



February 16, 2007

SENATE BILL No. 466

DIGEST OF SB 466 (Updated February 13, 2007 12:32 pm - DI 73)

Citations Affected: IC 6-7.

Synopsis: Cigarette taxes and tobacco products taxes. Provides a cigarette tax credit to a cigarette distributor for an uncollectible debt to the extent that the uncollectible debt: (1) is included in the cost of cigarette tax stamps purchased by the distributor; and (2) resulted from a transfer of cigarettes to a retailer. Provides a tobacco tax deduction to a tobacco products distributor from the tobacco products tax for uncollectible debts resulting from wholesale sales of tobacco products.

Effective: July 1, 2007.

Meeks, Skinner

January 11, 2007, read first time and referred to Committee on Tax and Fiscal Policy.
February 15, 2007, reported favorably — Do Pass.

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SB 466—LS 7624/DI 113+



February 16, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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SENATE BILL No. 466

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 6-7-1-17.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: **Sec. 17.5. (a) Except as otherwise provided in this section,**
4 **in determining the amount to pay for stamps purchased under this**
5 **chapter, a distributor is entitled to a credit against the cost of**
6 **stamps purchased in an amount equal to the distributor's**
7 **receivables that:**
8 (1) **are attributable to stamps purchased by the distributor**
9 **under this chapter and affixed to cigarettes that were**
10 **transferred to a retailer;**
11 (2) **resulted from a transfer of cigarettes to a retailer in which**
12 **the distributor did not collect the tax imposed by this chapter**
13 **from the retailer; and**
14 (3) **were written off as an uncollectible debt for federal tax**
15 **purposes under Section 166 of the Internal Revenue Code**
16 **after December 31, 2006.**
17 (b) **If a distributor claims a credit under subsection (a) and**

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1 subsequently collects all of the associated receivable, the
2 distributor shall remit the entire amount of the credit previously
3 claimed under subsection (a) to the department within thirty (30)
4 days of collection.

5 (c) If a distributor claims a credit under subsection (a) and
6 subsequently collects part of the associated receivable, the
7 distributor shall remit the amount determined under STEP SIX of
8 the following formula to the department within thirty (30) days
9 after collection:

10 STEP ONE: Determine the part of the associated receivable
11 before collection that is attributable to the taxable price of the
12 products subject to the tax imposed by this chapter.

13 STEP TWO: Determine the part of the associated receivable
14 before collection that is attributable to the amount paid by the
15 distributor for the stamps affixed to the products that were
16 transferred to the retailer.

17 STEP THREE: Determine the sum of:

- 18 (A) the STEP ONE result; plus
- 19 (B) the STEP TWO result.

20 STEP FOUR: Determine the lesser of:

- 21 (A) the amount collected; or
- 22 (B) the STEP THREE result.

23 STEP FIVE: Divide:

- 24 (A) the STEP TWO result; by
- 25 (B) the STEP THREE result.

26 STEP SIX: Multiply:

- 27 (A) the STEP FOUR result; by
- 28 (B) the STEP FIVE result.

29 (d) If the amount of the credit to which a distributor is entitled
30 under subsection (a) exceeds the cost of the stamps that the
31 distributor seeks to purchase, the remainder of the credit may be
32 applied to future purchases of stamps by the distributor. For any
33 uncollectible receivable used to establish a credit under subsection
34 (a), the amount of the credit that is available to be applied to a
35 purchase of stamps is the total amount of the credit determined
36 under subsection (a) reduced by the sum of partial credits applied
37 by the distributor to previous purchases of stamps.

38 (e) As used in this subsection, "affiliated group" means any
39 combination of the following:

- 40 (1) An affiliated group within the meaning provided in Section
41 1504 of the Internal Revenue Code (except that the ownership
42 percentage in Section 1504(a)(2) of the Internal Revenue Code

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1 shall be determined using fifty percent (50%) instead of
2 eighty percent (80%)) or a relationship described in Section
3 267(b)(11) of the Internal Revenue Code.

4 (2) Two (2) or more partnerships (as defined in IC 6-3-1-19),
5 including limited liability companies and limited liability
6 partnerships, that have the same degree of mutual ownership
7 as an affiliated group described in subdivision (1), as
8 determined under the rules adopted by the department.

