

**SYNOPSIS OF 2011  
LEGISLATION  
AFFECTING THE  
INDIANA DEPARTMENT  
OF REVENUE**

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# 2011 ENROLLED ACTS

## HOUSE BILLS

**HB 1001**, SECTION 44, IC 4-10-22 [EFFECTIVE JAN. 1, 2012] – provides that if the state reserves at the end of a fiscal year exceed 10% of the general revenue appropriations for the current state fiscal year, 50% of the excess reserves shall be transferred to the pension stabilization fund and 50% shall be used to provide an automatic tax refund. To qualify for the refund, a taxpayer must have filed a resident individual income tax return for the last two years and must have paid tax to the state during the previous taxable year. The amount of the refund is determined on a pro-rata basis, based on the taxpayer's portion of the total income tax liability paid by all qualifying taxpayers in the preceding year.

SECTION 80, IC 6-2.5-3-9 [EFFECTIVE JULY 1, 2011] – provides that use tax collected from remote sellers with respect to remote sales sourced to Indiana shall be transferred to the pension stabilization fund for the amount of tax collected from remote sales that exceeds \$150,000,000 in the previous fiscal year.

SECTION 81, IC 6-2.5-3-10 [EFFECTIVE JULY 1, 2011] – requires the Department to publish on its website information needed to communicate a person's obligation to remit use tax on purchases made where no sales tax was collected, including purchases using the Internet or a catalog.

SECTION 82, IC 6-2.5-10-1 [EFFECTIVE JULY 1, 2011] – changes the sales tax collection percentage deposited in the state general fund from 99.178% to 99.848% and decreases the amount deposited in the public mass transportation fund from 0.67% to zero.

SECTION 83, IC 6-3-1-3.5 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – requires add backs to the definition of Indiana adjusted gross income of several provisions that are deductible in the Internal Revenue Code.

For individuals, the add backs are

- Expensing of environmental remediation costs;
- Charitable distributions from an individual retirement plan;
- Expenses for qualified tuition and related expenses;
- Expenses of elementary and secondary school teachers;
- Employer-provided education expenses;
- Expenses for qualified mine safety equipment property deducted under Section 179E of the Internal Revenue Code;
- The amount of qualified transportation fringe benefits that exceeds \$100 per month;

- The amount of interest deducted for qualified student loans that exceeds the amount allowed prior to the enactment of P.L. 111-312;
- The amount of qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(C)(iii) of the Internal Revenue Code;
- The amount of income of any taxpayer who placed a motor sports entertainment complex in service during the taxable year that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the Internal Revenue Code;
- The amount of start-up expenditures that exceeds the amount the taxpayer could deduct under Section 195 of the Internal Revenue Code before it was amended by P.L.111-240; and
- The amount of income for which tax was not imposed on the net recognized built-in gain of an S corporation under Section 1374(d)(7) of the Internal Revenue Code.

For corporations, life insurance companies, and insurance companies, the add backs are

- Expensing of environmental remediation costs;
- Expenses for qualified mine safety equipment property deducted under Section 179E of the Internal Revenue Code;
- The amount of qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(C)(iii) of the Internal Revenue Code;
- The amount of income of any taxpayer that placed a motor sports entertainment complex in service during the taxable year that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the Internal Revenue Code; and
- The amount of start-up expenditures that exceeds the amount the taxpayer could deduct under Section 195 of the Internal Revenue Code before it was amended by P.L.111-240.

For trusts and estates; the add backs are

- Expensing of environmental remediation costs;
- Expenses for qualified mine safety equipment property deducted under Section 179E of the Internal Revenue Code;
- The amount of qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(C)(iii) of the Internal Revenue Code;
- The amount of income of any taxpayer that placed a motor sports entertainment complex in service during the taxable year that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the Internal Revenue Code;
- The amount of start-up expenditures that exceeds the amount the taxpayer could deduct under Section 195 of the Internal Revenue Code before it was amended by P.L.111-240; and

- The amount of income for which tax was not imposed on the net recognized built-in gain of an S corporation under Section 1374(d)(7) of the Internal Revenue Code.

**Note:** SECTION 296 (a NONCODE provision) provides that IC 6-3-1-3.5; IC 6-3-1-11; IC 6-3.1-21-6; and IC 6-5.5-1-2 apply to taxable years beginning after Dec. 31, 2009.

SECTION 84, IC 6-3-1-11 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – updates the reference to the Internal Revenue Code in the Indiana Code to be the Internal Revenue Code as it exists on January 1, 2011. The following provisions amended by Congress during 2010 are to be treated as though they had not been amended during 2010:

- Section 1367(a)(2) of the Internal Revenue Code pertaining to an adjustment of basis of the stock of shareholders;
- Section 871(k)(1)(c) of the Internal Revenue Code pertaining to the treatment of certain dividends of regulated investment companies;
- Section 897(h)(4)(A)(ii) of the Internal Revenue Code pertaining to regulated investment companies qualified entity treatment;
- Section 512(b)(13)(E)(iv) of the Internal Revenue Code pertaining to the modification of tax treatment of certain payments to controlling exempt organizations;
- Section 613A(c)(6)(H)(ii) of the Internal Revenue Code pertaining to the limitations on percentage depletion in the case of oil and gas wells;
- Section 451(i)(3) of the Internal Revenue Code pertaining to special rules for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy for qualified electric utilities; and
- Section 954(c)(6) of the Internal Revenue Code pertaining to the look-through treatment of payments between related controlled foreign corporations under foreign personal holding company rules.

**Note:** SECTION 296 (a NONCODE provision) provides that IC 6-3-1-3.5; IC 6-3-1-11; IC 6-3.1-21-6; and IC 6-5.5-1-2 apply to taxable years beginning after Dec. 31, 2009.

SECTION 85, IC 6-3-2-22 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – makes a technical change to the income tax deduction for expenses related to sending children to a private school or being home-schooled.

SECTION 86, IC 6-3-4-1.5 [EFFECTIVE JULY 1, 2011] – requires a professional preparer who files more than 50 returns in 2012 and more than 10 returns in 2013 to file the returns in an electronic format. Current law requires electronic filing if more than 100 returns are filed.

SECTION 87, IC 6-3.1-21-6 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that the calculation of the earned income tax credit is based on the federal earned income tax credit as it existed before being amended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

SECTION 94, IC 6-5.5-1-2 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – requires financial institutions to add back the following items to adjusted gross income:

- Expensing of environmental remediation costs;
- Expenses for qualified mine safety equipment property deducted under Section 179E of the Internal Revenue Code;
- The amount of qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(C)(iii) of the Internal Revenue Code;
- The amount of income of any taxpayer that placed a motor sports entertainment complex in service during the taxable year that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the Internal Revenue Code;
- The amount of start-up expenditures that exceeds the amount the taxpayer could deduct under Section 195 of the Internal Revenue Code before it was amended by P.L.111-240; and
- The amount of income for which tax was not imposed on the net recognized built-in gain of an S corporation under Section 1374(d)(7) of the Internal Revenue Code.

**Note:** SECTION 296 (a NONCODE provision) provides that IC 6-3-1-3.5; IC 6-3-1-11; IC 6-3.1-21-6; and IC 6-5.5-1-2 apply to taxable years beginning after Dec. 31, 2009.

SECTION 95, IC 6-7-1-28.1 [EFFECTIVE JULY 1, 2011] – changes the distribution of the cigarette tax so that there are no funds distributed to the state retiree health benefit trust fund and an additional 5.74% is distributed to the general fund during the period from July 1, 2011, to June 30, 2013.

SECTION 96, IC 6-9-7-7 [EFFECTIVE UPON PASSAGE] – provides that 30% of the innkeepers' tax in Tippecanoe County will be deposited in the state general fund for the period from July 1, 2015, to June 30, 2017.

