



January 20, 2006

HOUSE BILL No. 1327

DIGEST OF HB 1327 (Updated January 19, 2006 11:47 am - DI 92)

Citations Affected: IC 6-3.

Synopsis: Update of references to the Internal Revenue Code. Corrects an obsolete reference to the Internal Revenue Code related to a state income tax deduction for dependents. For taxable years beginning after December 31, 2005, expands the class of dependents that permit a taxpayer to take an additional \$1,500 dependent state income tax deduction from "son, stepson, daughter, or stepdaughter who is not more than 19 years of age or a student" to any "son, stepson, daughter, stepdaughter, or foster child of the taxpayer, descendant of a son, stepson, daughter, stepdaughter, or foster child of the taxpayer, brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative who is not more than 19 years of age, a student, or permanently and totally disabled". Provides that for taxable years beginning after December 31, 2005, references in Indiana law to the Internal Revenue Code and related regulations refer to the law and regulations in effect on January 1, 2006.

Effective: January 1, 2005 (retroactive); January 1, 2006 (retroactive).

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January 10, 2006, read first time and referred to Committee on Ways and Means.
January 19, 2006, amended, reported — Do Pass.

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HB 1327—LS 6676/DI 51+



January 20, 2006

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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HOUSE BILL No. 1327



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 6-3-1-3.5, AS AMENDED BY P.L.246-2005,
- 2 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3.5. When used in this
- 4 article, the term "adjusted gross income" shall mean the following:
- 5 (a) In the case of all individuals, "adjusted gross income" (as
- 6 defined in Section 62 of the Internal Revenue Code), modified as
- 7 follows:
- 8 (1) Subtract income that is exempt from taxation under this article
- 9 by the Constitution and statutes of the United States.
- 10 (2) Add an amount equal to any deduction or deductions allowed
- 11 or allowable pursuant to Section 62 of the Internal Revenue Code
- 12 for taxes based on or measured by income and levied at the state
- 13 level by any state of the United States.
- 14 (3) Subtract one thousand dollars (\$1,000), or in the case of a
- 15 joint return filed by a husband and wife, subtract for each spouse
- 16 one thousand dollars (\$1,000).
- 17 (4) Subtract one thousand dollars (\$1,000) for:

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- 1 (A) each of the exemptions provided by Section 151(c) of the
- 2 Internal Revenue Code;
- 3 (B) each additional amount allowable under Section 63(f) of
- 4 the Internal Revenue Code; and
- 5 (C) the spouse of the taxpayer if a separate return is made by
- 6 the taxpayer and if the spouse, for the calendar year in which
- 7 the taxable year of the taxpayer begins, has no gross income
- 8 and is not the dependent of another taxpayer.
- 9 (5) Subtract:
- 10 (A) **for taxable years beginning after December 31, 2004,**
- 11 **and before January 1, 2006,** one thousand five hundred
- 12 dollars (\$1,500) for each of the exemptions allowed under
- 13 Section 151(c)(1)(B) of the Internal Revenue Code ~~for taxable~~
- 14 ~~years beginning after December 31, 1996; (as effective~~
- 15 **January 1, 2004) and for taxable years beginning after**
- 16 **December 31, 2005, one thousand five hundred dollars**
- 17 **(\$1,500) for each of the exemptions allowed under Section**
- 18 **151(c) of the Internal Revenue Code for a dependent that**
- 19 **qualifies as a qualified child (as defined in Section 152 of**
- 20 **the Internal Revenue Code); and**
- 21 (B) five hundred dollars (\$500) for each additional amount
- 22 allowable under Section 63(f)(1) of the Internal Revenue Code
- 23 if the adjusted gross income of the taxpayer, or the taxpayer
- 24 and the taxpayer's spouse in the case of a joint return, is less
- 25 than forty thousand dollars (\$40,000).
- 26 This amount is in addition to the amount subtracted under
- 27 subdivision (4).
- 28 (6) Subtract an amount equal to the lesser of:
- 29 (A) that part of the individual's adjusted gross income (as
- 30 defined in Section 62 of the Internal Revenue Code) for that
- 31 taxable year that is subject to a tax that is imposed by a
- 32 political subdivision of another state and that is imposed on or
- 33 measured by income; or
- 34 (B) two thousand dollars (\$2,000).
- 35 (7) Add an amount equal to the total capital gain portion of a
- 36 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 37 Internal Revenue Code) if the lump sum distribution is received
- 38 by the individual during the taxable year and if the capital gain
- 39 portion of the distribution is taxed in the manner provided in
- 40 Section 402 of the Internal Revenue Code.
- 41 (8) Subtract any amounts included in federal adjusted gross
- 42 income under Section 111 of the Internal Revenue Code as a

