

HOUSE BILL No. 1732

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-9; IC 6-8.1-1-1

Synopsis: School option income tax. Permits a school corporation to impose a school option income tax of up to 0.5% on the adjusted gross income of resident taxpayers. Provides that the school option income tax may be imposed or increased only after approval by a local public question. Provides for the distribution of school option income tax revenue.

Effective: July 1, 2005.

Espich

January 19, 2005, read first time and referred to Committee on Ways and Means.

C
O
P
Y



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

C
o
p
y

HOUSE BILL No. 1732



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2005]:
- 4 **Chapter 9. School Option Income Tax**
- 5 **Sec. 1. As used in this chapter, "adjusted gross income" has the**
- 6 **meaning set forth in IC 6-3-1-3.5(a).**
- 7 **Sec. 2. As used in this chapter, "department" refers to the**
- 8 **department of state revenue.**
- 9 **Sec. 3. As used in this chapter, "public question" has the**
- 10 **meaning set forth in IC 3-5-2-41.**
- 11 **Sec. 4. As used in this chapter, "resident taxpayer", as it relates**
- 12 **to a particular school corporation, means an individual who resides**
- 13 **in the school corporation's school district, as determined under**
- 14 **section 19 of this chapter.**
- 15 **Sec. 5. As used in this chapter, "school corporation" has the**
- 16 **meaning set forth in IC 36-1-2-17.**
- 17 **Sec. 6. As used in this chapter, "school district" has the meaning**



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

set forth in IC 3-5-2-47.

Sec. 7. (a) Using the procedures described in this chapter, the governing body of a school corporation may adopt a resolution to:

- (1) impose a school option income tax in the school district;**
- (2) increase the school option income tax rate;**
- (3) decrease the school option income tax rate, subject to section 11 of this chapter; or**
- (4) rescind the school option income tax, subject to section 10 of this chapter.**

(b) A resolution adopted in a particular year under this chapter to:

- (1) impose a school option income tax; or**
 - (2) increase or decrease the school option income tax rate;**
- is effective January 1 of the year immediately following adoption of the resolution. A resolution adopted under this chapter to rescind a school option income tax is effective upon its adoption.**

(c) A governing body may impose, increase, or decrease a school option income tax rate only in multiples of one-tenth of one percent (0.1%). However, a school option income tax rate may not exceed five-tenths of one percent (0.5%) of the adjusted gross income of resident taxpayers. The governing body of a school corporation may impose the tax or increase or decrease the tax rate only as provided in sections 8 and 11 of this chapter.

(d) The governing body of a school corporation shall give notice of an action under this chapter to the department of local government finance and the department not more than five (5) business days after adopting a resolution under this chapter.

Sec. 8. (a) Before the governing body of a school corporation may adopt a resolution under this chapter to impose a school option income tax or increase the school option income tax rate to a rate higher than the rate at which the school option income tax was imposed, the governing body shall cause a local public question to be placed on a general election ballot in accordance with the procedure described in IC 3-10-9.

(b) The local public question must include the text of the proposed resolution and must specify:

- (1) whether the governing body of a school corporation seeks to impose a school option income tax or to increase the school option income tax rate to a rate higher than the rate at which the school option income tax was imposed; and**
- (2) the rate at which the tax will be imposed or to which it will be increased.**

**C
O
P
Y**



1 (c) The governing body of a school corporation may adopt a
 2 resolution under this chapter to impose a school option income tax
 3 or increase the school option income tax rate to a rate higher than
 4 the rate at which the school option income tax was imposed only if
 5 a majority of the electorate participating in the general election
 6 votes to adopt the resolution. If a majority of the electorate
 7 participating in the general election votes to adopt the resolution,
 8 the governing body of the school corporation shall adopt the
 9 resolution before December 1 of the year in which the local public
 10 question was placed on the ballot.

11 (d) The governing body of a school corporation may adopt a
 12 resolution under this chapter to:

- 13 (1) rescind a school option income tax;
 - 14 (2) decrease the school option income tax rate; or
 - 15 (3) increase the school option income tax rate to a rate lower
 16 than or equal to the rate at which the school option income tax
 17 was imposed under subsection (c);
- 18 at any time and without notice.