SECTION 280, NONCODE [EFFECTIVE UPON PASSAGE] – provides that the Council of State Governments is exempt from the sales tax for any food and beverage prepared, furnished, or served to any person under a contract with the Council of State Governments in connection with the conference to be held in July 2011. A caterer or other contractor is not required to collect taxes if the transaction is exempt.

SECTION 296, NONCODE [EFFECTIVE JAN. 1, 2010 (RETROACTIVE)] – provides that IC 6-3-1-3.5; IC 6-3-1-11; IC 6-3.1-21-6; and IC 6-5.5-1-2 apply to taxable years beginning after Dec. 31, 2009.

**HB 1003**, SECTION 1, IC 6-3-2-22 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – authorizes a \$1,000 income tax deduction per dependent who was enrolled in a private school or home-schooled in grades K-12 and incurred costs for tuition, fees, computer software, textbooks, or school supplies.

SECTION 4, IC 6-3.1-30.5-13 [EFFECTIVE JULY 1, 2011] – increases the cap on the total amount of credits that can be claimed in a fiscal year for contributions to scholarship-granting organizations from \$2,500,000 to \$5,000,000.

**HB 1004**, SECTION 2, IC 2-7-5-6 [EFFECTIVE JAN. 1, 2012] – clarifies that a delinquent tax liability must be at a tax warrant stage before the Department will protest the renewal of a registered lobbyist.

SECTION 8, IC 4-30-11-11 [EFFECTIVE JAN. 1, 2012] – clarifies that a delinquent tax liability must be at a tax warrant stage before the Department will protest the payment to a person who has winnings from the Hoosier Lottery.

SECTION 9, IC 4-31-6-6 [EFFECTIVE JAN. 1, 2012] – clarifies that a delinquent tax liability must be at a tax warrant stage before the Department will protest a license issued by the horse racing commission.

SECTION 10, IC 4-35-8-1 [EFFECTIVE JULY 1, 2011] – provides that, after June 30, 2012, the wagering tax on slot machines at horse tracks will be based on 99% of the adjusted gross receipts.

SECTION 50, IC 6-2.5-5-5.1 [EFFECTIVE JULY 1, 2011] – provides that a refund claim for utilities used in direct consumption by a person engaged in manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture may not cover transactions that occur more than 18 months before the date of the refund claim.

SECTION 51, IC 6-2.5-8-1 [EFFECTIVE JAN. 1, 2012] – provides that a registered retail merchant's certificate will not be renewed if the retail merchant is delinquent in remitting withholding taxes.

SECTION 52, IC 6-2.5-8-7 [EFFECTIVE JAN. 1, 2012] – provides that if the application fee or renewal fee for a registered retail merchant's certificate is returned as unpaid by a financial institution, the person has five days to make the payment before the certificate will be revoked.



SECTION 53, IC 6-3-1-3.5 [EFFECTIVE JAN. 1, 2012] – eliminates outdated individual income tax deductions and provides that interest earned on state and local obligations other than Indiana issues are subject to the adjusted gross income tax for obligations acquired after Dec. 31, 2011. This provision applies to individuals, corporations, life insurance companies, insurance companies, trusts, and estates.

SECTION 54, IC 6-3-2-1 [EFFECTIVE JULY 1, 2011] – reduces the corporate income tax by 0.5% per year beginning July 1, 2012, until July 1, 2015, when the rate will be 6.5%. Provides for the proration of the rate based on the number of months in a taxpayer's taxable year for which the rate is effective. The prorated rate will be rounded to the nearest one-hundredth of one percent.

SECTION 55, IC 6-3-2-2 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that income for corporations and nonresident persons will be considered derived from sources within Indiana to the extent that income from intangible personal property is apportioned to Indiana, allocated to Indiana, or considered to be derived from sources within Indiana.

SECTION 56, IC 6-3-2-2.5 [EFFECTIVE JAN. 1, 2012] – eliminates the net operating loss carry back after Dec. 31, 2011, for resident persons.

SECTION 57, IC 6-3-2-2.6 [EFFECTIVE JAN. 1, 2012] – eliminates the net operating loss carry back after Dec. 31, 2011, for corporations and nonresident persons.

SECTION 58, IC 6-3-4-3 [EFFECTIVE JAN. 1, 2012] – provides that the due date for an acquired corporation will be the same due date as the acquiring corporation if the two entities have different taxable year ending dates.

SECTION 59, IC 6-3-4-6 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – requires a taxpayer to notify the Department of a federal modification of adjusted gross income and file an amended return within 180 days after the modification. Current law requires the notification and amended return to be filed within 120 days.

SECTION 60, IC 6-3-4-8 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – eliminates the provision that allowed for advanced payments of the earned income tax credit through reduced employee withholding.

SECTION 61, IC 6-3.1-2-8 [EFFECTIVE JULY 1, 2011] – provides that the teacher summer employment credit may not be awarded after Dec. 31, 2011.

SECTION 62, IC 6-3.1-14-9 [EFFECTIVE JULY 1, 2011] – provides that the maternity home tax credit may not be awarded after Dec. 31, 2011, and that credits previously awarded may not be carried forward during 2012 and 2013 but may be carried forward during 2014 and 2015.

SECTION 65, IC 6-3.1-21-8 [EFFECTIVE JULY 1, 2011] – eliminates reference to the advanced earned income tax credit in the earned income tax credit language.

SECTION 67, IC 6-3.1-24-8 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that, for calendar years beginning after Dec. 31, 2010, the maximum venture capital tax credit available to a qualified business is \$1,000,000. Prior law limited the tax credit per qualified business to \$500,000.

SECTION 68, IC 6-3.1-24-9 [EFFECTIVE JULY 1, 2011] – extends the venture capital investment tax credit from Dec. 31, 2012, to Dec. 31, 2014.

SECTION 69, IC 6-3.1-31-14 [EFFECTIVE JULY 1, 2011] – provides that the health benefit plan tax credit may not be awarded after Dec. 31, 2011, and that credits previously awarded may not be carried forward during 2012 and 2013 but may be carried forward during 2014 and 2015.

SECTION 71, IC 6-3.1-31.2-11 [EFFECTIVE JULY 1, 2011] – provides that the small employer qualified wellness program tax credit may not be awarded after Dec. 31, 2011, and that credits previously awarded may not be carried forward during 2012 and 2013 but may be carried forward during 2014 and 2015.

SECTION 80, IC 6-5.5-1-2 [EFFECTIVE JAN. 1, 2012] – requires an add back for investment companies equal to the amount of interest received from investment in state and local obligations of states or political subdivisions other than Indiana for obligations acquired after Dec. 31, 2011.

SECTION 81, IC 6-7-2-2.1 [EFFECTIVE JAN. 1, 2012] – defines moist snuff as tobacco that is not intended to be smoked or placed in the nasal cavity.

SECTION 82, IC 6-7-2-5 [EFFECTIVE JAN. 1, 2012] – provides that the definition of other tobacco products includes moist snuff.

SECTION 83, IC 6-7-2-7 [EFFECTIVE JAN. 1, 2012] – provides that moist snuff shall be taxed at \$.40 per ounce instead of 24% of the wholesale price, which is the method of taxation for other tobacco products.

SECTION 84, IC 6-7-2-12 [EFFECTIVE JAN. 1, 2012] – provides that other tobacco products distributors shall file a monthly return that includes the wholesale price for tobacco products other than moist snuff and for moist snuff, the weight of the moist snuff.

SECTION 86, IC 6-8.1-5-1 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that a taxpayer has 60 days to pay or protest a proposed assessment. Current law limits the time period to 45 days.

SECTION 87, IC 6-8.1-8-2 [EFFECTIVE UPON PASSAGE] – clarifies that a county clerk is required to expunge a warrant if it is determined that the tax warrant was issued in error. This section also requires the Department to mail the release of the warrant and the order for the warrant to be expunged within seven days of the determination that the warrant was in error.