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- 1 recovery of items previously deducted as an itemized deduction
- 2 from adjusted gross income.
- 3 (9) Subtract any amounts included in federal adjusted gross
- 4 income under the Internal Revenue Code which amounts were
- 5 received by the individual as supplemental railroad retirement
- 6 annuities under 45 U.S.C. 231 and which are not deductible under
- 7 subdivision (1).
- 8 (10) Add an amount equal to the deduction allowed under Section
- 9 221 of the Internal Revenue Code for married couples filing joint
- 10 returns if the taxable year began before January 1, 1987.
- 11 (11) Add an amount equal to the interest excluded from federal
- 12 gross income by the individual for the taxable year under Section
- 13 128 of the Internal Revenue Code if the taxable year began before
- 14 January 1, 1985.
- 15 (12) Subtract an amount equal to the amount of federal Social
- 16 Security and Railroad Retirement benefits included in a taxpayer's
- 17 federal gross income by Section 86 of the Internal Revenue Code.
- 18 (13) In the case of a nonresident taxpayer or a resident taxpayer
- 19 residing in Indiana for a period of less than the taxpayer's entire
- 20 taxable year, the total amount of the deductions allowed pursuant
- 21 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
- 22 which bears the same ratio to the total as the taxpayer's income
- 23 taxable in Indiana bears to the taxpayer's total income.
- 24 (14) In the case of an individual who is a recipient of assistance
- 25 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
- 26 subtract an amount equal to that portion of the individual's
- 27 adjusted gross income with respect to which the individual is not
- 28 allowed under federal law to retain an amount to pay state and
- 29 local income taxes.
- 30 (15) In the case of an eligible individual, subtract the amount of
- 31 a Holocaust victim's settlement payment included in the
- 32 individual's federal adjusted gross income.
- 33 (16) For taxable years beginning after December 31, 1999,
- 34 subtract an amount equal to the portion of any premiums paid
- 35 during the taxable year by the taxpayer for a qualified long term
- 36 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
- 37 taxpayer's spouse, or both.
- 38 (17) Subtract an amount equal to the lesser of:
- 39 (A) for a taxable year:
- 40 (i) including any part of 2004, the amount determined under
- 41 subsection (f); and
- 42 (ii) beginning after December 31, 2004, two thousand five

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1 hundred dollars (\$2,500); or
2 (B) the amount of property taxes that are paid during the
3 taxable year in Indiana by the individual on the individual's
4 principal place of residence.

5 (18) Subtract an amount equal to the amount of a September 11
6 terrorist attack settlement payment included in the individual's
7 federal adjusted gross income.

8 (19) Add or subtract the amount necessary to make the adjusted
9 gross income of any taxpayer that owns property for which bonus
10 depreciation was allowed in the current taxable year or in an
11 earlier taxable year equal to the amount of adjusted gross income
12 that would have been computed had an election not been made
13 under Section 168(k) of the Internal Revenue Code to apply bonus
14 depreciation to the property in the year that it was placed in
15 service.

16 (20) Add an amount equal to any deduction allowed under
17 Section 172 of the Internal Revenue Code.

18 (21) Add or subtract the amount necessary to make the adjusted
19 gross income of any taxpayer that placed Section 179 property (as
20 defined in Section 179 of the Internal Revenue Code) in service
21 in the current taxable year or in an earlier taxable year equal to
22 the amount of adjusted gross income that would have been
23 computed had an election for federal income tax purposes not
24 been made for the year in which the property was placed in
25 service to take deductions under Section 179 of the Internal
26 Revenue Code in a total amount exceeding twenty-five thousand
27 dollars (\$25,000).