19 Sec. 9. The governing body of a school corporation shall impose
 20 a school option income tax on the adjusted gross income of resident
 21 taxpayers residing in the school corporation's school district
 22 effective January 1 of the year following the general election in
 23 which a majority of the electorate participating in the general
 24 election voted to adopt a resolution to impose a school option
 25 income tax under the procedure set forth in section 8 of this
 26 chapter.

27 Sec. 10. (a) The school option income tax imposed under this
 28 chapter by the governing body of a school corporation remains in
 29 effect until rescinded by the governing body.

30 (b) The governing body of a school corporation may rescind the
 31 school option income tax by passing a resolution to rescind the tax
 32 after July 1 but before December 1 of a year. The governing body
 33 may rescind the tax without causing a public question to be placed
 34 on a general election ballot.

35 (c) If the governing body of a school corporation has pledged
 36 school option income tax revenue for any purpose permitted by
 37 statute, the governing body may not:

- 38 (1) rescind a school option income tax; or
- 39 (2) take any special action that would result in the school
 40 corporation receiving a certified distribution under section 13
 41 of this chapter smaller than the certified distribution to which
 42 the school corporation was entitled when it pledged the school

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

option income tax revenue.
Sec. 11. (a) Subject to subsection (b), a governing body of a school corporation may decrease the school option income tax rate at any time and without notice.

(b) A governing body of a school corporation may not decrease the school option income tax if the school corporation has pledged the school option income tax for any purpose permitted by IC 5-1-14 or any other statute.

Sec. 12. (a) A special account within the state general fund shall be established for each school corporation that adopts a school option income tax. Any revenue derived from the imposition of the school option income tax by the governing body of a school corporation shall be deposited in that school corporation's account in the state general fund.

(b) Any income earned on money held in an account under subsection (a) becomes a part of that account.

(c) Any revenue remaining in an account established under subsection (a) at the end of a fiscal year does not revert to the state general fund.

Sec. 13. (a) Revenue derived from the imposition of the school option income tax shall, in the manner prescribed by this section, be distributed to the school corporation that imposed it. The amount that is to be distributed to a school corporation during an ensuing calendar year equals the amount of school option income tax revenue that the department, after reviewing the recommendation of the budget agency, determines has been:

- (1) received from that school district for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and
- (2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of school option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the governing body of each adopting school corporation the amount determined under subsection (a) plus the amount of interest in the school corporation's account that has accrued and has not been included in a certification made in a preceding year.

C
O
P
Y



1 The amount certified is the school corporation's "certified
 2 distribution" for the immediately succeeding calendar year. The
 3 amount certified shall be adjusted, as necessary, under subsections
 4 (c), (d), and (e). The department shall provide an informative
 5 summary of the calculations used to determine the certified
 6 distribution together with the certification.

7 (c) The department shall certify an amount less than the amount
 8 determined under subsection (b) if the department, after reviewing
 9 the recommendation of the budget agency, determines that the
 10 reduced distribution is necessary to offset overpayments made in
 11 a calendar year before the calendar year of the distribution. The
 12 department, after reviewing the recommendation of the budget
 13 agency, may reduce the amount of the certified distribution over
 14 several calendar years so that any overpayments are offset over
 15 several years rather than in one (1) lump sum.

16 (d) The department, after reviewing the recommendation of the
 17 budget agency, shall adjust the certified distribution of a school
 18 corporation to correct for any clerical or mathematical errors
 19 made in any previous certification under this section. The
 20 department, after reviewing the recommendation of the budget
 21 agency, may reduce the amount of the certified distribution over
 22 several calendar years so that any adjustment under this
 23 subsection is offset over several years rather than in one (1) lump
 24 sum.

25 (e) This subsection applies to a school corporation that initially
 26 imposes a tax under this chapter. In the same calendar year in
 27 which the governing body adopts a resolution under section 7 of
 28 this chapter, the department shall make a certification under this
 29 section. The department, after reviewing the recommendation of
 30 the budget agency, shall adjust the certified distribution of a school
 31 distribution to provide for a distribution in the immediately
 32 following calendar year and in each calendar year thereafter. The
 33 department shall provide for a full transition to certification of
 34 distributions as provided in subsection (a)(1) through (a)(2) in the
 35 manner provided in subsection (c).

36 Sec. 14. (a) One-half (1/2) of each adopting school corporation's
 37 certified distribution for a calendar year shall be distributed from
 38 its account established under section 12 of this chapter to the
 39 appropriate school corporation treasurer on May 1 and the other
 40 one-half (1/2) on November 1 of that calendar year.

