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SENATE BILL No. 213

Proposed Changes to introduced printing by AM021301

DIGEST OF PROPOSED AMENDMENT

Deduction. Amends certain provisions regarding the income tax deduction for theft losses. Makes a conforming change.

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 6-3-2-30~~ IC 6-3-2-15.5 IS ADDED TO THE
2 INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JANUARY 1, 2024 (RETROACTIVE)]: Sec.
4 ~~30~~ 15.5. (a) For purposes of this section, "qualifying account"
5 means any of the following owned directly by an individual, either
6 as a sole owner or jointly with one (1) or more individuals:
7 (1) A retirement plan described in 4 U.S.C. 114(b)(1).
8 (2) A securities or commodities account.
9 (3) A savings or checking account.
10 (4) Any account substantially similar to an account described
11 in subdivision (2) or (3).
12 If an account listed in subdivisions (1) through (4) is owned in
13 whole or in part by a person or entity other than an individual, the
14 account is a qualifying account only to the extent it is owned
15 directly by an individual.
16 (b) For purposes of this section, "taxpayer" means an
17 individual subject to taxation under this article.
18 (c) For purposes of this section, "theft" means:
19 (1) an event for which a taxpayer would have been permitted
20 a deduction as a theft loss under Section 165(c) of the
21 Internal Revenue Code (as in effect on January 1, 2017); and

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(2) the event was either:

(A) a distribution from the taxpayer's qualifying account; or

(B) a sale, exchange, or liquidation of the taxpayer's stocks, bonds, certificates of deposit, or similar instruments, regardless of whether these were held in a qualifying account;

followed by a payment to another individual or entity within sixty (60) days of the distribution, sale, exchange, or liquidation, and for which the distribution, sale, exchange, or liquidation was induced by the individual or entity.

(d) For purposes of this section, "theft loss" means the amount that an individual:

(1) would have been permitted to deduct under Section 165(c) of the Internal Revenue Code (as in effect on January 1, 2017) as the result of a theft ~~<and that the individual>~~, reduced as provided under Section 168(h)(1) and Section 168(h)(2) of the Internal Revenue Code (as in effect on January 1, 2017); and

(2) was not permitted to deduct in determining the individual's federal adjusted gross income under Section 62 of the Internal Revenue Code.

[For an individual who is not a resident of Indiana, the theft loss amount shall only be the portion of the loss derived from Indiana sources and only if the ~~<distribution>~~ income resulting from the theft would have been included in the taxpayer's Indiana adjusted gross income.]

(e) For taxable years beginning after December 31, 2023, a taxpayer is entitled to a deduction from the taxpayer's adjusted gross income for a taxable year if the taxpayer:

(1) incurred a loss as the result of a theft during the taxable year; and

(2) as a result of the theft, had federal gross income for the taxable year that would not have been included in the taxpayer's federal adjusted gross income for the taxable year under Section 62 of the Internal Revenue Code if the theft had not occurred or been induced.

(f) The amount of the deduction for a taxable year is the lesser of:

(1) the amount of the theft loss; or

(2) the amount reported in the taxpayer's adjusted gross income under IC 6-3-1-3.5(a) for the taxable year that



resulted from the theft or inducement of theft.

(g) A taxpayer wishing to claim a deduction under this section must first apply to the department for certification of the deduction and provide all information requested by the department relating to the theft to the department prior to claiming the deduction under this section. The following apply:

(1) Upon receipt of a taxpayer's application, the department shall determine the amount of the deduction for theft losses that are allowable, if any, under this section and provide notice of the determination and certification to the taxpayer.

(2) A taxpayer may claim the deduction on the taxpayer's state tax return or returns only after the department's determination and only up to the amount certified by the department as an allowable deduction.

(3) If a taxpayer disagrees with the department's determination of a theft loss deduction, the taxpayer may protest the determination of the loss in the same manner and under the same time periods as a refund denial under IC 6-8.1-9-1.

(4) An application under this section must be filed on or before the date of the last day that a refund for the taxable year can be filed under IC 6-8.1-9-1. An application under this section shall be treated as an approved extension of the period for a refund claim that expires thirty (30) days after the department's determination under this subsection, including any protest and appeal. An extension under this subsection is only for the amount of refund that results from a deduction under this section.

(h) For purposes of this section:

(1) any amounts that an individual received as insurance payments, reimbursement, or other similar payments in recovery for a theft loss during the taxable year are not deductible under this section; and

(2) to the extent that amounts in subdivision (1) are received in a subsequent taxable year, the individual shall report the amount received as an addition in determining adjusted gross income under IC 6-3-1-3.5(a) for purposes of adjusted gross income tax in the year in which the amount is received, but only to the extent that the deduction under this section would have been reduced in the taxable year of the theft had the recovery amount been received in the taxable year of the theft. Any recovery required to be included in Indiana



1 adjusted gross income as a result of this section shall not be
 2 an addback for purposes of section 2.5 or 2.6 of this chapter.
 3 (i) If a taxpayer claims a deduction under this section for a
 4 taxable year beginning before January 1, 2026, the taxpayer claims
 5 a refund as a result of the deduction, and interest is due on the
 6 refund under IC 6-8.1-9-2(d), then the amount of interest due on
 7 the refund shall be computed from the latest of:
 8 (1) April 15, 2026;
 9 (2) the date the department issues the determination under
 10 subsection (g); or
 11 (3) the date determined under IC 6-8.1-9-2(d).
 12 SECTION 2. An emergency is declared for this act.
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