5-5-41 [EFFECTIVE JULY 1, 2008] amends the sales tax exemption for motion pictures to eliminate the definition of a motion picture and insert the term "qualified media production", which includes a feature length film, television series, digital media production, audio recording or music video, advertising message broadcast on radio or television. The definition does not include television coverage of the news or a sporting event. The amendment also provides that an expenditure is not eligible for the sales tax exemption if the expenditure qualifies for and is used to claim an income tax credit.

SECTION 2, IC 6-3.1-32 [EFFECTIVE JULY 1, 2008] creates a media production expenditure income tax credit. A qualified media production includes a feature length film, music video, television series, digital media production, and an advertising message broadcast on television or radio. The definition does not include television coverage of the news or an athletic event. Expenses that qualify for the credit include: salaries and wages to Indiana residents, costs for a story, costs for locations, sets, and wardrobes, editing costs, facility and equipment rental, food and lodging, and legal services. Qualified expenses do not include payments of wages and salaries to a director, producer, screenwriter, or an actor unless the individual is a resident of Indiana.

Qualified expenditures that are at least \$100,000 for a movie or television series, or \$50,000 for any other type of media production are entitled to a refundable tax credit. If the total qualified production expenditures are less than \$6,000,000 in a taxable year, the income tax credit is 15% of the qualified expenditures. If the total qualified production expenditures exceed \$6,000,000 in a taxable year, the amount of the credit is a percentage determined by the Indiana Economic Development Corporation multiplied by the amount of qualified production expenditures in the taxable year. A taxpayer that is going to claim a credit must, before making the qualified production expenditures, apply to the IEDC for approval of the tax credit. The maximum amount of tax credits that may be approved by the IEDC may not exceed \$5,000,000 in a taxable year for all taxpayers. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the taxpayer is entitled to a refund of the excess.

A taxpayer receiving the credit must file a tax return for the first 5 years that the taxpayer has income from the qualified media production for which the tax credit was granted. Income from the qualified media production is apportioned to Indiana based on the income of the corporation multiplied by a percentage equal to the amount of qualified expenditures for which the tax credit was granted, divided by the total production expenditures for the qualified media production.

The credit cannot be awarded for any taxable year beginning after December 31, 2011.

NOTE: IC 6-3.1-32 was also amended by HEA 1125-2008 SECTIONS 18, 19, and 20.

TAXES AFFECTED BY CODE CITE

UTILITY RECEIPTS TAX (IC 6-2.3)

IC 6-2.3-3-5 [EFFECTIVE UPON PASSAGE] provides that the sale of natural gas to a generator of electricity for use by the purchaser in generating electricity for resale is exempt from the utility receipts tax and the utility services use tax.

SALES AND USE TAX (IC 6-2.5)

IC 6-2.5-1-16.2 [EFFECTIVE JANUARY 1, 2009] defines digital audio works as the fixation of a series of musical, spoken or other sounds, including ring tones.

IC 6-2.5-1-16.3 [EFFECTIVE JANUARY 1, 2009] defines digital audiovisual works as a series of related images that, when shown in succession, impart an impression of motion.

IC 6-2.5-1-16.4 [EFFECTIVE JANUARY 1, 2009] defines digital books as works that are generally recognized as books.

IC 6-2.5-1-18 [EFFECTIVE UPON PASSAGE] adds repair and replacement parts as components used in conjunction with durable medical equipment.

IC 6-2.5-1-26.5 [EFFECTIVE JANUARY 1, 2009] defines specified digital products as digital audio works, digital audio visual works, and digital books.

IC 6-2.5-2-2 [EFFECTIVE APRIL 1, 2008] increases the sales tax rate from 6% to 7%, and lists the amount of tax to be collected for transactions that are less than \$1.07.

IC 6-2.5-4-16 [EFFECTIVE JANUARY 1, 2009] provides that when a person transfers specified digital products to an end user, the person is a retail merchant making a retail transaction that is subject to sales tax. An end user does not include a person who receives a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing distribution, or exhibition of a product to another person.

IC 6-2.5-4-16 [EFFECTIVE JULY 1, 2008] provides that the sales tax only applies to the rental of an aircraft and not to the cost of flight instruction when a person rents an aircraft used in conjunction with flight instruction services.