SECTION 88, IC 6-8.1-8-16 [EFFECTIVE UPON PASSAGE] – adds a new section that provides that no demand notice, warrant, levy, or proceeding in court for the collection of a protested listed tax may be issued, commenced, or conducted against a taxpayer until the later of the expiration of the period in which the taxpayer may appeal the listed tax to the tax court, or a decision of the tax court concerning the protested listed tax becomes final, if the taxpayer filed a timely appeal.

SECTION 89, IC 6-8.1-9-1 [EFFECTIVE UPON PASSAGE] – clarifies that the tax court does not have jurisdiction to hear a refund appeal if: (1) the appeal is filed more than three years after the date the claim for refund was filed with the Department (current law); or (2) the appeal is filed more than 90 days after the later of the decision of denial of the claim or the decision made on the protest of the refund claim denial. This section also provides that a refund claim for sales tax based on predominant use under IC 6-2.5-4-5(c)(3) or the exemption provided under IC 6-2.5-5-5.1 for utilities must be filed with the Department within 18 months after the date of payment.

SECTION 90, IC 6-9-2-1 [EFFECTIVE JULY 1, 2011] – provides that the Lake County Innkeepers' Tax applies if a room is rented for less than 30 days by the same party in the same room. The tax is collected at the local level.

SECTION 102, IC 6-9-10.5-6 [EFFECTIVE JULY 1, 2011] – authorizes White County to increase the innkeepers' tax from 3% to 5%. The tax is collected at the local level.

SECTION 110, IC 6-9-24-9 [EFFECTIVE UPON PASSAGE] – extends the Nashville Food and Beverage Tax from Jan. 1, 2012, until Jan. 1, 2022.

SECTION 112, IC 7.1-3-21-15 [EFFECTIVE JAN. 1, 2012] – provides that taxpayers who have an alcoholic beverage permit and delinquent tax liabilities will not have their permit protested by the Department unless the tax delinquency has advanced to a tax warrant.

SECTION 113, IC 13-14-1-9 [EFFECTIVE JAN. 1, 2012] – clarifies that all holders of licenses and permits issued by the Department of Environmental Management will not have their licenses or permits protested by the Department unless the tax delinquency has advanced to a tax warrant.

SECTION 114, IC 16-21-2-11 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a hospital, an ambulatory outpatient surgical center, an abortion clinic, or a birthing center if the facility is on the Department's most recent tax warrant list.

SECTION 116, IC 16-25-3-4 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a hospice center if the center is on the Department's most recent tax warrant list.

SECTION 117, IC 16-27-1-8 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a home health agency providing home health services if the agency is on the Department's most recent tax warrant list.

SECTION 118, IC 16-28-2-3 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a health facility if the facility is on the Department's most recent tax warrant list.

SECTION 119, IC 16-41-35-27 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a radiological technologist if the person is on the Department's most recent tax warrant list.

SECTION 121, IC 20-28-5-14 [EFFECTIVE JAN. 1, 2012] – clarifies that a teacher's license will not be protested by the Department unless a tax delinquency has advanced to a tax warrant.

SECTION 131, IC 25-1-6-8 [EFFECTIVE JAN. 1, 2012] – clarifies that all licenses issued by the professional licensing agency will not be protested by the Department unless a tax delinquency has advanced to a tax warrant.

SECTION 132, IC 28-1-29-3 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a debt management company if the company is on the Department's most recent tax warrant list.

SECTION 133, IC 28-7-5-5 [EFFECTIVE JAN. 1, 2012] - authorizes the Department to protest the license of a pawnbroker if the pawnbroker is on the Department's most recent tax warrant list.

SECTION 134, IC 28-8-4-20 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a money transmission company if the licensee is on the Department's most recent tax warrant list.

SECTION 135, IC 28-8-5-11 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a check cashing company if the licensee is on the Department's most recent tax warrant list.

SECTION 146, IC 36-7-13-15 [EFFECTIVE UPON PASSAGE] – provides that the total annual incremental sales and withholding tax distributions for CRED districts in Delaware County may not exceed \$2,000,000.

SECTION 162, NONCODE [EFFECTIVE UPON PASSAGE] – repeals IC 6-3.1-19-5.5 that placed certain conditions on Delaware County and qualifications for the CRED tax credit.

SECTION 166, NONCODE [EFFECTIVE UPON PASSAGE] – requires the Office of Management and Budget, along with the Department and the Family and Social Services Administration, to conduct a study of the issues related to the earned income tax credit.

SECTION 167, NONCODE [EFFECTIVE UPON PASSAGE] – requires, among other things, the Commission on State Tax and Financing Policy to study all aspects, including advantages and disadvantages, of phasing out the state inheritance tax. Requires a study concerning sales tax holidays and Internet sales and taxation.

SECTION 174, NONCODE [EFFECTIVE JULY 1, 2011] – provides that the other tobacco products tax on wet snuff of \$.40 per ounce applies to products brought into Indiana for distribution, manufactured in Indiana for distribution, or transported to a retail dealer in Indiana for resale by the retail dealer, by a distributor after Dec. 31, 2011.

**HB 1005**, SECTION 1, IC 6-3.1-11-1 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that the minimum age for a facility to be eligible for the industrial recovery site tax credit has been reduced from 20 years to 15 years.

SECTION 2, IC 6-3.1-11-15 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides for a plant to qualify as a vacant industrial facility during the period from Jan. 1, 2011, through Dec.

31, 2014, the facility must have at least 50,000 square feet of floor space. After Dec. 31, 2014, the facility must have at least 100,000 square feet of floor space. The facility has to be vacant for 1 year instead of 2 years, which was prior law.

**HB 1252**, SECTION 1, IC 6-3.5-7-5 [EFFECTIVE UPON PASSAGE] – provides that the maximum CEDIT and COIT rates in Perry County may not exceed 1.75%.

SECTION 4, IC 6-3.5-7-27.5 [EFFECTIVE UPON PASSAGE] – adds a new section to authorize Perry County to impose a CEDIT rate of 0.5% for use to construct, finance, acquire, improve, renovate, remodel, or equip the county jail and related buildings and parking facilities, including costs of demolition of existing buildings.

**HB 1275**, SECTION 1, IC 6-3.5-7-12.7 [EFFECTIVE JULY 1, 2011] – allows a city, town, or county to transfer to its general fund money that has been deposited in the CEDIT fund or the rainy day fund.

**HB 1450**, SECTION 15, IC 22-4-17-2.5 [EFFECTIVE JULY 1, 2011] – provides that after Dec. 31, 2011, an individual receiving unemployment compensation may elect to have state and local adjusted gross income taxes withheld from the individual's payment of unemployment compensation based on withholding instructions issued by the Department.

**HB 1539**, SECTION 1, IC 6-3.5-6-18 [EFFECTIVE JULY 1, 2011] – provides that Marion County may use COIT revenue to fund the operation of a public library.

## **SENATE BILLS**

**SB 39**, NONCODE [EFFECTIVE UPON PASSAGE] – requires the Commission on State Tax and Financing Policy to study how the tax structure in Indiana influences a senior’s decision on residency after retirement.

**SB 62**, SECTIONS 1 THROUGH 10, IC 6-3.5-1.1-2; IC 6-3.5-1.1-2.3; IC 6-3.5-1.1-3; IC 6-3.5-1.1-3.1; IC 6-3.5-1.1-4; IC 6-3.5-1.1-10; IC 6-3.5-1.1-11; IC 6-3.5-1.1-21; IC 6-3.5-1.1-21.1; IC 6-3.5-1.1-24 [EFFECTIVE UPON PASSAGE] – conform references to ordinance adoption dates in the CAGIT laws to the dates specified in P.L. 113-210.

