

# HOUSE BILL No. 1327

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3-1.

**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. 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.

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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:



- 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 one thousand five hundred dollars (\$1,500) for each of the
- 12 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 13 Revenue Code ~~for taxable years beginning after December 31,~~
- 14 ~~1996,~~ **(as effective January 1, 2004);** and
- 15 (B) five hundred dollars (\$500) for each additional amount
- 16 allowable under Section 63(f)(1) of the Internal Revenue Code
- 17 if the adjusted gross income of the taxpayer, or the taxpayer
- 18 and the taxpayer's spouse in the case of a joint return, is less
- 19 than forty thousand dollars (\$40,000).
- 20 This amount is in addition to the amount subtracted under
- 21 subdivision (4).
- 22 (6) Subtract an amount equal to the lesser of:
- 23 (A) that part of the individual's adjusted gross income (as
- 24 defined in Section 62 of the Internal Revenue Code) for that
- 25 taxable year that is subject to a tax that is imposed by a
- 26 political subdivision of another state and that is imposed on or
- 27 measured by income; or
- 28 (B) two thousand dollars (\$2,000).
- 29 (7) Add an amount equal to the total capital gain portion of a
- 30 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 31 Internal Revenue Code) if the lump sum distribution is received
- 32 by the individual during the taxable year and if the capital gain
- 33 portion of the distribution is taxed in the manner provided in
- 34 Section 402 of the Internal Revenue Code.
- 35 (8) Subtract any amounts included in federal adjusted gross
- 36 income under Section 111 of the Internal Revenue Code as a
- 37 recovery of items previously deducted as an itemized deduction
- 38 from adjusted gross income.
- 39 (9) Subtract any amounts included in federal adjusted gross
- 40 income under the Internal Revenue Code which amounts were
- 41 received by the individual as supplemental railroad retirement
- 42 annuities under 45 U.S.C. 231 and which are not deductible under

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- 1 subdivision (1).
- 2 (10) Add an amount equal to the deduction allowed under Section
- 3 221 of the Internal Revenue Code for married couples filing joint
- 4 returns if the taxable year began before January 1, 1987.
- 5 (11) Add an amount equal to the interest excluded from federal
- 6 gross income by the individual for the taxable year under Section
- 7 128 of the Internal Revenue Code if the taxable year began before
- 8 January 1, 1985.
- 9 (12) Subtract an amount equal to the amount of federal Social
- 10 Security and Railroad Retirement benefits included in a taxpayer's
- 11 federal gross income by Section 86 of the Internal Revenue Code.
- 12 (13) In the case of a nonresident taxpayer or a resident taxpayer
- 13 residing in Indiana for a period of less than the taxpayer's entire
- 14 taxable year, the total amount of the deductions allowed pursuant
- 15 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
- 16 which bears the same ratio to the total as the taxpayer's income
- 17 taxable in Indiana bears to the taxpayer's total income.
- 18 (14) In the case of an individual who is a recipient of assistance
- 19 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
- 20 subtract an amount equal to that portion of the individual's
- 21 adjusted gross income with respect to which the individual is not
- 22 allowed under federal law to retain an amount to pay state and
- 23 local income taxes.
- 24 (15) In the case of an eligible individual, subtract the amount of
- 25 a Holocaust victim's settlement payment included in the
- 26 individual's federal adjusted gross income.
- 27 (16) For taxable years beginning after December 31, 1999,
- 28 subtract an amount equal to the portion of any premiums paid
- 29 during the taxable year by the taxpayer for a qualified long term
- 30 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
- 31 taxpayer's spouse, or both.
- 32 (17) Subtract an amount equal to the lesser of:
- 33 (A) for a taxable year:
- 34 (i) including any part of 2004, the amount determined under
- 35 subsection (f); and
- 36 (ii) beginning after December 31, 2004, two thousand five
- 37 hundred dollars (\$2,500); or
- 38 (B) the amount of property taxes that are paid during the
- 39 taxable year in Indiana by the individual on the individual's
- 40 principal place of residence.
- 41 (18) Subtract an amount equal to the amount of a September 11
- 42 terrorist attack settlement payment included in the individual's

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1 federal adjusted gross income.

2 (19) 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 (20) Add an amount equal to any deduction allowed under  
11 Section 172 of the Internal Revenue Code.

12 (21) 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 (22) Add an amount equal to the amount that a taxpayer claimed  
23 as a deduction for domestic production activities for the taxable  
24 year under Section 199 of the Internal Revenue Code for federal  
25 income tax purposes.

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

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

31 (2) Add an amount equal to any deduction or deductions allowed  
32 or allowable pursuant to Section 170 of the Internal Revenue  
33 Code.

34 (3) Add an amount equal to any deduction or deductions allowed  
35 or allowable pursuant to Section 63 of the Internal Revenue Code  
36 for taxes based on or measured by income and levied at the state  
37 level by any state of the United States.