28 (22) Add an amount equal to the amount that a taxpayer claimed
29 as a deduction for domestic production activities for the taxable
30 year under Section 199 of the Internal Revenue Code for federal
31 income tax purposes.

32 (b) In the case of corporations, the same as "taxable income" (as
33 defined in Section 63 of the Internal Revenue Code) adjusted as
34 follows:

35 (1) Subtract income that is exempt from taxation under this article
36 by the Constitution and statutes of the United States.

37 (2) Add an amount equal to any deduction or deductions allowed
38 or allowable pursuant to Section 170 of the Internal Revenue
39 Code.

40 (3) Add an amount equal to any deduction or deductions allowed
41 or allowable pursuant to Section 63 of the Internal Revenue Code
42 for taxes based on or measured by income and levied at the state

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- 1 level by any state of the United States.
- 2 (4) Subtract an amount equal to the amount included in the
- 3 corporation's taxable income under Section 78 of the Internal
- 4 Revenue Code.
- 5 (5) Add or subtract the amount necessary to make the adjusted
- 6 gross income of any taxpayer that owns property for which bonus
- 7 depreciation was allowed in the current taxable year or in an
- 8 earlier taxable year equal to the amount of adjusted gross income
- 9 that would have been computed had an election not been made
- 10 under Section 168(k) of the Internal Revenue Code to apply bonus
- 11 depreciation to the property in the year that it was placed in
- 12 service.
- 13 (6) Add an amount equal to any deduction allowed under Section
- 14 172 of the Internal Revenue Code.
- 15 (7) Add or subtract the amount necessary to make the adjusted
- 16 gross income of any taxpayer that placed Section 179 property (as
- 17 defined in Section 179 of the Internal Revenue Code) in service
- 18 in the current taxable year or in an earlier taxable year equal to
- 19 the amount of adjusted gross income that would have been
- 20 computed had an election for federal income tax purposes not
- 21 been made for the year in which the property was placed in
- 22 service to take deductions under Section 179 of the Internal
- 23 Revenue Code in a total amount exceeding twenty-five thousand
- 24 dollars (\$25,000).
- 25 (8) Add an amount equal to the amount that a taxpayer claimed as
- 26 a deduction for domestic production activities for the taxable year
- 27 under Section 199 of the Internal Revenue Code for federal
- 28 income tax purposes.
- 29 (c) In the case of life insurance companies (as defined in Section
- 30 816(a) of the Internal Revenue Code) that are organized under Indiana
- 31 law, the same as "life insurance company taxable income" (as defined
- 32 in Section 801 of the Internal Revenue Code), adjusted as follows:
- 33 (1) Subtract income that is exempt from taxation under this article
- 34 by the Constitution and statutes of the United States.
- 35 (2) Add an amount equal to any deduction allowed or allowable
- 36 under Section 170 of the Internal Revenue Code.
- 37 (3) Add an amount equal to a deduction allowed or allowable
- 38 under Section 805 or Section 831(c) of the Internal Revenue Code
- 39 for taxes based on or measured by income and levied at the state
- 40 level by any state.
- 41 (4) Subtract an amount equal to the amount included in the
- 42 company's taxable income under Section 78 of the Internal

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1 Revenue Code.

2 (5) Add or subtract the amount necessary to make the adjusted

3 gross income of any taxpayer that owns property for which bonus

4 depreciation was allowed in the current taxable year or in an

5 earlier taxable year equal to the amount of adjusted gross income

6 that would have been computed had an election not been made

7 under Section 168(k) of the Internal Revenue Code to apply bonus

8 depreciation to the property in the year that it was placed in

9 service.

10 (6) Add an amount equal to any deduction allowed under Section

11 172 or Section 810 of the Internal Revenue Code.