SECTIONS 11 THROUGH 23, IC 6-3.5-6-2; IC 6-3.5-6-8; IC 6-3.5-6-9; IC 6-3.5-6-10; IC 6-3.5-6-11; IC 6-3.5-6-12; IC 6-3.5-6-12.5; IC 6-3.5-6-13; IC 6-3.5-6-14; IC 6-3.5-6-28; IC 6-3.5-6-29; IC 6-3.5-6-30; IC 6-3.5-6-33 [EFFECTIVE UPON PASSAGE] – conform references to ordinance adoption dates in the COIT laws to the dates specified in P.L. 113-210.

SECTIONS 24 THROUGH 32, IC 6-3.5-7-5; IC 6-3.5-7-6; IC 6-3.5-7-7; IC 6-3.5-7-12; IC 6-3.5-7-13.1; IC 6-3.5-7-16; IC 6-3.5-7-26; IC 6-3.5-7-27; IC 6-3.5-7-28 [EFFECTIVE UPON PASSAGE] – conform references to ordinance adoption dates in the CEDIT laws to the dates specified in P.L. 113-210.

**SB 127**, SECTION 14, IC 9-24-6-5.5 [EFFECTIVE JULY 1, 2011] – for periods after Dec. 31, 2011, transfers authority over truck driving schools from the Department to the Bureau of Motor Vehicles.

**SB 155**, SECTION 1, IC 6-8.1-8-2 [EFFECTIVE JULY 1, 2011] – provides that a lien on real property is void if the person owing the tax provides written notice to the Department to file an action to foreclose on the lien and the Department fails to file an action to foreclose on the lien within 180 days after receiving the notice. After 180 days, the taxpayer may file an affidavit with the county clerk that the Department has not taken action to foreclose on the lien. Upon receipt of the affidavit, the circuit court clerk shall make an entry showing the release of the judgment lien in the judgment records for tax warrants.

SECTION 2, IC 6-8.1-8-3 [EFFECTIVE JULY 1, 2011] – provides that a county sheriff still has collection authority if the taxpayer has taken an action to have the Department foreclose on the lien and the judgment lien has been released.

SECTION 3, IC 6-8.1-8-8 [EFFECTIVE JULY 1, 2011] – provides that the Department still has authority to levy or garnish for a tax liability where the taxpayer has had a lien released as a result of the Department not foreclosing on the lien.

**SB 458**, SECTION 1, IC 6-6-4.1-2 [EFFECTIVE JULY 1, 2011] – provides an exemption from the motor carrier fuel use tax for vehicles with room for no more than nine passengers.

SECTION 2, IC 6-6-4.1-10 [EFFECTIVE JAN. 1, 2012] – provides that all reports required to be filed, and taxes required to be remitted, for the motor carrier fuel use tax and the international fuel tax agreement shall be reported and filed electronically as prescribed by the Department.

SECTION 3, IC 6-6-4.1-17 [EFFECTIVE JAN. 1, 2012] – provides that if a motor carrier fails to report or remit in an electronic format as required, the Commissioner may suspend or revoke the motor carrier’s annual permit.

SECTION 4, IC 8-2.1-22-36 [EFFECTIVE JULY 1, 2011] – authorizes the Department to grant temporary authority or emergency temporary authority to certain persons during the Super Bowl or the NCAA Final Four for a period of not more than 15 consecutive days.

SECTION 5, IC 9-20-18-14.5 [EFFECTIVE JAN. 1, 2012] – provides that penalties for violations of oversize/overweight statutes are imposed on the person whose United States Department of Transportation number is registered on the vehicle transporting the load. This section also provides that civil penalties for violations of the statute are discretionary. The statute previously required a civil penalty of a specific amount, and the amendment allows the civil penalty to be up to a specific amount.

SECTION 6, IC 9-24-6-0.8 [EFFECTIVE JULY 1, 2011] – adds the term “downgrade” as defined in 49 CFR 383.5 to the terms used concerning commercial driver’s licenses.

SECTION 7, IC 9-24-6-0.9 [EFFECTIVE JULY 1, 2011] – adds the term “medical examiner” as defined in 49 CFR 390.5 to the terms used concerning commercial driver’s licenses.

SECTION 8, IC 9-24-6-2.3 [EFFECTIVE JULY 1, 2011] – adds a provision to require an applicant for a new commercial driver’s license to provide the Bureau of Motor Vehicles with a copy of a current medical examination report and a medical examiner’s certificate prepared by a medical examiner. If a medical examination report does not certify that a commercial driver’s license holder meets the physical standards required, or if the driver is otherwise unqualified, the commercial driver’s license or permit is disqualified.



SECTION 9, IC 9-24-6-20 [EFFECTIVE JULY 1, 2011] – adds a provision to require the Bureau of Motor Vehicles to downgrade the commercial driver’s license of a driver if the driver’s medical certification expires or the Bureau receives notification that the driver’s federally granted medical variance was removed or rescinded. To prevent the driver’s license from being downgraded, the driver must submit a current and qualifying medical examination report or a federally granted medical variance within 60 days after the Bureau of Motor Vehicles has initiated the downgrade. The applicant for a commercial driver’s license is required to certify that they are going to operate either in interstate or intrastate commerce.

**SB 459**, SECTION 1, IC 6-2.5-4-6 [EFFECTIVE UPON PASSAGE] – makes a technical change in the provision concerning the retail transaction of telecommunications service to coincide with the amendment concerning prepaid calling services made in IC 6-2.5-4-13.

SECTION 2, IC 6-2.5-4-13 [EFFECTIVE UPON PASSAGE] – changes the terminology of a prepaid telephone calling card to a prepaid calling service or prepaid wireless calling service to coincide with the requirements of the Streamlined Sales and Use Tax Agreement.

SECTION 3, IC 6-2.5-5-18 [EFFECTIVE UPON PASSAGE] – provides that the sale and rental of durable medical equipment, mobility enhancing equipment, prosthetic devices, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical supplies and devices are treated in the same fashion and that there is no difference in the exemption whether the equipment is sold or rented.

SECTION 4, IC 6-2.5-11-10 [EFFECTIVE UPON PASSAGE] – provides that sellers, including certified service providers and sellers using a certified automated system, are not liable for sales or use tax collection errors that result from the Department’s certification or taxability matrix.

**SB 490**, SECTION 134, IC 6-2.5-3-0.3 [EFFECTIVE JULY 1, 2011] – provides that the legislative intent of P.L. 70-1993 as it amended section 1 of this chapter is to be construed liberally in favor of persons, corporations, partnerships, or other entities contracting with commercial printers.

SECTION 135, IC 6-2.5-5-0.4 [EFFECTIVE JULY 1, 2011] – provides that the legislative intent of P.L. 70-1993 as it amended section 36 of this chapter is to be construed liberally in favor of persons, corporations, partnerships, or other entities contracting with commercial printers.

SECTION 137, IC 6-2.5-8-0.3 [EFFECTIVE JULY 1, 2011] – provides that the legislative intent of P.L. 70-1993 as it amended sections 8.5 and 11 of this chapter is to be construed liberally in

favor of persons, corporations, partnerships, or other entities contracting with commercial printers.

SECTION 138, IC 6-3-2-0.3 [EFFECTIVE JULY 1, 2011] – provides that the legislative intent of P.L. 70-1993 as it amended section 2.3 of this chapter is to be construed liberally in favor of persons, corporations, partnerships, or other entities contracting with commercial printers.

**SB 590**, SECTION 4, IC 6-3-1-3.5 [EFFECTIVE JULY 1, 2011] – for taxable years beginning after June 30, 2011, requires individuals, corporations, life insurance companies, insurance companies, and trusts and estates to add back to adjusted gross income any wages, reimbursements, or other payments made for services if the person was prohibited from being hired as an employee because the person was an unauthorized alien.

SECTION 5, IC 6-3.1-13-5 [EFFECTIVE JULY 1, 2011] – provides that incremental withholding for purposes of the Economic Development for a Growing Economy (EDGE) Tax Credit does not apply to any employee who is an unauthorized alien.

