

HB 1001ss Provisions Affecting the Department of Revenue (As Signed on June 28, 2002)

SECTION 3. IC 4-10-13-3 **JANUARY 1, 2003.** Eliminates reporting requirements in the annual report for information concerning the gross income tax.

SECTION 5. IC 4-30-18-2 **JULY 1, 2002.** Eliminates the prohibition against taxing lottery winnings for the adjusted gross income tax.

RIVERBOAT GAMING

SECTION 23. IC 4-33-12-6 **JULY 1, 2002.** Provides that excess riverboat admissions tax will be paid to the property tax replacement fund after base year distributions.

SECTION 24. IC 4-33-13-1 **JULY 1, 2002.** Increases the riverboat gaming tax from 20% of adjusted gross receipts to 22.5% for boats that do not opt for flexible scheduling.

SECTION 25. IC 4-33-13-1.5 **JULY 1, 2002.** If the riverboat institutes flexible scheduling the tax is 15% of the first \$25,000,000 of adjusted gross receipts received during the fiscal year, 20% if receipts are between \$25,000,000 and \$50,000,000, 25% if the receipts are between \$50,000,000 and \$75,000,000, 30% if the receipts are between \$75,000,000 and \$150,000,000, and 35% if the receipts are greater than \$150,000,000. The rate schedule does not begin until the flexible scheduling actually starts.

SECTION 13. IC 4-33-13-5 **JULY 1, 2002.** Establishes a revenue sharing account that will constitute the first \$33,000,000 received from the gaming tax. Revenue is to be distributed to cities, town, and counties that do not have a boat based on population. Provides that the increased gaming tax revenue will be deposited in the property tax replacement fund instead of the build Indiana fund.

UTILITY RECEIPTS TAX

SECTION 47. IC 6-2.3 **JANUARY 1, 2003.** The utility receipts tax is imposed at the rate of 1.4% of the taxable gross receipts of a utility. Gross receipts are defined as the value received for the retail sale of utility services. Pass through entities are subject to the utility receipts tax at the entity level. The services include: electrical energy, natural gas, water, steam, sewage, and telecommunications.

Gross Receipts – Gross receipts include:

1. Judgments or settlements to compensate a taxpayer for lost retail sales.
2. If receipts are not segregated, then all receipts are taxable.
3. Sales to a buyer that resells for use in hotels, mobile home parks, and marinas.
4. Sales to another of water or gas, if the other person bottles and resells the product.
5. Receipts received for installation, maintenance, repair, equipment or leasing services provided to commercial or domestic consumers.

Excluded Gross Receipts –

1. Taxes collected by the taxpayer imposed by the federal government, a state, or a political subdivision.
2. Wholesale sales to another generator or reseller of utilities.
3. Receipts from electric member cooperatives to the holding company are not included for the holding company.
4. Receipts of a joint agency from a member municipality for electrical energy that will be sold to retail customers.
5. Refundable deposits paid by a customer to the taxpayer.
6. Cable TV receipts.

Exemptions –

1. Sales to the U.S. Government
2. Sales involved in interstate commerce.
3. Sales of a conservancy district, water sewage or solid waste district.
4. Non-profit Water Company, non-profit company formed to provide combined water and sewage service.
5. County solid waste management district, a county onsite waste management district.
6. Sales by a taxpayer not regularly engaged in the trade or business of selling utility services.
7. Owners or operators of hotels, motels, campgrounds, mobile home parks, and marinas.

Deductions –

1. \$1,000 deduction per taxpayer.
2. Accrual basis taxpayers are entitled to a bad debt deduction in the same manner as the bad debt deduction in IC 6-2.5-6-9.
3. Depreciation deduction for resource recovery systems.
4. Reusable container receipts.
5. Gross receipts that are exempt from taxation under the Mobile Telecommunications Sourcing Act.
6. Retail sales of bottled water or gas to the extent that it was treated as a retail transaction under IC 6-2.3-3-6.

Provides for quarterly estimated payments, and payments by electronic funds transfer if the liability exceeds \$10,000. There is no estimated payment required if the annual liability is less than \$1,000.

Annual returns are due on the 15th day of the fourth month after the close of the taxpayer's taxable year. If a taxpayer does not file an annual utility receipts tax return, they may be required to file an affidavit that the taxpayer didn't receive more than \$1,000 of taxable gross receipts.