IC 6-2.5-5-41 [EFFECTIVE JULY 1, 2008] amends the sales tax exemption for motion pictures to eliminate the definition of a motion picture and insert the term “qualified media production”, which includes a feature length film, television series, digital media production, audio recording or music video, advertising message broadcast on radio or television. The definition does not include television coverage of the news or a sporting event. The amendment also provides that an expenditure is not eligible for the sales tax exemption if the expenditure qualifies for and is used to claim an income tax credit.

IC 6-2.5-5-41 [EFFECTIVE JULY 1, 2008] provides that the sales tax exemption for media production expenditures is extended until December 31, 2011.

IC 6-2.5-5-43 [EFFECTIVE JULY 1, 2008] provides that the sale of gambling games to taverns are exempt from the sales tax.

IC 6-2.5-6-1 [EFFECTIVE JANUARY 1, 2009] provides that if a retail merchant’s annual sales tax liability is less than \$1,000, the retail merchant is only required to file an annual return. A person that remits sales tax by electronic funds transfer is required to file a monthly return instead of a quarterly recap.

IC 6-2.5-6-7 [EFFECTIVE APRIL 1, 2008] requires a retail merchant to pay to the Department 7% of the retail merchant’s gross retail income.

IC 6-2.5-6-8 [EFFECTIVE APRIL 1, 2008] provides that a retail merchant’s income exclusion ratio is the total gross retail income from transactions that are less than \$.08 divided by the total gross retail income for the tax year from all retail transactions.

IC 6-2.5-6-10 [EFFECTIVE APRIL 1, 2008] for reporting periods beginning after June 30, 2008, the collection allowance is reduced to: 0.73% if the annual sales tax liability is less than \$60,000; 0.53% if the annual sales tax liability is greater than \$60,000 and less than \$600,000; and 0.26% if the annual sales tax liability exceeds \$600,000.

IC 6-2.5-7-3 [EFFECTIVE APRIL 1, 2008] increases the sales tax rate to 7% when it is applied against the price of gasoline before the addition of state and federal taxes.

IC 6-2.5-7-5 [EFFECTIVE APRIL 1, 2008] provides that when a retail merchant reports the sales tax for the sales of gasoline, in order to determine the amount of sales tax to be reported, the retail merchant shall multiply the gross receipts by 6.54%. Gross receipts includes the sales tax, but excludes state and federal gasoline and special fuel taxes.

IC 6-2.5-7-5.5 [EFFECTIVE JULY 1, 2008] changes an internal reference to reflect a change due to a recodification of the statute concerning agricultural commodities.

IC 6-2.5-8-1 [EFFECTIVE JULY 1, 2008] makes a technical change concerning reporting to the county assessor if there is no township assessor.

IC 6-2.5-10-1 [EFFECTIVE MAY 1, 2008] changes the distribution of the sales tax to provide the following deposits of sales tax revenue: 99.178% to the general fund; 0.67% to the public mass transportation fund; 0.029% to the industrial rail service fund; and 0.123% to the commuter rail service fund.

IC 6-2.5-13-1 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that until December 31, 2009, sourcing of floral orders transmitted to another florist for delivery is sourced to the location of the florist that originally takes the floral order from the purchaser.

ADJUSTED GROSS INCOME TAX (IC 6-3)

IC 6-3-1-3.5 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the federal tax rebate distributed in 2008 will not be considered as adjusted gross income in Indiana.

IC 6-3-1-11 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the definition of Indiana adjusted gross income is amended to coincide with the federal definition used in the Internal Revenue Code.

IC 6-3-2-6 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] increases the renter's income tax deduction from \$2,500 to \$3,000.

IC 6-3-2-13 [EFFECTIVE JULY 1, 2008] changes the reference to the port commission to the ports of Indiana within the maritime opportunity district tax deduction.

IC 6-3-3-12 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that if a person makes a nonqualified withdrawal from a 529 savings account, and is not required to file an annual Indiana income tax return, the Department has the authority to issue a demand notice to the person. This section also provides that a withdrawal from the college choice 529 education savings plan transferred to another qualified tuition program is a nonqualified withdrawal.

IC 6-3-4-1.5 [EFFECTIVE JANUARY 1, 2009] provides that a professional preparer is not required to file a return in an electronic format if the taxpayer requests in writing that the return not be filed electronically. After December 31, 2010, a professional preparer that does not comply with electronic filing procedures will be subject to a penalty of \$50 for each return not filed in an electronic format with a maximum penalty of \$25,000 per year.