12 (7) Add or subtract the amount necessary to make the adjusted

13 gross income of any taxpayer that placed Section 179 property (as

14 defined in Section 179 of the Internal Revenue Code) in service

15 in the current taxable year or in an earlier taxable year equal to

16 the amount of adjusted gross income that would have been

17 computed had an election for federal income tax purposes not

18 been made for the year in which the property was placed in

19 service to take deductions under Section 179 of the Internal

20 Revenue Code in a total amount exceeding twenty-five thousand

21 dollars (\$25,000).

22 (8) Add an amount equal to the amount that a taxpayer claimed as

23 a deduction for domestic production activities for the taxable year

24 under Section 199 of the Internal Revenue Code for federal

25 income tax purposes.

26 (d) In the case of insurance companies subject to tax under Section

27 831 of the Internal Revenue Code and organized under Indiana law, the

28 same as "taxable income" (as defined in Section 832 of the Internal

29 Revenue Code), adjusted as follows:

30 (1) Subtract income that is exempt from taxation under this article

31 by the Constitution and statutes of the United States.

32 (2) Add an amount equal to any deduction allowed or allowable

33 under Section 170 of the Internal Revenue Code.

34 (3) Add an amount equal to a deduction allowed or allowable

35 under Section 805 or Section 831(c) of the Internal Revenue Code

36 for taxes based on or measured by income and levied at the state

37 level by any state.

38 (4) Subtract an amount equal to the amount included in the

39 company's taxable income under Section 78 of the Internal

40 Revenue Code.

41 (5) Add or subtract the amount necessary to make the adjusted

42 gross income of any taxpayer that owns property for which bonus

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- 1 depreciation was allowed in the current taxable year or in an
 2 earlier taxable year equal to the amount of adjusted gross income
 3 that would have been computed had an election not been made
 4 under Section 168(k) of the Internal Revenue Code to apply bonus
 5 depreciation to the property in the year that it was placed in
 6 service.
- 7 (6) Add an amount equal to any deduction allowed under Section
 8 172 of the Internal Revenue Code.
- 9 (7) Add or subtract the amount necessary to make the adjusted
 10 gross income of any taxpayer that placed Section 179 property (as
 11 defined in Section 179 of the Internal Revenue Code) in service
 12 in the current taxable year or in an earlier taxable year equal to
 13 the amount of adjusted gross income that would have been
 14 computed had an election for federal income tax purposes not
 15 been made for the year in which the property was placed in
 16 service to take deductions under Section 179 of the Internal
 17 Revenue Code in a total amount exceeding twenty-five thousand
 18 dollars (\$25,000).
- 19 (8) Add an amount equal to the amount that a taxpayer claimed as
 20 a deduction for domestic production activities for the taxable year
 21 under Section 199 of the Internal Revenue Code for federal
 22 income tax purposes.
- 23 (e) In the case of trusts and estates, "taxable income" (as defined for
 24 trusts and estates in Section 641(b) of the Internal Revenue Code)
 25 adjusted as follows:
- 26 (1) Subtract income that is exempt from taxation under this article
 27 by the Constitution and statutes of the United States.
- 28 (2) Subtract an amount equal to the amount of a September 11
 29 terrorist attack settlement payment included in the federal
 30 adjusted gross income of the estate of a victim of the September
 31 11 terrorist attack or a trust to the extent the trust benefits a victim
 32 of the September 11 terrorist attack.
- 33 (3) Add or subtract the amount necessary to make the adjusted
 34 gross income of any taxpayer that owns property for which bonus
 35 depreciation was allowed in the current taxable year or in an
 36 earlier taxable year equal to the amount of adjusted gross income
 37 that would have been computed had an election not been made
 38 under Section 168(k) of the Internal Revenue Code to apply bonus
 39 depreciation to the property in the year that it was placed in
 40 service.
- 41 (4) Add an amount equal to any deduction allowed under Section
 42 172 of the Internal Revenue Code.