Corporate members of an affiliated group may file a consolidated return. An election to file consolidated must be made at the time of the first filing of the affiliated group. The Department must grant permission before an affiliated group can change its method of filing.

Revenue from the tax shall be deposited in the state general fund.

SALES TAX

SECTION 48. IC 6-2.5-1-10 **JANUARY 1, 2003**. Defines a commercial printer and commercial printing for purposes of the sales tax.

SECTION 49. IC 6-2.5-2-2 **DECEMBER 1, 2002**. Establishes the sales tax break points for sales of less than \$1.09 and increases the sales tax from 5% to 6%.

SECTION 53. IC 6-2.5-5-21 **JANUARY 1, 2003**. Provides that sales of food by certain organizations are exempt from the sales tax if the group files an annual report to retain the exemption.

SECTION 55, 56, AND 57. IC 6-2.5-5-24; IC 6-2.5-5-25; IC 6-2.5-5-26. **JANUARY 1, 2003**. Provides sales tax exemptions that were in place before but only referenced exemptions contained in the gross income tax statute.

SECTION 61. IC 6-2.5-6-8 **DECEMBER 1, 2002**. Changes the break point for the income exclusion ratio from \$.10 to \$.09.

SECTION 62. IC 6-2.5-6-10 **DECEMBER 1, 2002**. Reduces the collection allowance from 1% to .83% for the retailer.

SECTION 65. IC 6-2.5-10-1 **JANUARY 1, 2003**. Changes the distribution of the sales tax. Deposit of sales tax collections will be as follows: 50% to the property tax replacement fund; 49.192% to the general fund; .635% to the public mass transit fund; .033% to the industrial rail service fund; and .14% to the commuter rail service fund.

ADJUSTED GROSS INCOME TAX

SECTION 67. IC 6-3-1-3.5 **JANUARY 1, 2002 (RETROACTIVE)**. Defines adjusted gross income for domestic life insurance companies to be the same as federal taxable income as defined in Section 801 of the Internal Revenue Code adjusted as follows; add Section 170 deductions and add back state and local income taxes. Subtract exempt income that is exempt under statutes of the United States and income included in taxable income under Section 78 of the Internal Revenue Code. Other insurance companies that are organized under Indiana law use the definition contained in Section 832 of the Internal Revenue Code with the same adjustments that are listed above.

SECTION 68. IC 6-3-1-10 **JANUARY 1, 2003**. Life insurance companies and other insurance companies are defined as a corporation for purposes of the adjusted gross income tax statute.

SECTION 70. IC 6-3-2-1 **JANUARY 1, 2003.** Increases the corporate adjusted gross income tax from 3.4% to 8.5%.

SECTION 71. IC 6-3-2-2 **JANUARY 1, 2003.** Provides that insurance companies are subject to a one-factor apportionment formula based on premiums written in Indiana divided by premiums written everywhere.

SECTION 73. IC 6-3-2-2.6 **JANUARY 1, 2003.** Provides that insurance companies subject to the adjusted gross income tax are allowed a net operating loss deduction even if the taxpayer was not subject to tax at the time of the loss.

SECTION 74. IC 6-3-2-2.8 **JANUARY 1, 2003.** Provides that foreign insurance companies are exempt from the adjusted gross income tax, and domestic insurance companies are exempt if they elect to pay the insurance premium tax.

SECTION 76. IC 6-3-2-3.5 **JANUARY 1, 2003.** Moves a reference for the exemption for public transportation fares from a reference in the gross income tax to specific language in the adjusted gross income tax statute.

SECTION 77. IC 6-3-2-6 **JANUARY 1, 2003.** Increases the renter's deduction from \$2,000 to \$2,500.

SECTION 78. IC 6-3-2-14 **JULY 1, 2002.** Provides that the first \$1,200 of prize money received from a winning lottery ticket is exempt from tax. The excess over \$1,200 is subject to tax.

SECTION 80. IC 6-3-4-4.1 **JANUARY 1, 2003.** Specifies estimated payment dates for the adjusted gross income tax, which were previously specified in the gross income tax statute. Provides that no estimated payment penalty will be imposed if the taxpayer has paid 20% of the final liability for the taxable year, or 25% of the final liability for the taxpayer's prior taxable year. This provision applies to the adjusted gross and utility receipts tax as a combined payment.