SECTION 6, IC 6-3.1-13-18 [EFFECTIVE JULY 1, 2011] – provides that EDGE for retention does not apply to any employee who is an unauthorized alien.

SECTION 7, IC 6-5.5-1-2 [EFFECTIVE JULY 1, 2011] – for taxable years beginning after June 30, 2011, requires financial institutions to add back to adjusted gross income any wages, reimbursements, or other payments made for services if the person was prohibited from being hired as an employee because the person was an unauthorized alien.

# **TAXES AFFECTED**

## **—BY CODE CITATION—**

### **SALES AND USE TAX (IC 6-2.5)**

IC 6-2.5-3-0.3 [EFFECTIVE JULY 1, 2011] – provides that the legislative intent of P.L. 70-1993 as it amended section 1 of this chapter is to be construed liberally in favor of persons, corporations, partnerships, or other entities contracting with commercial printers.

IC 6-2.5-3-9 [EFFECTIVE JULY 1, 2011] – provides that use tax collected from remote sellers with respect to remote sales sourced to Indiana shall be transferred to the pension stabilization fund for the amount of tax collected from remote sales that exceeds \$150,000,000 in the previous fiscal year.

IC 6-2.5-3-10 [EFFECTIVE JULY 1, 2011] – requires the Department to publish on its website information needed to communicate a person’s obligation to remit use tax on purchases made where no sales tax was collected, including purchases using the Internet or a catalog.

IC 6-2.5-4-6 [EFFECTIVE UPON PASSAGE] – makes a technical change in the provision concerning the retail transaction of telecommunications service to coincide with the amendment concerning prepaid calling services made in IC 6-2.5-4-13.

IC 6-2.5-4-13 [EFFECTIVE UPON PASSAGE] – changes the terminology of a prepaid telephone calling card to a prepaid calling service or prepaid wireless calling service to coincide with the requirements of the Streamlined Sales and Use Tax Agreement.

IC 6-2.5-5-0.4 [EFFECTIVE JULY 1, 2011] – provides that the legislative intent of P.L. 70-1993 as it amended section 36 of this chapter is to be construed liberally in favor of persons, corporations, partnerships, or other entities contracting with commercial printers.

IC 6-2.5-5-5.1 [EFFECTIVE JULY 1, 2011] – provides that a refund claim for utilities used in direct consumption by a person engaged in manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture may not cover transactions that occur more than 18 months before the date of the refund claim.

IC 6-2.5-5-18 [EFFECTIVE UPON PASSAGE] – provides that the sale and rental of durable medical equipment, mobility enhancing equipment, prosthetic devices, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical

supplies and devices are treated in the same fashion and that there is no difference in the exemption whether the equipment is sold or rented.

IC 6-2.5-8-0.3 [EFFECTIVE JULY 1, 2011] – provides that the legislative intent of P.L. 70-1993 as it amended sections 8.5 and 11 of this chapter is to be construed liberally in favor of persons, corporations, partnerships, or other entities contracting with commercial printers.

IC 6-2.5-8-1 [EFFECTIVE JAN. 1, 2012] – provides that a registered retail merchant's certificate will not be renewed if the retail merchant is delinquent in remitting withholding taxes.

IC 6-2.5-8-7 [EFFECTIVE JAN. 1, 2012] – provides that if the application fee or renewal fee for a registered retail merchant's certificate is returned as unpaid by a financial institution, the person has five days to make the payment before the certificate will be revoked.

IC 6-2.5-10-1 [EFFECTIVE JULY 1, 2011] – changes the sales tax collection percentage deposited in the state general fund from 99.178% to 99.848% and decreases the amount deposited in the public mass transportation fund from 0.67% to zero.

IC 6-2.5-11-10 [EFFECTIVE UPON PASSAGE] – provides that sellers, including certified service providers and sellers using a certified automated system, are not liable for sales or use tax collection errors that result from the Department's certification or taxability matrix.

NONCODE [EFFECTIVE UPON PASSAGE] – provides that the Council of State Governments is exempt from the sales tax for any food and beverage prepared, furnished, or served to any person under a contract with the Council of State Governments in connection with the conference to be held in July 2011. A caterer or other contractor is not required to collect taxes if the transaction is exempt.

## **ADJUSTED GROSS INCOME TAX (IC 6-3)**

IC 6-3-1-3.5 [EFFECTIVE JAN. 1, 2012] – eliminates outdated individual income tax deductions and provides that interest earned on state and local obligations other than Indiana issues are subject to the adjusted gross income tax for obligations acquired after Dec. 31, 2011. This provision applies to individuals, corporations, life insurance companies, insurance companies, trusts and estates.

IC 6-3-1-3.5 [EFFECTIVE JULY 1, 2011] – for taxable years beginning after June 30, 2011, requires individuals, corporations, life insurance companies, insurance companies, and trusts and estates to add back to adjusted gross income any wages, reimbursements, or other payments

made for services if the person was prohibited from being hired as an employee because the person was an unauthorized alien.

IC 6-3-1-3.5 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – requires add backs to the definition of Indiana adjusted gross income of several provisions that are deductible in the Internal Revenue Code.

For individuals, the add backs are

- Expensing of environmental remediation costs;
- Charitable distributions from an individual retirement plan;
- Expenses for qualified tuition and related expenses;
- Expenses of elementary and secondary school teachers;
- Employer-provided education expenses;
- Expenses for qualified mine safety equipment property deducted under Section 179E of the Internal Revenue Code;
- The amount of qualified transportation fringe benefits that exceeds \$100 per month;
- The amount of interest deducted for qualified student loans that exceeds the amount allowed prior to the enactment of P.L. 111-312;
- The amount of qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(C)(iii) of the Internal Revenue Code;
- The amount of income of any taxpayer that placed a motor sports entertainment complex in service during the taxable year that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the Internal Revenue Code;
- The amount of start-up expenditures that exceeds the amount the taxpayer could deduct under Section 195 of the Internal Revenue Code before it was amended by P.L.111-240; and
- The amount of income for which tax was not imposed on the net recognized built-in gain of an S corporation under Section 1374(d)(7) of the Internal Revenue Code.

For corporations, life insurance companies, and insurance companies, the add backs are

- Expensing of environmental remediation costs;
- Expenses for qualified mine safety equipment property deducted under Section 179E of the Internal Revenue Code;
- The amount of qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(C)(iii) of the Internal Revenue Code;
- The amount of income of any taxpayer that placed a motor sports entertainment complex in service during the taxable year that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the Internal Revenue Code; and

- The amount of start-up expenditures that exceeds the amount the taxpayer could deduct under Section 195 of the Internal Revenue Code before it was amended by P.L.111-240.

For trusts and estates; the add backs are

- Expensing of environmental remediation costs;
- Expenses for qualified mine safety equipment property deducted under Section 179E of the Internal Revenue Code;
- The amount of qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(C)(iii) of the Internal Revenue Code;
- The amount of income of any taxpayer that placed a motor sports entertainment complex in service during the taxable year that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the Internal Revenue Code;
- The amount of start-up expenditures that exceeds the amount the taxpayer could deduct under Section 195 of the Internal Revenue Code before it was amended by P.L.111-240; and
- The amount of income for which tax was not imposed on the net recognized built-in gain of an S corporation under Section 1374(d)(7) of the Internal Revenue Code.

**Note:** SECTION 296 of HB 1001 (a NONCODE provision) provides that IC 6-3-1-3.5; IC 6-3-1-11; IC 6-3.1-21-6; and IC 6-5.5-1-2 apply to taxable years beginning after Dec. 31, 2009.

