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SENATE BILL No. 212

Proposed Changes to introduced printing by AM021202

DIGEST OF PROPOSED AMENDMENT

Utility service. Provides that a transaction involving the sale of utility service, as reflected in the total amount billed by a utility in a customer bill that is issued after December 31, 2026, is exempt from the state gross retail tax. Provides that this exemption applies to: (1) the sale of electric, natural gas, water, or wastewater service; and (2) a customer bill issued by a utility after December 31, 2026, regardless of whether the bill includes any fees or charges for utility service provided to the customer before January 1, 2027.

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 6-2.5-5-59.1 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: Sec. 59.1. (a) This section applies
4 to a transaction involving the sale of utility service by a utility
5 regardless of whether the utility is under the jurisdiction of the
6 Indiana utility regulatory commission for the approval of rates and
7 charges.
8 (b) As used in this section, "customer" refers to a customer of
9 any class, including:
10 (1) a residential customer;
11 (2) a commercial customer; or
12 (3) an industrial customer;
13 that has agreed to pay for utility service provided by a utility.
14 (c) As used in this section, "utility" means a person, however
15 organized, that provides utility service to a customer.
16 (d) As used in this section, "utility service" means:
17 (1) electric;

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(2) natural gas;
(3) water; or
(4) wastewater;
service that is provided at retail to a customer in Indiana.

(e) A transaction involving the sale of utility service, as reflected in the total amount billed by a utility in a customer bill that is issued after December 31, 2026, is exempt from the state gross retail tax. For purposes of this subsection, the total amount billed by a utility in a customer bill includes any:

(1) fixed charges;
(2) consumption based charges;
(3) charges in connection with a periodic rate adjustment mechanism;
(4) taxes other than the state gross retail tax;
(5) program charges;
(6) account management or billing fees; and
(7) other applicable charges or fees;
that make up the total amount owed for the billing cycle, regardless of whether the particular charge or fee appears as a separate line item, or is otherwise identified, on the customer bill.

(f) The exemption provided by subsection (e) applies to a customer bill issued by a utility after December 31, 2026, regardless of whether the bill includes any fees or charges for utility service provided to the customer before January 1, 2027.

1 SECTION ~~2~~²[2]. IC 6-3-1-11, AS AMENDED BY
P.L.194-2023, SECTION 8, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2025 (RETROACTIVE)]: Sec. 11. (a)
Except as provided in subsection (e), the term "Internal Revenue
Code" means the Internal Revenue Code of 1986 of the United States
as amended and in effect on January 1, 2023.

(b) Whenever the Internal Revenue Code is mentioned in this article, or in another provision of the Indiana Code that cites the definition of "Internal Revenue Code" provided in this section, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, 2023, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent that a federal statute in the United States Code is enacted or amended in a title other than the Internal Revenue Code on or before January 1, 2023, and affects federal adjusted gross income, federal taxable income, federal tax credits, or other federal tax attributes, the federal



1 statute shall be considered to be part of the Internal Revenue Code as
 2 amended and in effect on January 1, 2023. To the extent:

3 (1) the provisions of the Internal Revenue Code apply to this
 4 article, regulations adopted under Section 7805(a) of the Internal
 5 Revenue Code, and in effect on January 1, 2023; and

6 (2) a federal statute in the United States Code that is enacted or
 7 amended in a title other than the Internal Revenue Code on or
 8 before January 1, 2023, and affects federal adjusted gross
 9 income, federal taxable income, federal tax credits, or other
 10 federal tax attributes applies to this article, regulations adopted
 11 under the federal statute of the United States Code and in effect
 12 on January 1, 2023;

13 shall be regarded as rules adopted by the department under this article,
 14 unless the department adopts specific rules that supersede the
 15 regulation.

16 (c) An amendment to the Internal Revenue Code made by an act
 17 passed by Congress before January 1, 2023, other than the federal 21st
 18 Century Cures Act (P.L. 114-255) and the federal Disaster Tax Relief
 19 and Airport and Airway Extension Act of 2017 (P.L. 115-63), that is
 20 effective for any taxable year that began before January 1, 2023, and
 21 that affects:

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

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

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

28 (4) life insurance company taxable income (as defined in Section
 29 801(b) of the Internal Revenue Code);

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

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

34 is also effective for that same taxable year for purposes of determining
 35 adjusted gross income under section 3.5 of this chapter and
 36 IC 6-5.5-1-2.

37 (d) This subsection applies to a taxable year ending before January
 38 1, 2013. The following provisions of the Internal Revenue Code that
 39 were amended by the Tax Relief Act, Unemployment Insurance
 40 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are
 41 treated as though they were not amended by the Tax Relief Act,
 42 Unemployment Insurance Reauthorization, and Job Creation Act of



1 2010 (P.L. 111-312):
 2 (1) Section 1367(a)(2) of the Internal Revenue Code pertaining
 3 to an adjustment of basis of the stock of shareholders.
 4 (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal
 5 Revenue Code pertaining the treatment of certain dividends of
 6 regulated investment companies.
 7 (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code
 8 pertaining to regulated investment companies qualified entity
 9 treatment.
 10 (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code
 11 pertaining to the modification of tax treatment of certain
 12 payments to controlling exempt organizations.
 13 (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code
 14 pertaining to the limitations on percentage depletion in the case
 15 of oil and gas wells.
 16 (6) Section 451(i)(3) of the Internal Revenue Code pertaining to
 17 special rule for sales or dispositions to implement Federal
 18 Energy Regulatory Commission or state electric restructuring
 19 policy for qualified electric utilities.
 20 (7) Section 954(c)(6) of the Internal Revenue Code pertaining to
 21 the look-through treatment of payments between related
 22 controlled foreign corporation under foreign personal holding
 23 company rules.

24 The department shall develop forms and adopt any necessary rules
 25 under IC 4-22-2 to implement this subsection.

26 **(e) Solely for purposes of the provisions specified in subsection
 27 (f), the term "Internal Revenue Code" shall mean the Internal
 28 Revenue Code as in effect on July 4, 2025, and any reference to
 29 January 1, 2023, in this section shall be applied as if the reference
 30 is to July 4, 2025.**

31 **(f) The provisions to which subsection (e) is to be applied are
 32 as follows:**

- 33 **(1) Section 23 of the Internal Revenue Code.**
- 34 **(2) Section 168(e)(3)(B)(vi) of the Internal Revenue Code.**
- 35 **(3) Section 223(c)(2)(E) of the Internal Revenue Code.**

36 SECTION ~~223~~²²³3. An emergency is declared for this act.1

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