SECTION 81. IC 6-3-4-8 **JANUARY 1, 2003.** Provides that the Department shall adopt rules to exempt an employer from withholding if the employee is eligible for the earned income credit under IC 6-3.1-21, and the employee requests an advance payment of the earned income tax credit.

SECTION 82. IC 6-3-4-8.2 **JULY 1, 2002.** Requires that riverboats withhold adjusted gross income tax on slot machine winnings that exceed \$1,200, or winnings valued at \$1,500 or more from a keno game. The withholding is required on the entire amount of winnings. Requires the riverboat to report and remit the amount withheld daily to the Department.

Provides that withholding shall be deducted from a winning lottery ticket if the value of the winnings exceeds \$1,200. The amount withheld will be the tax on the excess over \$1,200.

SECTION 83. IC 6-3-7-3 **JANUARY 1, 2003.** Provides that 100% of the corporate adjusted gross income tax will be deposited in the general fund, instead of \$10,000,000 to the general fund and the remainder to the property tax replacement fund. Provides that 86% of the individual income tax will be deposited in the state general fund, and 14% will be deposited in the property tax replacement fund.

TAX CREDITS

SECTION 87. IC 6-3.1-4-2 **JANUARY 1, 2003.** Increases the research expense credit from 5% to 10% of the qualified expenditures, and eliminates the apportionment of the credit, so that 100% of all research conducted in Indiana will be eligible for the credit. This SECTION applies to taxable years beginning after December 31, 2002.

SECTION 90. IC 6-3.1-4-6 **JULY 1, 2002.** Extends the research expense credit through December 31, 2004.

SECTION 114. IC 6-3.1-21-6 **JANUARY 1, 2003.** Provides that the earned income credit is to be equal to 6% of the federal earned income tax credit the taxpayer is eligible to receive.

SECTION 116. IC 6-3.1-21-10 **JULY 1, 2002.** Provides that the earned income tax credit expires on December 31, 2005.

SECTION 119. IC 6-3.1-24 **JANUARY 1, 2003.** Creates a Venture Capital Investment Tax Credit. Provides that a taxpayer that provides qualified investment capital to a qualified Indiana business is entitled to a credit. Requires the Department of Commerce to certify that the Indiana business is qualified to receive the investment based on six different criteria established in the statute. The Department of Commerce shall provide a copy of Commerce's certification to the investors for inclusion with their tax filing. Commerce may impose an application fee of \$200.

The maximum amount of credit is equal to the lesser of 20% of the qualified investment or \$500,000. The total amount of credits that may be allowed in a calendar year may not exceed \$10,000,000. The taxpayer must submit proof to the Department that the taxpayer is eligible for the credit. The Department shall keep track of all filings of credits being claimed and grant the credit in the chronological order that they are received. The credit can be carried forward but there is no carry back or refund of an unused credit. The credit is limited to investments that occur before December 31, 2008.

SECTION 207 states that this chapter takes effect for taxable years beginning after December 31, 2003.

COUNTY ECONOMIC DEVELOPMENT INCOME TAX (CEDIT)

SECTION 121. IC 6-3.5-7-5 **JANUARY 1, 2003.** Provides that counties are permitted to impose an additional CEDIT rate to provide additional homestead credits to offset the increased property tax due to the property tax exemption for inventory.

GASOLINE TAX

SECTION 132. IC 6-6-1.1-201 **JANUARY 1, 2003**. Increases the gasoline tax from \$.15 to \$.18 per gallon.

SECTION 133. IC 6-6-1.1-801.5 **JANUARY 1, 2003**. Provides that the increased taxes shall be distributed as follows: \$.01 will be transferred to the highway road construction and improvement fund, \$.01 is deposited in the state highway fund, and \$.01 shall be distributed by the auditor of state to cities, towns and counties based on the formula for the motor vehicle highway fund distribution.

CIGARETTE TAX

SECTION 135. IC 6-7-1-12 **JULY 1, 2002**. Increases the cigarette tax to \$.555 per pack for cigarettes weighing less than three pounds per 1,000 cigarettes, and increases the tax to \$.73762 on cigarettes weighing more than three pounds per 1,000.