41 (b) Distributions made to a school corporation treasurer under
 42 subsection (a) shall be treated as though they were property taxes

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

that were first due and payable during that same calendar year.

(c) All distributions from an account established under section 12 of this chapter must be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

Sec. 15. (a) Before October 2 of each year, the department shall submit a report to each governing body that has adopted the school option income tax. The report must indicate the balance in the school corporation's special account as of a date set by the budget agency.

(b) If the department, after receiving a recommendation from the budget agency, determines that the amount in a school corporation's special account, when added to other money that will be deposited in the special account after the date of the recommendation, exceeds the amount necessary to make certified distributions to the school corporation in the ensuing year, the department shall make a supplemental distribution to the school corporation from the school corporation's special account. A supplemental distribution must be made in January of the ensuing calendar year.

Sec. 16. (a) Upon receiving a distribution of school option income tax revenue, the school corporation shall, in the manner prescribed by this section, allocate and use the distribution as property tax replacement credits.

(b) A governing body shall adopt a resolution to allocate the school option income tax revenue that the school corporation receives to one (1) or both of the following funds, in any proportion:

(1) The school corporation debt service fund (as described in IC 21-2-4).

(2) The school corporation capital projects fund (as described in IC 21-2-15).

(c) The procedures in section 8 of this chapter do not apply to a resolution adopted under subsection (b).

(d) The school corporation treasurer shall deposit distributions of school option income revenue into the school corporation funds described in the resolution adopted under subsection (b).

Sec. 17. Notwithstanding any other law, if a school corporation desires to issue obligations or enter into leases, payable wholly or in part by the school option income tax, the obligations of the school corporation or any lessor may be sold at public sale in accordance with IC 5-1-11 or at negotiated sale.

C
O
P
Y



1 **Sec. 18. (a) All provisions of the adjusted gross income tax law**
 2 **(IC 6-3) concerning:**

- 3 **(1) definitions;**
 4 **(2) declarations of estimated tax;**
 5 **(3) filing of returns;**
 6 **(4) deductions or exemptions from adjusted gross income;**
 7 **(5) remittances;**
 8 **(6) incorporation of the provisions of the Internal Revenue**
 9 **Code;**
 10 **(7) penalties and interest; and**
 11 **(8) exclusion of military pay credits for withholding;**

12 **apply to the imposition, collection, and administration of the tax**
 13 **imposed in a school district under this chapter.**

14 **(b) The tax imposed under this chapter is a listed tax for**
 15 **purposes of IC 6-8.1.**

16 **(c) Notwithstanding subsection (a), each employer shall report**
 17 **to the department and the school corporation the amount of**
 18 **withholdings attributable to each school corporation. This report**
 19 **shall be submitted at the same time that the employer submits the**
 20 **employer's other withholding report to the department.**

21 **Sec. 19. An individual resides in the school district in which the**
 22 **individual:**

- 23 **(1) maintains a home, if the individual maintains only one (1)**
 24 **home in Indiana;**
 25 **(2) is registered to vote;**
 26 **(3) registers the individual's personal automobile; or**
 27 **(4) spends the majority of the individual's time in Indiana**
 28 **during the taxable year in question.**

29 **Sec. 20. This section applies to a resident taxpayer whose school**
 30 **option income tax rate changed due to an action taken by the**
 31 **governing body of a school corporation under this chapter. The**
 32 **resident taxpayer's school option income tax rate for that school**
 33 **corporation and that taxable year is the rate determined in the last**
 34 **STEP of the following formula:**

35 **STEP ONE: Multiply the number of months in the taxpayer's**
 36 **taxable year that precede January 1 by the rate in effect**
 37 **before the rate change.**

38 **STEP TWO: Multiply the number of months in the taxpayer's**
 39 **taxable year that follow December 31 by the rate in effect**
 40 **after the rate change.**

41 **STEP THREE: Divide the sum of the amounts determined**
 42 **under STEPS ONE and TWO by twelve (12).**

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

Sec. 21. (a) This section applies to a taxpayer who, in a taxable year:

(1) resides in the school district of a school corporation whose governing body adopts a resolution to impose a school option income tax during that taxable year; or

(2) moves into the school district of a school corporation that has adopted a resolution to impose a school option income tax.