IC 6-3-1-11 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – updates the reference to the Internal Revenue Code in the Indiana Code to be the Internal Revenue Code as it exists on Jan. 1, 2011. The following provisions amended by Congress during 2010 are to be treated as though they had not been amended during 2010:

- Section 1367(a)(2) of the Internal Revenue Code pertaining to an adjustment of basis of the stock of shareholders;
- Section 871(k)(1)(c) of the Internal Revenue Code pertaining to the treatment of certain dividends of regulated investment companies;
- Section 897(h)(4)(A)(ii) of the Internal Revenue Code pertaining to regulated investment companies qualified entity treatment;
- Section 512(b)(13)(E)(iv) of the Internal Revenue Code pertaining to the modification of tax treatment of certain payments to controlling exempt organizations;
- Section 613A(c)(6)(H)(ii) of the Internal Revenue Code pertaining to the limitations on percentage depletion in the case of oil and gas wells;
- Section 451(i)(3) of the Internal Revenue Code pertaining to special rules for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy for qualified electric utilities; and

- Section 954(c)(6) of the Internal Revenue Code pertaining to the look-through treatment of payments between related controlled foreign corporations under foreign personal holding company rules.

**Note:** SECTION 296 of HB 1001 (a NONCODE provision) provides that IC 6-3-1-3.5; IC 6-3-1-11; IC 6-3.1-21-6; and IC 6-5.5-1-2 apply to taxable years beginning after Dec. 31, 2009.

IC 6-3-2-0.3 [EFFECTIVE JULY 1, 2011] – provides that the legislative intent of P.L. 70-1993 as it amended section 2.3 of this chapter is to be construed liberally in favor of persons, corporations, partnerships, or other entities contracting with commercial printers.

IC 6-3-2-1 [EFFECTIVE JULY 1, 2011] – reduces the corporate income tax by 0.5% per year beginning July 1, 2012, until July 1, 2015, when the rate will be 6.5%. Provides for the proration of the rate based on the number of months in a taxpayer's taxable year for which the rate is effective. The prorated rate will be rounded to the nearest one-hundredth of one percent.

IC 6-3-2-2 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that income for corporations and nonresident persons will be considered derived from sources within Indiana to the extent that income from intangible personal property is apportioned to Indiana, allocated to Indiana, or considered to be derived from sources within Indiana.

IC 6-3-2-2.5 [EFFECTIVE JAN. 1, 2012] – eliminates the net operating loss carry back after Dec. 31, 2011, for resident persons.

IC 6-3-2-2.6 [EFFECTIVE JAN. 1, 2012] – eliminates the net operating loss carry back after Dec. 31, 2011, for corporations and nonresident persons.

IC 6-3-4-1.5 [EFFECTIVE JULY 1, 2011] – requires a professional preparer who files more than 50 returns in 2012 and more than 10 returns in 2013 to file the returns in an electronic format. Current law requires electronic filing if more than 100 returns are filed.

IC 6-3-4-3 [EFFECTIVE JAN. 1, 2012] – provides that the due date for an acquired corporation will be the same due date as the acquiring corporation if the two entities have different taxable year ending dates.

IC 6-3-4-6 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – requires a taxpayer to notify the Department of a federal modification of adjusted gross income and file an amended return within 180 days after the modification. Current law requires the notification and amended return to be filed within 120 days.

IC 6-3-4-8 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – eliminates the provision that allowed for advanced payments of the earned income tax credit through reduced employee withholding.

IC 6-3-2-22 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – makes a technical change to the income tax deduction for expenses related to sending children to a private school or being home-schooled.

IC 6-3-2-22 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – authorizes a \$1,000 income tax deduction per dependent who was enrolled in a private school or home-schooled in grades K-12 and incurred costs for tuition, fees, computer software, textbooks, or school supplies.

## **TAX CREDITS (IC 6-3.1)**

IC 6-3.1-2-8 [EFFECTIVE JULY 1, 2011] – provides that the teacher summer employment credit may not be awarded after Dec. 31, 2011.

IC 6-3.1-11-1 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that the minimum age for a facility to be eligible for the industrial recovery site tax credit has been reduced from 20 years to 15 years.

IC 6-3.1-11-15 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides for a plant to qualify as a vacant industrial facility during the period from Jan. 1, 2011, through Dec. 31, 2014, the facility must have at least 50,000 square feet of floor space. After Dec. 31, 2014, the facility must have at least 100,000 square feet of floor space. The facility has to be vacant for 1 year instead of 2 years, which was prior law.

IC 6-3.1-13-5 [EFFECTIVE JULY 1, 2011] – provides that incremental withholding for purposes of the Economic Development for a Growing Economy (EDGE) Tax Credit does not apply to any employee who is an unauthorized alien.

IC 6-3.1-13-18 [EFFECTIVE JULY 1, 2011] – provides that EDGE for retention does not apply to any employee who is an unauthorized alien.

IC 6-3.1-14-9 [EFFECTIVE JULY 1, 2011] – provides that the maternity home tax credit may not be awarded after Dec. 31, 2011, and that credits previously awarded may not be carried forward during 2012 and 2013 but may be carried forward during 2014 and 2015.



IC 6-3.1-21-6 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that the calculation of the earned income tax credit is based on the federal earned income tax credit as it existed before being amended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

**Note:** SECTION 296 of HB 1001 (a NONCODE provision) provides that IC 6-3-1-3.5; IC 6-3-1-11; IC 6-3.1-21-6; and IC 6-5.5-1-2 apply to taxable years beginning after Dec. 31, 2009.

IC 6-3.1-21-8 [EFFECTIVE JULY 1, 2011] – eliminates reference to the advanced earned income tax credit in the earned income tax credit language.

IC 6-3.1-24-8; [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that, for calendar years beginning after Dec. 31, 2010, the maximum venture capital tax credits available to a qualified business is \$1,000,000. Prior law limited the tax credit per qualified business to \$500,000.

IC 6-3.1-24-9 [EFFECTIVE JULY 1, 2011] – extends the venture capital investment tax credit from Dec. 31, 2012, to Dec. 31, 2014.

IC 6-3.1-30.5-13 [EFFECTIVE JULY 1, 2011] – increases the cap on the total amount of credits that can be claimed in a fiscal year for contributions to scholarship-granting organizations from \$2,500,000 to \$5,000,000.

IC 6-3.1-31-14 [EFFECTIVE JULY 1, 2011] –provides that the health benefit plan tax credit may not be awarded after Dec. 31, 2011, and that credits previously awarded may not be carried forward during 2012 and 2013 but may be carried forward during 2014 and 2015.

IC 6-3.1-31.2-11 [EFFECTIVE JULY 1, 2011] – provides that the small employer qualified wellness program tax credit may not be awarded after Dec. 31, 2011, and that credits previously awarded may not be carried forward during 2012 and 2013 but may be carried forward during 2014 and 2015.

NONCODE [EFFECTIVE UPON PASSAGE] – repeals IC 6-3.1-19-5.5 that placed certain conditions on Delaware County and qualifications for the CRED tax credit.

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

IC 6-3.5-1.1-2; IC 6-3.5-1.1-2.3; IC 6-3.5-1.1-3; IC 6-3.5-1.1-3.1; IC 6-3.5-1.1-4; IC 6-3.5-1.1-10; IC 6-3.5-1.1-11; IC 6-3.5-1.1-21; IC 6-3.5-1.1-21.1; IC 6-3.5-1.1-24 [EFFECTIVE UPON PASSAGE] – conform references to ordinance adoption dates in the CAGIT laws to the dates specified in P.L. 113-210.

## **COUNTY OPTION INCOME TAX (COIT) (IC 6-3.5-6)**

IC 6-3.5-6-2; IC 6-3.5-6-8; IC 6-3.5-6-9; IC 6-3.5-6-10; IC 6-3.5-6-11; IC 6-3.5-6-12; IC 6-3.5-6-12.5; IC 6-3.5-6-13; IC 6-3.5-6-14; IC 6-3.5-6-28; IC 6-3.5-6-29; IC 6-3.5-6-30; IC 6-3.5-6-33 [EFFECTIVE UPON PASSAGE] – conform references to ordinance adoption dates in the COIT laws to the dates specified in P.L. 113-210.