SECTION 136. IC 6-7-1-17 **JULY 1, 2002**. Decreases the discount that cigarette distributors receive for stamping the cigarettes. The current discount is 4%, and it is decreased to 1.2%. Provides that if a distributor has had a good credit standing with the state for the last five consecutive years, the amount of the bond required remains the same as before the increase in the cigarette tax took effect.

SECTION 137. IC 6-7-1-28.1 **AUGUST 1, 2002**. Changes the cigarette tax distribution: 6.6% goes to the cigarette tax fund, 0.94% goes to the mental health centers fund, 8.4% goes to the pension relief fund, and 83.97% goes to the general fund.

SECTION 138. IC 6-7-2-7 **JULY 1, 2002**. Increases the other tobacco products tax from 15% to 18% of the wholesale price.

SECTION 139. IC 6-7-2-13 **JULY 1, 2002**. Changes the collection allowance for the other tobacco products tax from one percent to .6%.

OTHER PROVISIONS

SECTION 187. IC 36-7-32 **JANUARY 1, 2003**. Creates Certified Technology Parks. Provides that a development commission or redevelopment commission must apply to the Department of Commerce for designation of all or part of a district as a certified technology park. Requires a redevelopment commission to send to the Department a copy of the designation of the certified technology park, a copy of the agreement between the commission and the Department of Commerce, and a listing of all the employers in the certified technology park. Provides incremental sales and income tax financing for the parks. Requires the Department to annually calculate the incremental amounts that the parks are eligible to receive by October 1 for the preceding state fiscal year. The maximum amount of incremental financing for each park shall not exceed \$5,000,000 per park.

REPEALERS AND TRANSITIONAL LANGUAGE

SECTION 191. **NON-CODE JANUARY 1, 2003.** Repeals the gross income tax, the exemption of lottery winnings from taxation, repeals the credit for gross income tax paid to be applied against the adjusted gross income tax liability. Repeals the supplemental net income tax. Repeals the bank tax, the savings and loan tax, and the production credit association tax. Repeals the credit for property taxes paid on inventory.

SECTION 192. **NON-CODE JULY 1, 2002.** Provides that cigarette stamps paid for before July 1, 2002 and in the possession of a distributor may be used after June 30, 2002 if the full amount of cigarette tax has been paid to the Department.

SECTION 195. **NON-CODE DECEMBER 1, 2002.** Provides transitional language for the imposition of the increased sales tax as it relates to utility billings. Only transactions for which the charges are collected upon original billings dated after December 31, 2002, shall be considered as having occurred after November 30, 2002.

SECTION 196. **NON-CODE JULY 1, 2002.** Provides that the Department shall adopt initial rules and forms by December 1, 2002 for the utility receipts tax. Provides that emergency rule making authority may be used. Provides transition language for the utility receipts tax for a fiscal year taxpayer. The taxpayer's first taxable year will be from January 1, 2003 until the end of their normal taxable year. The taxpayer will calculate the annual taxable income for the full taxable year, and then prorate the year to the period that occurs after December 31, 2002 until the end of the taxpayer's federal taxable year.

SECTION 197. **NON-CODE JULY 1, 2002.** Requires that fiscal year taxpayers subject to the supplemental net income tax will file a final return based on income tax due for the period beginning with the taxpayer's taxable year starting in 2002 and ending on December 31, 2002. The taxpayer is required to remit any estimated payments that were due to be paid before December 31, 2002.

SECTION 198. **NON-CODE JANUARY 1, 2003.** Provides that the repeal of the gross income tax only applies to taxable years that begin after December 31, 2002.

SECTION 199. **NON-CODE JANUARY 1, 2003.** Provides that fiscal year taxpayers subject to the gross income tax will file a final return based on gross income tax due from the start of the fiscal year through December 31, 2002.

SECTION 200. **NON-CODE JULY 1, 2002.** Provides that corporate fiscal year taxpayers subject to the adjusted gross income tax shall calculate the adjusted gross income tax liability based on the number of days that the income is subject to the 3.4% rate and the number of days that the income is subject to the 8.5% rate.

SECTION 201. **NON-CODE JANUARY 1, 2003.** Provides that the utility receipts tax applies to taxable years beginning after December 31, 2002.

SECTION 207. **NON-CODE JULY 1, 2002.** Provides that the venture capital tax credit applies to taxable years beginning after December 31, 2003.

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