(b) The amount of school option income tax that a taxpayer described in subsection (a) owes for that taxable year equals the amount determined in STEP FOUR of the following formula:

STEP ONE: Determine the amount of school option income tax the resident taxpayer would owe if the tax had been imposed on the taxpayer during the resident taxpayer's entire taxable year.

STEP TWO: Determine the number of days in the resident taxpayer's taxable year during which the school option income tax was in effect.

STEP THREE: Divide the STEP TWO amount by the total number of days in the resident taxpayer's taxable year.

STEP FOUR: Multiply the STEP ONE amount by the STEP THREE quotient.

Sec. 22. (a) Except as provided in subsection (b), if, for a particular taxable year, a taxpayer is liable for an income tax imposed by a school corporation located outside Indiana, that taxpayer is entitled to a credit against the taxpayer's school option income tax liability for that same taxable year. The amount of the credit equals the amount of tax imposed by the other governmental entity on income derived from sources outside Indiana and subject to the school option income tax. However, the credit provided by this section may not reduce a taxpayer's school option income tax liability to an amount less than the taxpayer would have owed if the income subject to taxation by the other governmental entity had been ignored.

(b) The credit provided by this section does not apply to a taxpayer to the extent that the other governmental entity provides for a credit to the taxpayer for the amount of school option income tax owed under this chapter.

(c) To claim the credit provided by this section, a taxpayer must provide the department with satisfactory evidence that the taxpayer is entitled to the credit.

Sec. 23. If for a particular taxable year a resident taxpayer is, or a resident taxpayer and the taxpayer's spouse who file a joint

**C
O
P
Y**



1 return are, allowed a credit for the elderly or the totally disabled
 2 under Section 22 of the Internal Revenue Code, the resident
 3 taxpayer is, or the resident taxpayer and the taxpayer's spouse are,
 4 entitled to a credit against the school option income tax liability for
 5 that same taxable year. The amount of the credit equals the
 6 amount determined in STEP SIX of the following formula:

7 **STEP ONE: Determine the school option income tax rate**
 8 **imposed against the resident taxpayer, or against the resident**
 9 **taxpayer and the taxpayer's spouse. If a resident taxpayer and**
 10 **the taxpayer's spouse file a joint return and are subject to**
 11 **different school option income tax rates for the same taxable**
 12 **year, the result of this STEP is the average of the two (2)**
 13 **school option income tax rates imposed against them.**

14 **STEP TWO: Divide the STEP ONE amount by**
 15 **fifteen-hundredths (0.15).**

16 **STEP THREE: Determine the credit claimed under Section 22**
 17 **of the Internal Revenue Code for the elderly or the totally**
 18 **disabled for that same taxable year.**

19 **STEP FOUR: Multiply the STEP THREE amount by the**
 20 **STEP TWO amount.**

21 **STEP FIVE: Determine the amount of school option income**
 22 **tax imposed on the resident taxpayer and the taxpayer's**
 23 **spouse.**

24 **STEP SIX: Determine the lesser of the STEP FOUR amount**
 25 **and the STEP FIVE amount.**

26 SECTION 2. IC 6-8.1-1-1 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or
 28 "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through
 29 IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat
 30 wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed);
 31 the utility receipts tax (IC 6-2.3); the state gross retail and use taxes
 32 (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net
 33 income tax (IC 6-3-8) (repealed); the county adjusted gross income tax
 34 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
 35 economic development income tax (IC 6-3.5-7); the municipal option
 36 income tax (IC 6-3.5-8); **the school option income tax (IC 6-3.5-9);**
 37 the auto rental excise tax (IC 6-6-9); the financial institutions tax
 38 (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee
 39 (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax
 40 (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement
 41 under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the
 42 commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste

C
o
p
y



1 disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise
2 tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax
3 (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise
4 tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various
5 innkeeper's taxes (IC 6-9); the various county food and beverage taxes
6 (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil
7 inspection fee (IC 16-44-2); the emergency and hazardous chemical
8 inventory form fee (IC 6-6-10); the penalties assessed for oversize
9 vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for
10 overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage
11 tank fee (IC 13-23); the solid waste management fee (IC 13-20-22);
12 and any other tax or fee that the department is required to collect or
13 administer.

14 SECTION 3. [EFFECTIVE JULY 1, 2005] **IC 6-3.5-9, as added by**
15 **this act, applies only to taxable years beginning after December 31,**
16 **2005.**

C
O
P
Y