38 (4) Subtract an amount equal to the amount included in the  
39 corporation'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 (c) In the case of life insurance companies (as defined in Section  
 24 816(a) of the Internal Revenue Code) that are organized under Indiana  
 25 law, the same as "life insurance company taxable income" (as defined  
 26 in Section 801 of the Internal Revenue Code), adjusted as follows:  
 27 (1) Subtract income that is exempt from taxation under this article  
 28 by the Constitution and statutes of the United States.  
 29 (2) Add an amount equal to any deduction allowed or allowable  
 30 under Section 170 of the Internal Revenue Code.  
 31 (3) Add an amount equal to a deduction allowed or allowable  
 32 under Section 805 or Section 831(c) of the Internal Revenue Code  
 33 for taxes based on or measured by income and levied at the state  
 34 level by any state.  
 35 (4) Subtract an amount equal to the amount included in the  
 36 company's taxable income under Section 78 of the Internal  
 37 Revenue Code.  
 38 (5) Add or subtract the amount necessary to make the adjusted  
 39 gross income of any taxpayer that owns property for which bonus  
 40 depreciation was allowed in the current taxable year or in an  
 41 earlier taxable year equal to the amount of adjusted gross income  
 42 that would have been computed had an election not been made

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1 under Section 168(k) of the Internal Revenue Code to apply bonus  
 2 depreciation to the property in the year that it was placed in  
 3 service.  
 4 (6) Add an amount equal to any deduction allowed under Section  
 5 172 or Section 810 of the Internal Revenue Code.  
 6 (7) Add or subtract the amount necessary to make the adjusted  
 7 gross income of any taxpayer that placed Section 179 property (as  
 8 defined in Section 179 of the Internal Revenue Code) in service  
 9 in the current taxable year or in an earlier taxable year equal to  
 10 the amount of adjusted gross income that would have been  
 11 computed had an election for federal income tax purposes not  
 12 been made for the year in which the property was placed in  
 13 service to take deductions under Section 179 of the Internal  
 14 Revenue Code in a total amount exceeding twenty-five thousand  
 15 dollars (\$25,000).  
 16 (8) Add an amount equal to the amount that a taxpayer claimed as  
 17 a deduction for domestic production activities for the taxable year  
 18 under Section 199 of the Internal Revenue Code for federal  
 19 income tax purposes.  
 20 (d) In the case of insurance companies subject to tax under Section  
 21 831 of the Internal Revenue Code and organized under Indiana law, the  
 22 same as "taxable income" (as defined in Section 832 of the Internal  
 23 Revenue Code), adjusted as follows:  
 24 (1) Subtract income that is exempt from taxation under this article  
 25 by the Constitution and statutes of the United States.  
 26 (2) Add an amount equal to any deduction allowed or allowable  
 27 under Section 170 of the Internal Revenue Code.  
 28 (3) Add an amount equal to a deduction allowed or allowable  
 29 under Section 805 or Section 831(c) of the Internal Revenue Code  
 30 for taxes based on or measured by income and levied at the state  
 31 level by any state.  
 32 (4) Subtract an amount equal to the amount included in the  
 33 company's taxable income under Section 78 of the Internal  
 34 Revenue Code.  
 35 (5) Add or subtract the amount necessary to make the adjusted  
 36 gross income of any taxpayer that owns property for which bonus  
 37 depreciation was allowed in the current taxable year or in an  
 38 earlier taxable year equal to the amount of adjusted gross income  
 39 that would have been computed had an election not been made  
 40 under Section 168(k) of the Internal Revenue Code to apply bonus  
 41 depreciation to the property in the year that it was placed in  
 42 service.

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

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1           been made for the year in which the property was placed in  
2           service to take deductions under Section 179 of the Internal  
3           Revenue Code in a total amount exceeding twenty-five thousand  
4           dollars (\$25,000).

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

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

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

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

21          STEP THREE: Determine the result of the STEP ONE amount  
22          divided by the STEP TWO amount.

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

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

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

32          (b) Whenever the Internal Revenue Code is mentioned in this  
33          article, the particular provisions that are referred to, together with all  
34          the other provisions of the Internal Revenue Code in effect on January  
35          1, ~~2005~~; **2006**, that pertain to the provisions specifically mentioned,  
36          shall be regarded as incorporated in this article by reference and have  
37          the same force and effect as though fully set forth in this article. To the  
38          extent the provisions apply to this article, regulations adopted under  
39          Section 7805(a) of the Internal Revenue Code and in effect on January  
40          1, ~~2005~~; **2006**, shall be regarded as rules adopted by the department  
41          under this article, unless the department adopts specific rules that  
42          supersede the regulation.

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

5 (1) individual adjusted gross income (as defined in Section 62 of  
 6 the Internal Revenue Code);

7 (2) corporate taxable income (as defined in Section 63 of the  
 8 Internal Revenue Code);

9 (3) trust and estate taxable income (as defined in Section 641(b)  
 10 of the Internal Revenue Code);

11 (4) life insurance company taxable income (as defined in Section  
 12 801(b) of the Internal Revenue Code);

13 (5) mutual insurance company taxable income (as defined in  
 14 Section 821(b) of the Internal Revenue Code); or

15 (6) taxable income (as defined in Section 832 of the Internal  
 16 Revenue Code);

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

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

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