IC 6-3.5-6-18 [EFFECTIVE JULY 1, 2011] – provides that Marion County may use COIT revenue to fund the operation of a public library.

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

IC 6-3.5-7-5 [EFFECTIVE UPON PASSAGE] – provides that the maximum CEDIT and COIT rates in Perry County may not exceed 1.75%.

IC 6-3.5-7-12.7 [EFFECTIVE JULY 1, 2011] – allows a city, town, or county to transfer to its general fund money that has been deposited in the CEDIT fund or the rainy day fund.

IC 6-3.5-7-27.5 [EFFECTIVE UPON PASSAGE] – adds a new section to authorize Perry County to impose a CEDIT rate of 0.5% for use to construct, finance, acquire, improve, renovate, remodel, or equip the county jail and related buildings and parking facilities, including costs of demolition of existing buildings.

IC 6-3.5-7-5; IC 6-3.5-7-6; IC 6-3.5-7-7; IC 6-3.5-7-12; IC 6-3.5-7-13.1; IC 6-3.5-7-16; IC 6-3.5-7-26; IC 6-3.5-7-27; IC 6-3.5-7-28 [EFFECTIVE UPON PASSAGE] – conform references to ordinance adoption dates in the CEDIT laws to the dates specified in P.L. 113-210.

## **FINANCIAL INSTITUTIONS TAX (IC 6-5.5)**

IC 6-5.5-1-2 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – requires financial institutions to add back the following items to adjusted gross income:

- Expensing of environmental remediation costs;
- Expenses for qualified mine safety equipment property deducted under Section 179E of the Internal Revenue Code;
- The amount of qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(C)(iii) of the Internal Revenue Code;
- The amount of income of any taxpayer that placed a motor sports entertainment complex in service during the taxable year that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the Internal Revenue Code;
- The amount of start-up expenditures that exceeds the amount the taxpayer could deduct under Section 195 of the Internal Revenue Code before it was amended by P.L.111-240; and
- The amount of income for which tax was not imposed on the net recognized built-in gain of an S corporation under Section 1374(d)(7) of the Internal Revenue Code.

**Note:** SECTION 296 of HB 1001 (a NONCODE provision) provides that IC 6-3-1-3.5; IC 6-3-1-11; IC 6-3.1-21-6; and IC 6-5.5-1-2 apply to taxable years beginning after Dec. 31, 2009.

IC 6-5.5-1-2 [EFFECTIVE JAN. 1, 2012] – requires an add back for investment companies equal to the amount of interest received from investment in state and local obligations of states or political subdivisions other than Indiana for obligations acquired after Dec. 31, 2011.

IC 6-5.5-1-2 [EFFECTIVE JULY 1, 2011] – for taxable years beginning after June 30, 2011, requires financial institutions to add back to adjusted gross income any wages, reimbursements, or other payments made for services if the person was prohibited from being hired as an employee because the person was an unauthorized alien.

## **MOTOR CARRIER FUEL USE TAX (IC 6-6-4.1)**

IC 6-6-4.1-2 [EFFECTIVE JULY 1, 2011] – provides an exemption from the motor carrier fuel use tax for vehicles with room for no more than nine passengers.

IC 6-6-4.1-10 [EFFECTIVE JAN. 1, 2012] – provides that all reports required to be filed, and taxes required to be remitted, for the motor carrier fuel use tax and the international fuel tax agreement shall be reported and filed electronically as prescribed by the Department.

IC 6-6-4.1-17 [EFFECTIVE JAN. 1, 2012] – provides that if a motor carrier fails to report or remit in an electronic format as required, the Commissioner may suspend or revoke the motor carrier’s annual permit.

## **CIGARETTE TAX (IC 6-7-1)**

IC 6-7-1-28.1 [EFFECTIVE JULY 1, 2011] – changes the distribution of the cigarette tax so that there are no funds distributed to the state retiree health benefit trust fund, and an additional 5.74% is distributed to the general fund during the period from July 1, 2011, to June 30, 2013.

## **OTHER TOBACCO PRODUCTS TAX (IC 6-7-2)**

IC 6-7-2-2.1 [EFFECTIVE JAN. 1, 2012] – defines moist snuff as tobacco that is not intended to be smoked or placed in the nasal cavity.

IC 6-7-2-5 [EFFECTIVE JAN. 1, 2012] – provides that the definition of other tobacco products includes moist snuff.

IC 6-7-2-7 [EFFECTIVE JAN. 1, 2012] – provides that moist snuff shall be taxed at \$.40 per ounce instead of 24% of the wholesale price, which is the method of taxation for other tobacco products.

IC 6-7-2-12 [EFFECTIVE JAN. 1, 2012] – provides that other tobacco products distributors shall file a monthly return that includes the wholesale price for tobacco products other than moist snuff and for moist snuff, the weight of the moist snuff.

NONCODE [EFFECTIVE JULY 1, 2011] – provides that the other tobacco products tax on wet snuff of \$.40 per ounce applies to products brought into Indiana for distribution, manufactured in Indiana for distribution, or transported to a retail dealer in Indiana for resale by the retail dealer, by a distributor after Dec. 31, 2011.

## **TAX ADMINISTRATION (IC 6-8.1)**

IC 6-8.1-5-1 [EFFECTIVE JAN. 1, 2011 (RETROACTIVE)] – provides that a taxpayer has 60 days to pay or protest a proposed assessment. Current law limits the time period to 45 days.

IC 6-8.1-8-2 [EFFECTIVE UPON PASSAGE] – clarifies that a county clerk is required to expunge a warrant if it is determined that the tax warrant was issued in error. This section also

requires the Department to mail the release of the warrant and the order for the warrant to be expunged within seven days of the determination that the warrant was in error.

IC 6-8.1-8-2 [EFFECTIVE JULY 1, 2011] – provides that a lien on real property is void if the person owing the tax provides written notice to the Department to file an action to foreclose on the lien and the Department fails to file an action to foreclose on the lien within 180 days after receiving the notice. After 180 days, the taxpayer may file an affidavit with the county clerk that the Department has not taken action to foreclose on the lien. Upon receipt of the affidavit, the circuit court clerk shall make an entry showing the release of the judgment lien in the judgment records for tax warrants.

IC 6-8.1-8-3 [EFFECTIVE JULY 1, 2011] – provides that a county sheriff still has collection authority if the taxpayer has taken an action to have the Department foreclose on the lien and the judgment lien has been released.

IC 6-8.1-8-8 [EFFECTIVE JULY 1, 2011] – provides that the Department still has authority to levy or garnish for a tax liability where the taxpayer has had a lien released as a result of the Department not foreclosing on the lien.

IC 6-8.1-8-16 [EFFECTIVE UPON PASSAGE] – adds a new section that provides that no demand notice, warrant, levy, or proceeding in court for the collection of a protested listed tax may be issued, commenced, or conducted against a taxpayer until the later of the expiration of the period in which the taxpayer may appeal the listed tax to the tax court, or a decision of the tax court concerning the protested listed tax becomes final, if the taxpayer filed a timely appeal.

IC 6-8.1-9-1 [EFFECTIVE UPON PASSAGE] – clarifies that the tax court does not have jurisdiction to hear a refund appeal if: (1) the appeal is filed more than three years after the date the claim for refund was filed with the Department (current law); or (2) the appeal is filed more than 90 days after the later of the decision of denial of the claim or the decision made on the protest of the refund claim denial. This section also provides that a refund claim for sales tax based on predominant use under IC 6-2.5-4-5(c)(3) or the exemption provided under IC 6-2.5-5-5.1 for utilities must be filed with the Department within 18 months after the date of payment.

## **INNKEEPERS' TAXES, OTHER LOCAL TAXES (IC 6-9)**

IC 6-9-2-1 [EFFECTIVE JULY 1, 2011] – provides that the Lake County Innkeepers' Tax applies if a room is rented for less than 30 days by the same party in the same room. The tax is collected at the local level.