9 The right to a credit under this section is not assignable to an
10 individual or entity that is not part of the same affiliated group as
11 the assignor.

12 SECTION 2. IC 6-7-2-14.5 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2007]: Sec. 14.5. (a) In determining the amount of tax imposed by
15 this chapter that a distributor must remit under section 12 of this
16 chapter, the distributor shall, subject to subsections (c) and (d),
17 deduct from the distributor's wholesale income subject to the tax
18 imposed by this chapter that is derived from wholesale
19 transactions made during a particular reporting period an amount
20 equal to the distributor's receivables that:

21 (1) resulted from wholesale transactions on which the
22 distributor has previously paid the tax imposed by this
23 chapter to the department; and

24 (2) were written off as an uncollectible debt for federal tax
25 purposes under Section 166 of the Internal Revenue Code
26 during the particular reporting period.

27 (b) If a distributor deducts a receivable under subsection (a) and
28 subsequently collects all or part of that receivable, the distributor
29 shall, subject to subsection (d)(5), include the amount collected as
30 part of the distributor's wholesale income subject to the tax
31 imposed by this chapter for the particular reporting period in
32 which the distributor makes the collection.

33 (c) As used in this subsection, "affiliated group" means any
34 combination of the following:

35 (1) An affiliated group within the meaning provided in Section
36 1504 of the Internal Revenue Code (except that the ownership
37 percentage in Section 1504(a)(2) of the Internal Revenue Code
38 shall be determined using fifty percent (50%) instead of
39 eighty percent (80%)) or a relationship described in Section
40 267(b)(11) of the Internal Revenue Code.

41 (2) Two (2) or more partnerships (as defined in IC 6-3-1-19),
42 including limited liability companies and limited liability

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1 partnerships, that have the same degree of mutual ownership
2 as an affiliated group described in subdivision (1), as
3 determined under the rules adopted by the department.
4 The right to a deduction under this section is not assignable to an
5 individual or entity that is not part of the same affiliated group as
6 the assignor.

7 (d) The following provisions apply to a deduction for a
8 receivable treated as uncollectible debt under subsection (a):

9 (1) The deduction does not include interest.

10 (2) The amount of the deduction shall be determined in the
11 manner provided by Section 166 of the Internal Revenue
12 Code for bad debts but shall be adjusted to exclude:

13 (A) financing charges or interest;

14 (B) uncollectible amounts on property that remain in the
15 possession of the distributor until the full purchase price is
16 paid;

17 (C) expenses incurred in attempting to collect any debt;
18 and

19 (D) repossessed property.

20 (3) The deduction shall be claimed on the return for the
21 period during which the receivable is written off as
22 uncollectible in the claimant's books and records and is
23 eligible to be deducted for federal income tax purposes. For
24 purposes of this subdivision, a claimant who is not required to
25 file federal income tax returns may deduct an uncollectible
26 receivable on a return filed for the period in which the
27 receivable is written off as uncollectible in the claimant's
28 books and records and would be eligible for a bad debt
29 deduction for federal income tax purposes if the claimant
30 were required to file a federal income tax return.

31 (4) If the amount of uncollectible receivables claimed as a
32 deduction by a distributor for a particular reporting period
33 exceeds the amount of the distributor's taxable wholesale sales
34 for that reporting period, the distributor may file a refund
35 claim under IC 6-8.1-9. However, the deadline for the refund
36 claim shall be measured from the due date of the return for
37 the reporting period on which the deduction for the
38 uncollectible receivables could first be claimed.

39 (5) For purposes of reporting a payment received on a
40 previously claimed uncollectible receivable, any payments
41 made on a debt or account shall be applied first
42 proportionally to the taxable wholesale price of the property

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1 **and the part of the receivable attributable to the tax imposed**
2 **by this chapter, and secondly to interest, service charges, and**
3 **any other charges.**

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SENATE MOTION

Madam President: I move that Senator Meeks be removed as second author of Senate Bill 466.

MEEKS

SENATE MOTION

Madam President: I move that Senator Kenley be removed as author of Senate Bill 466 and that Senator Meeks be substituted therefor.

KENLEY

SENATE MOTION

Madam President: I move that Senator Skinner be added as coauthor of Senate Bill 466.

MEEKS

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 466, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 466 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 2.

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