IC 6-3-4-4.1 [EFFECTIVE JANUARY 1, 2009] provides that an estimated tax payment made by a nonresident alien must be computed by applying only one personal exemption regardless of the total number of exemptions the person may claim on the taxpayer's annual return.

IC 6-3-4-4.1 [EFFECTIVE JANUARY 1, 2009] provides that an individual filing an estimated tax return must designate an amount that represents state adjusted gross income tax liability, and an amount that represents estimated local option income tax liability.

IC 6-3-4-8 [EFFECTIVE JANUARY 1, 2009] provides that an employer withholding taxes for a nonresident alien is required to limit the number of exemptions claimed to one per employee.

IC 6-3-4-15.7 [EFFECTIVE JANUARY 1, 2009] requires a person that requests withholding of adjusted gross income tax from an annuity, pension, or retirement plan

shall designate the amount that represents state adjusted gross income tax and the amount that represents local option income tax. The Department is required to adopt guidelines to assist taxpayers in making the required designations.

IC 6-3-4-16 [EFFECTIVE JULY 1, 2008] provides for individual income tax returns filed after December 31, 2010, the Department will implement a system of crosschecks between the employer W-2 forms and the individual taxpayer's W-2 forms.

IC 6-3-4-17 [EFFECTIVE JULY 1, 2008] provides that after December 31, 2010, the Department and the Office of Management and Budget shall develop a quarterly report that summarizes the amount reported to and processed by the Department for individual estimated tax and monthly withholding by employers for each county. The report shall be distributed to the county auditors within 45 days after the end of the calendar quarter.

IC 6-3-7-3 [EFFECTIVE JANUARY 1, 2009] provides that 100% of the individual income tax will be deposited in the state general fund.

TAX CREDITS (IC 6-3.1)

IC 6-3.1-11-19 [EFFECTIVE JULY 1, 2008 (RETROACTIVE)] makes a technical change to the industrial recovery site tax credit repealing the language concerning the property tax credit for inventory.

IC 6-3.1-21-6 [EFFECTIVE JANUARY 1, 2009] increases the earned income tax credit from 6% of the federal credit to 9% of the federal credit.

IC 6-3.1-21-6 [EFFECTIVE JANUARY 1, 2009] provides that a nonresident taxpayer claiming the earned income tax credit is required to apportion the amount of the credit on the same basis that Indiana income is apportioned.

IC 6-3.1-29-19 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] allows non Indiana coal to be used in a coal gasification power plant if the taxpayer certifies to the Indiana Economic Development Corporation (IEDC) that partial use of other coal will result in lower rates for Indiana retail utility customers.

IC 6-3.1-32 [EFFECTIVE JULY 1, 2008] creates a media production expenditure income tax credit. A qualified media production includes a feature length film, music video, television series, digital media production, and an advertising message broadcast on television or radio. The definition does not include television coverage of the news or an athletic event. Expenses that qualify for the credit include: salaries and wages to Indiana residents, costs for a story, costs for locations, sets, and wardrobes, editing costs, facility and equipment rental, food and lodging, and legal services. Qualified expenses do not include payments of wages and salaries to a director, producer, screenwriter, or an actor unless the individual is a resident of Indiana.

Qualified expenditures that are at least \$100,000 for a movie or television series, or \$50,000 for any other type of media production are entitled to a refundable tax credit. If the total qualified production expenditures are less than \$6,000,000 in a taxable year, the income tax credit is 15% of the qualified expenditures. If the total qualified production expenditures exceed \$6,000,000 in a taxable year, the amount of the credit is a percentage determined by the Indiana Economic Development Corporation multiplied by the amount of qualified production expenditures in the taxable year. A taxpayer that is going to claim a credit must, before making the qualified production expenditures, apply to the IEDC for

approval of the tax credit. The maximum amount of tax credits that may be approved by the IEDC may not exceed \$5,000,000 in a taxable year for all taxpayers. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the taxpayer is entitled to a refund of the excess.

A taxpayer receiving the credit must file a tax return for the first 5 years that the taxpayer has income from the qualified media production for which the tax credit was granted. Income from the qualified media production is apportioned to Indiana based on the income of the corporation multiplied by a percentage equal to the amount of qualified expenditures for which the tax credit was granted, divided by the total production expenditures for the qualified media production.

The credit cannot be awarded for any taxable year beginning after December 31, 2011.

NOTE: IC 6-3.1-32 was also amended by HEA 1125-2008 SECTIONS 18, 19, and 20.