IC 6-9-7-7 [EFFECTIVE UPON PASSAGE] – provides that 30% of the innkeepers' tax in Tippecanoe County will be deposited in the state general fund for the period from July 1, 2015, to June 30, 2017.

IC 6-9-10.5-6 [EFFECTIVE JULY 1, 2011] – authorizes White County to increase the innkeepers' tax from 3% to 5%. The tax is collected at the local level.

IC 6-9-24-9 [EFFECTIVE UPON PASSAGE] – extends the Nashville Food and Beverage Tax from Jan. 1, 2012, until Jan. 1, 2022.

## **ALCOHOLIC BEVERAGE TAXES & PERMITS (IC 7.1)**

IC 7.1-3-21-15 [EFFECTIVE JAN. 1, 2012] – provides that taxpayers who have an alcoholic beverage permit and delinquent tax liabilities will not have their permits protested by the Department unless the tax delinquency has advanced to a tax warrant.

## **MOTOR CARRIER SERVICES (IC 8-2.1 & IC 9)**

IC 8-2.1-22-36 [EFFECTIVE JULY 1, 2011] – authorizes the Department to grant temporary authority or emergency temporary authority to certain persons during the Super Bowl or the NCAA Final Four for a period of not more than 15 consecutive days.

IC 9-20-18-14.5 [EFFECTIVE JAN. 1, 2012] – provides that penalties for violations of oversize/overweight statutes are imposed on the person whose United States Department of Transportation number is registered on the vehicle transporting the load. This section also provides that civil penalties for violations of the statute are discretionary. The statute previously required a civil penalty of a specific amount, and the amendment allows the civil penalty to be up to a specific amount.

IC 9-24-6-0.8 [EFFECTIVE JULY 1, 2011] – adds the term “downgrade” as defined in 49 CFR 383.5 to the terms used concerning commercial driver's licenses.

IC 9-24-6-0.9 [EFFECTIVE JULY 1, 2011] – adds the term “medical examiner” as defined in 49 CFR 390.5 to the terms used concerning commercial driver’s licenses.

IC 9-24-6-2.3 [EFFECTIVE JULY 1, 2011] – adds a provision to require an applicant for a new commercial driver’s license to provide the Bureau of Motor Vehicles with a copy of a current medical examination report and a medical examiner’s certificate prepared by a medical examiner. If a medical examination report does not certify that a commercial driver’s license holder meets the physical standards required, or if the driver is otherwise unqualified, the commercial driver’s license or permit is disqualified.

IC 9-24-6-5.5 [EFFECTIVE JULY 1, 2011] – for periods after Dec. 31, 2011, transfers authority over truck driving schools from the Department to the Bureau of Motor Vehicles.

IC 9-24-6-20 [EFFECTIVE JULY 1, 2011] – adds a provision to require the Bureau of Motor Vehicles to downgrade the commercial driver’s license of a driver if the driver’s medical certification expires or the Bureau receives notification that the driver’s federally granted medical variance was removed or rescinded. To prevent the driver’s license from being downgraded, the driver must submit a current and qualifying medical examination report or a federally granted medical variance within 60 days after the Bureau of Motor Vehicles has initiated the downgrade. The applicant for a commercial driver’s license is required to certify that they are going to operate either in interstate or intrastate commerce.

## **LICENSE PROTEST PROVISIONS**

IC 2-7-5-6 [EFFECTIVE JAN. 1, 2012] – clarifies that a delinquent tax liability must be at a tax warrant stage before the Department will protest the renewal of a registered lobbyist.

IC 4-30-11-11 [EFFECTIVE JAN. 1, 2012] – clarifies that a delinquent tax liability must be at a tax warrant stage before the Department will protest the payment to a person who has winnings from the Hoosier Lottery.

IC 4-31-6-6 [EFFECTIVE JAN. 1, 2012] – clarifies that a delinquent tax liability must be at a tax warrant stage before the Department will protest a license issued by the horse racing commission.

IC 13-14-1-9 [EFFECTIVE JAN. 1, 2012] – clarifies that all holders of licenses and permits issued by the Department of Environmental Management will not have their licenses or permits protested by the Department unless the tax delinquency has advanced to a tax warrant.

IC 16-21-2-11 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a hospital, ambulatory outpatient surgical center, abortion clinic, or a birthing center if the facility is on the Department’s most recent tax warrant list.

IC 16-25-3-4 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a hospice center if the center is on the Department’s most recent tax warrant list.

IC 16-27-1-8 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a home health agency providing home health services if the agency is on the Department’s most recent tax warrant list.

IC 16-28-2-3 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a health facility if the facility is on the Department’s most recent tax warrant list.

IC 16-41-35-27 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a radiological technologist if the person is on the Department’s most recent tax warrant list.

IC 20-28-5-14 [EFFECTIVE JAN. 1, 2012] – clarifies that a teacher’s license will not be protested by the Department unless a tax delinquency has advanced to a tax warrant.

IC 25-1-6-8 [EFFECTIVE JAN. 1, 2012] – clarifies that all licenses issued by the professional licensing agency will not be protested by the Department unless a tax delinquency has advanced to a tax warrant.

IC 28-1-29-3 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a debt management company if the company is on the Department’s most recent tax warrant list.

IC 28-7-5-5 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a pawnbroker if the pawnbroker is on the Department’s most recent tax warrant list.

IC 28-8-4-20 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a money transmission company if the licensee is on the Department’s most recent tax warrant list.

IC 28-8-5-11 [EFFECTIVE JAN. 1, 2012] – authorizes the Department to protest the license of a check cashing company if the licensee is on the Department’s most recent tax warrant list.



## MISCELLANEOUS

IC 4-10-22 [EFFECTIVE JAN. 1, 2012] – provides that if the state reserves at the end of a fiscal year exceed 10% of the general revenue appropriations for the current state fiscal year, 50% of the excess reserves shall be transferred to the pension stabilization fund and 50% shall be used to provide an automatic tax refund. To qualify for the refund, a taxpayer must have filed a resident individual income tax return for the last two years and must have paid tax to the state during the previous taxable year. The amount of the refund is determined on a pro-rata basis, based on the taxpayer's portion of the total income tax liability paid by all qualifying taxpayers in the preceding year.

IC 4-35-8-1 [EFFECTIVE JULY 1, 2011] – provides that, after June 30, 2012, the wagering tax on slot machines at horse tracks will be based on 99% of the adjusted gross receipts.

IC 22-4-17-2.5 [EFFECTIVE JULY 1, 2011] – provides that after Dec. 31, 2011, an individual receiving unemployment compensation may elect to have state and local adjusted gross income taxes withheld from the individual's payment of unemployment compensation based on withholding instructions issued by the Department.

IC 36-7-13-15 [EFFECTIVE UPON PASSAGE] – provides that the total annual incremental sales and withholding tax distributions for CRED districts in Delaware County may not exceed \$2,000,000.

## NONCODE SECTIONS

NONCODE [EFFECTIVE JAN. 1, 2010 (RETROACTIVE)] – provides that IC 6-3-1-3.5; IC 6-3-1-11; IC 6-3.1-21-6; and IC 6-5.5-1-2 apply to taxable years beginning after Dec. 31, 2009.

NONCODE [EFFECTIVE UPON PASSAGE] – requires the Office of Management and Budget, along with the Department and the Family and Social Services Administration, to conduct a study of the issues related to the earned income tax credit.

NONCODE [EFFECTIVE UPON PASSAGE] – requires, among other things, the Commission on State Tax and Financing Policy to study all aspects, including advantages and disadvantages, of phasing out the state inheritance tax. Requires a study concerning sales tax holidays and Internet sales and taxation.

NONCODE [EFFECTIVE UPON PASSAGE] – requires the Commission on State Tax and Financing Policy to study how the tax structure in Indiana influences a senior’s decision on residency after retirement.