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1 (5) Add or subtract the amount necessary to make the adjusted
2 gross income of any taxpayer that placed Section 179 property (as
3 defined in Section 179 of the Internal Revenue Code) in service
4 in the current taxable year or in an earlier taxable year equal to
5 the amount of adjusted gross income that would have been
6 computed had an election for federal income tax purposes not
7 been made for the year in which the property was placed in
8 service to take deductions under Section 179 of the Internal
9 Revenue Code in a total amount exceeding twenty-five thousand
10 dollars (\$25,000).

11 (6) Add an amount equal to the amount that a taxpayer claimed as
12 a deduction for domestic production activities for the taxable year
13 under Section 199 of the Internal Revenue Code for federal
14 income tax purposes.

15 (f) This subsection applies only to the extent that an individual paid
16 property taxes in 2004 that were imposed for the March 1, 2002,
17 assessment date or the January 15, 2003, assessment date. The
18 maximum amount of the deduction under subsection (a)(17) is equal
19 to the amount determined under STEP FIVE of the following formula:

20 STEP ONE: Determine the amount of property taxes that the
21 taxpayer paid after December 31, 2003, in the taxable year for
22 property taxes imposed for the March 1, 2002, assessment date
23 and the January 15, 2003, assessment date.

24 STEP TWO: Determine the amount of property taxes that the
25 taxpayer paid in the taxable year for the March 1, 2003,
26 assessment date and the January 15, 2004, assessment date.

27 STEP THREE: Determine the result of the STEP ONE amount
28 divided by the STEP TWO amount.

29 STEP FOUR: Multiply the STEP THREE amount by two
30 thousand five hundred dollars (\$2,500).

31 STEP FIVE: Determine the sum of the STEP FOUR amount and
32 two thousand five hundred dollars (\$2,500).

33 SECTION 2. IC 6-3-1-11, AS AMENDED BY P.L.246-2005,
34 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JANUARY 1, 2006 (RETROACTIVE)]: Sec. 11. (a) The term "Internal
36 Revenue Code" means the Internal Revenue Code of 1986 of the
37 United States as amended and in effect on January 1, ~~2005~~ **2006**.

38 (b) Whenever the Internal Revenue Code is mentioned in this
39 article, the particular provisions that are referred to, together with all
40 the other provisions of the Internal Revenue Code in effect on January
41 1, ~~2005~~ **2006**, that pertain to the provisions specifically mentioned,
42 shall be regarded as incorporated in this article by reference and have

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1 the same force and effect as though fully set forth in this article. To the
2 extent the provisions apply to this article, regulations adopted under
3 Section 7805(a) of the Internal Revenue Code and in effect on January
4 1, ~~2005~~, **2006**, shall be regarded as rules adopted by the department
5 under this article, unless the department adopts specific rules that
6 supersede the regulation.

7 (c) An amendment to the Internal Revenue Code made by an act
8 passed by Congress before January 1, ~~2005~~, **2006**, that is effective for
9 any taxable year that began before January 1, ~~2005~~, **2006**, and that
10 affects:

- 11 (1) individual adjusted gross income (as defined in Section 62 of
- 12 the Internal Revenue Code);
- 13 (2) corporate taxable income (as defined in Section 63 of the
- 14 Internal Revenue Code);
- 15 (3) trust and estate taxable income (as defined in Section 641(b)
- 16 of the Internal Revenue Code);
- 17 (4) life insurance company taxable income (as defined in Section
- 18 801(b) of the Internal Revenue Code);
- 19 (5) mutual insurance company taxable income (as defined in
- 20 Section 821(b) of the Internal Revenue Code); or
- 21 (6) taxable income (as defined in Section 832 of the Internal
- 22 Revenue Code);

23 is also effective for that same taxable year for purposes of determining
24 adjusted gross income under section 3.5 of this chapter.

25 **SECTION 3. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1327, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 10, after "2004," insert "**and before January 1, 2006,**".

Page 2, line 14, delete "2004);" and insert "**2004) and for taxable years beginning after December 31, 2005, one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c) of the Internal Revenue Code for a dependent that qualifies as a qualified child (as defined in Section 152 of the Internal Revenue Code);**".

and when so amended that said bill do pass.

(Reference is to HB 1327 as introduced.)

ESPICH, Chair

Committee Vote: yeas 22, nays 0.

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