IC 6-3.1-32-9 [EFFECTIVE JULY 1, 2008] provides that the media production income tax credit is limited to \$5,000,000 for all taxpayers in a state fiscal year.

IC 6-3.1-32-11 [EFFECTIVE JULY 1, 2008] provides that if a taxpayer has more than \$6,000,000 in qualified media production expenditures, the Indiana Economic Development Corporation determines the amount of credit that the taxpayer is eligible to claim within the \$5,000,000 limitation established for all taxpayers.

IC 6-3.1-32-13 [EFFECTIVE JULY 1, 2008] provides that the maximum movie production tax credit that can be claimed for projects approved by the Indiana Economic Development Corporation is eliminated, because of the total limitation of \$5,000,000 for all projects.

COUNTY ADJUSTED GROSS INCOME TAX (IC 6-3.5-1.1)

IC 6-3.5-1.1-9 [EFFECTIVE JULY 1, 2008] requires the budget agency to provide to a county council a summary of calculations concerning the amount of CAGIT reported on individual income tax returns processed by the Department during the previous fiscal year, adjustments for over distributions in prior years, adjustments for clerical or mathematical errors in prior years, adjustments for tax rate changes, and the amount of the excess account balances to be distributed.

IC 6-3.5-1.1-18 [EFFECTIVE JANUARY 1, 2009] requires employers to report the amount of county tax attributable to each county each time the employer remits the tax withheld.

IC 6-3.5-1.1-25 [EFFECTIVE JULY 1, 2008] provides that if a county adopts a rate of 0.25% for levy relief and property tax replacement credits combined or singly, the county can adopt a rate not to exceed 0.25% for public safety.

IC 6-3.5-1.1-26 [EFFECTIVE UPON PASSAGE] authorizes Lake County to adopt CAGIT for property tax levy reduction or property tax replacement credits. The tax revenue can be: distributed to a municipality based on the tax collected from the taxpayers located in the municipality; and if it is collected from taxpayers in an unincorporated area, the revenue shall be distributed to the unincorporated area of the county and used for property tax replacement credits. The Lake County revenue can also

be split so that 60% is used for property tax replacement credits and 40% is used for levy reduction.

COUNTY OPTION INCOME TAX (IC 6-3.5-6)

IC 6-3.5-6-17 [EFFECTIVE JULY 1, 2008] requires the budget agency to provide to a county council a summary of calculations concerning the amount of COIT reported on individual income tax returns processed by the Department during the previous fiscal year, adjustments for over distributions in prior years, adjustments for clerical or mathematical errors in prior years, adjustments for tax rate changes, and the amount of the excess account balances to be distributed.

IC 6-3.5-6-22 [EFFECTIVE JANUARY 1, 2009] requires employers to report the amount of county tax attributable to each county each time the employer remits the tax withheld.

IC 6-3.5-6-31 [EFFECTIVE JULY 1, 2008] provides that if a county adopts a rate of 0.25% for levy relief and property tax replacement credits combined or singly, the county can adopt a rate not to exceed 0.25% for public safety.

IC 6-3.5-6-32 [EFFECTIVE UPON PASSAGE] authorizes Lake County to adopt COIT for property tax levy reduction or property tax replacement credits. The tax revenue can be: distributed to a municipality based on the tax collected from the taxpayers located in the municipality; and if it is collected from taxpayers in an unincorporated area, the revenue shall be distributed to the unincorporated area of the county and used for property tax replacement credits. The Lake County revenue can also be split so that 60% is used for property tax replacement credits and 40% is used for levy reduction.

COUNTY ECONOMIC DEVELOPMENT INCOME TAX (IC 6-3.5-7)

IC 6-3.5-7-11 [EFFECTIVE JULY 1, 2008] requires the budget agency to provide to a county council a summary of calculations concerning the amount of CEDIT reported on individual income tax returns processed by the Department during the previous fiscal year, adjustments for over distributions in prior years, adjustments for clerical or mathematical errors in prior years, adjustments for tax rate changes, and the amount of the excess account balances to be distributed.

IC 6-3.5-7-18 [EFFECTIVE JANUARY 1, 2009] requires employers to report the amount of county tax attributable to each county each time the employer remits the tax withheld.

RECREATIONAL VEHICLE EXCISE TAX (IC 6-6-5.1)

IC 6-6-5.1 [EFFECTIVE JANUARY 1, 2009] creates an excise tax on recreational vehicles and truck campers. The excise tax replaces the personal property tax that the owner of these vehicles is required to pay.

CIGARETTE TAX (IC 6-7)

IC 6-7-1-17 [EFFECTIVE JULY 1, 2008] provides that a cigarette distributor must be current on all listed taxes to have the distributor's license issued or renewed. If a distributor is purchasing cigarette stamps on credit, the payment shall be made by electronic funds transfer.

MISCELLANEOUS TAX PROVISIONS (IC 6-8)

IC 6-8-12-1 [EFFECTIVE JULY 1, 2008] provides that the NCAA is added to the NFL as an eligible entity to receive tax incentives if Indianapolis hosts a qualified event.

IC 6-8-12-2 [EFFECTIVE JULY 1, 2008] provides that the Men's or Women's Final Four is added to the Super Bowl as eligible qualified events for which the state will provide tax incentives.

IC 6-8-12-3 [EFFECTIVE JULY 1, 2008] provides that salaries and wages paid to employees of the NCAA that are normally subject to adjusted gross income tax will continue to be subject to adjusted gross income tax even if the salaries and wages are paid in connection with an NCAA Final Four event.

TAX ADMINISTRATION (IC 6-8.1)

IC 6-8.1-1-1 [EFFECTIVE JANUARY 1, 2009] adds the RV excise tax as a listed tax.

IC 6-8.1-1-1 [EFFECTIVE JANUARY 1, 2009] repeals the reference to the municipal option income tax in the listed taxes.

IC 6-8.1-1-1 [EFFECTIVE JULY 1, 2008] provides that the type II gambling game excise tax is a listed tax.

IC 6-8.1-5-2 [EFFECTIVE JANUARY 1, 2009] provides that if a person fails to pay the RV excise tax the person is considered to have failed to file a return for purposes of penalties imposed by the Department.

IC 6-8.1-7-1 [EFFECTIVE JANUARY 1, 2009] provides that the Department can release information to the BMV concerning evasion of the RV excise tax if the information is used for enforcement and collection purposes. Confidential information may be revealed upon request from the chief law enforcement officer of a state or local law enforcement agency, when the information is to be kept confidential and used for official purposes.

IC 6-8.1-7-1 [EFFECTIVE JULY 1, 2008] changes a reference from the county office of family and children to the local office of the division of family resources.

IC 6-8.1-8-8.7 [EFFECTIVE MARCH 15, 2008, (RETROACTIVE)] provides that any person acting on behalf of the Department is not liable for any action taken in good faith to collect the Department's levy unless the action is contrary to the Department's direction, or the person acts with deliberate ignorance or disregard of the truth.

IC 6-8.1-9-1 [EFFECTIVE JANUARY 1, 2009] changes a reference to an internal code cite.

IC 6-8.1-10-3.5 [EFFECTIVE JANUARY 1, 2009] provides that if a person fails to file an individual income tax return where no remittance is due, the person is subject to a penalty of \$10 per day for each day the return is late, to a maximum of \$500.

IC 6-8.1-10-4 [EFFECTIVE JANUARY 1, 2009] provides that if a person fails to pay the RV excise tax, the person commits a Class A misdemeanor.

IC 6-8.1-10-5 [EFFECTIVE JULY 1, 2008] provides that a person who makes a payment by credit card, debit card, or EFT where the payment is not honored when presented through normal banking channels, the person is subject to the same penalties as a taxpayer whose check payment is not honored by a financial institution.

LOCAL TAXES (IC 6-9)

IC 6-9-40 [EFFECTIVE UPON PASSAGE] authorizes Steuben County to adopt an ordinance to impose a 1% food and beverage tax. The tax is effective after the last day of the month that succeeds the month in which the ordinance was adopted. Half of the revenue will be distributed to the city of Angola, and the remainder is to be used by the county. The revenue from the tax can be used for infrastructure improvements, park and recreation improvements, police and law enforcement purposes and bond obligations for any infrastructure improvements.

OTHER PROVISIONS

IC 4-35-8-3 [EFFECTIVE JANUARY 1, 2009] provides that the tax revenue from the slot machines at horse race tracks will be deposited in the state general fund instead of the property tax reduction trust fund, which has been eliminated.

IC 4-36 [EFFECTIVE JULY 1, 2008] authorizes taverns to sell pull tabs, tip boards, punchboards, and conduct raffles. Taverns, manufacturers and distributors are required to be licensed by the alcohol and tobacco commission before they can conduct gaming or sell gaming equipment. Applicants for a license must receive a tax clearance from the Department and may not be on the most recent tax warrant list. An excise tax is imposed on the distribution of gambling games in the amount of 10% of the price paid by the retailer that purchases the games. The entity distributing the pull tabs, punchboards, or tip boards is liable for the tax.

The Department will establish procedures for the distributor to account for the amount of tax collected, the number of games sold, the receipts for the sale of the games, and the address of each retailer that purchased games from the distributor in the previous calendar month. All taxes are required to be remitted on a monthly basis. The Department shall prescribe the forms and reports required to be filed, and the contents of the reports. The Department is authorized to audit a licensee at any time. The Department shall deposit all taxes in the general fund.

IC 22-14-7 [EFFECTIVE UPON PASSAGE] provides that beginning July 2009 all cigarettes must be tested and certified for fire safety. The Department may inspect markings on the cigarette packaging to ensure that they have been tested and certified for

fire safety. Cigarettes that are sold or offered for sale that do not comply with the performance measures are subject to forfeiture. Cigarettes that are seized by a law enforcement officer or the state fire marshal shall be turned over to the Department to be destroyed.

NONCODE PROVISIONS

HB 1001, SECTION 828, NONCODE [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides an income tax deduction for property taxes paid in 2008 that would have been due in 2007, if the county had sent the bills out in a timely manner. The amount of the deduction is the amount of property taxes paid in 2008, less any amount paid in 2007 for 2007 that were not due until 2008.

SECTION 845, NONCODE [EFFECTIVE APRIL 1, 2008] provides that the change in the collection allowance will apply to reporting periods beginning after June 30, 2008. This SECTION also provides that transactions will be considered as having occurred after March 31, 2008 to the extent delivery of the property to the purchaser is made after that date. A transaction will be considered as having occurred before April 1, 2008 to the extent that an agreement of the parties was entered into before April 1, 2008, and payment for the property furnished in the transaction is made before April 1, 2008, even if delivery occurs after March 31, 2008. With respect to utility services including satellite and cable television transactions for which the charges are collected upon original statements and billings dated after April 30, 2008 shall be considered as having occurred after March 31, 2008.

SECTION 846, NONCODE [EFFECTIVE UPON PASSAGE] extends the dates for adoption and implementation of LOIT rates in 2008 to be used for property tax relief, levy limits and public safety. The following chart provides the dates for adoption and implementation of the tax rates:

ADOPTION	IMPLEMENTATION
Before Oct. 1, 2008	Oct. 1, 2008
Oct. 1 to Oct. 15, 2008	Nov. 1, 2008
Oct. 16 to Nov. 15, 2008	Dec. 1, 2008
Nov. 16 to Dec. 31, 2008	Jan. 1, 2009

HB 1010, SECTION 9, [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] extends the deadlines for imposition of CAGIT and COIT to December 31, 2007 from the original deadline of August 1, 2007, depending on the date the ordinance is adopted if it is adopted after August 1, 2007.

HB 1125, SECTION 62, NONCODE [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the provision to update the Indiana Code to coincide with the Internal Revenue Code takes effect for taxable years beginning after December 31, 2007.

SECTION 63, NONCODE [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the definition of Indiana adjusted gross income contained in IC 6-3-1-3.5 takes effect for taxable years beginning after December 31, 2007.

SECTION 77, NONCODE [EFFECTIVE JANUARY 1, 2009] provides that estimated tax payments computed by nonresident aliens allowing for one personal exemption, and employers withholding adjusted gross income tax from nonresident aliens allowing for one personal exemption when calculating the amount of tax to be withheld applies to taxable years beginning after December 31, 2008.

SECTION 78, NONCODE [EFFECTIVE JANUARY 1, 2009] provides that for reporting periods beginning after December 31, 2008, a retail merchant whose annual sales tax liability that is less than \$1,000 is only required to file an annual return.

SECTION 79, NONCODE [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] provides that the amendments to the college choice 529 education savings plan income tax credit apply to taxable years beginning after December 31, 2007.

SECTION 80, NONCODE [EFFECTIVE JANUARY 1, 2009] provides that the amendments concerning the ability of a taxpayer to opt out of electronic filing when the return is completed by a professional preparer applies to returns filed after December 31, 2008.

SECTION 81, NONCODE [EFFECTIVE JANUARY 1, 2009] provides that the increase in the earned income tax credit, and the penalty for an individual who fails to file a return even if no remittance is due, applies to taxable years beginning after December 31, 2008.