ARTICLE 17. TAXATION OF FINANCIAL INSTITUTIONS

Rule 1. Definitions

45 IAC 17-1-1 Applicability

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5

Sec. 1. Unless otherwise defined, all terms used in this article shall have the same meaning as those terms are defined in IC 6-5.5. *(Department of State Revenue; 45 IAC 17-1-1; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1210)*

Rule 2. Taxpayer

45 IAC 17-2-1 Financial Institutions Tax (FIT)

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-1-17; IC 6-5.5-2-8

Sec. 1. (a) The Financial Institutions Tax (FIT) is intended to tax both traditional financial institutions (such as banks and savings and loans, etc.), that are transacting business within Indiana, as well as other types of businesses that are deemed to be transacting the business of a financial institution in Indiana.

(b) The FIT is a franchise tax imposed upon a corporation that:

(1) is transacting the business of a financial institution in Indiana;

(2) is a partner in a partnership that is transacting the business of a financial institution in Indiana; or

(3) is the grantor and beneficiary of a trust that is transacting the business of a financial institution in Indiana.

(Department of State Revenue; 45 IAC 17-2-1; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1210)

45 IAC 17-2-2 "Corporation" defined

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-1-17

Sec. 2. As used in section 1 of this rule, "corporation" means an entity that is:

(1) a corporation (as defined in Internal Revenue Code Section 7701(a)(3)) for federal income tax purposes, or any other entity taxed as a corporation under the Internal Revenue Code; and

(2) organized under the law of the United States, this state, any other taxing jurisdiction, or a foreign government.

(Department of State Revenue; 45 IAC 17-2-2; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1210)

45 IAC 17-2-3 Financial institutions

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5

Sec. 3. (a) The "business of a financial institution" means the activities of a holding company, a regulated financial corporation, or a subsidiary of either that each is authorized to perform under federal or state law, including the activities authorized by regulation or order of the Federal Reserve Board for such a subsidiary under Section (4)(C)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(C)(8)).

(b) For purposes of the FIT, a "holding company" means a corporation which is registered under the Federal Bank Holding Company Act of 1956, or registered as a savings and loan holding company other than a diversified savings and loan holding company (as defined in Section 408(a)(1)(F) of the Federal National Housing Act (12 U.S.C. 1730(a)(1)(F)).

(c) For purposes of the FIT, a "regulated financial corporation" means:

(1) an institution, the deposits, shares, or accounts of which are insured under the Federal Deposit Insurance Act, or by the Federal Savings and Loan Insurance Corporation;

(2) an institution that is a member of a Federal Home Loan Bank;

(3) any other bank or thrift institution incorporated or organized under the laws of a state that is engaged in the business of receiving deposits. (The terms "bank", "thrift institution", and "deposits" shall have the same meaning as used in the title,

article, chapter, section, or administrative rule under which the corporation is chartered or regulated.);
(4) a credit union incorporated and organized under the laws of this state;
(5) a production credit association organized under 12 U.S.C. 2071;
(6) a corporation organized under 12 U.S.C. 611 through 12 U.S.C. 631 (an Edge Act corporation); or
(7) a federal or state agency or branch of a foreign bank (as defined in 12 U.S.C. 3101).
(d) For purposes of the FIT, a "subsidiary" of a holding company or a regulated financial corporation means:
(1) a corporation which has fifty percent (50%) or more of its voting stock owned by another legal entity; or
(2) an entity other than a corporation that is taxed as a corporation under the Internal Revenue Code and has fifty percent (50%) or more of its net worth owned by another legal entity.

(Department of State Revenue; 45 IAC 17-2-3; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1210)

45 IAC 17-2-4 Other corporations
Authority: IC 6-5.5-9-1
Affected: IC 6-5.5

Sec. 4. (a) The tax is also imposed upon any corporation if the corporation is organized under the laws of the United States, this state, another taxing jurisdiction, or a foreign government and the corporation is carrying on the business of a financial institution within Indiana.

(b) The corporation is deemed to be conducting the business of a financial institution and therefore subject to the FIT if eighty percent (80%) or more of the corporation's gross income during the taxable year is derived from the following activities:
(1) Extending credit. (Refer to subsection (e) below.)
(2) Leasing that is the economic equivalent of extending credit.
(3) Credit card operations.

(c) As used in this section, "gross income" includes the income derived from activities which are performed by corporations primarily (as defined by the eighty percent (80%) test) engaged in the business of extending credit. Gross income includes income from the following:
(1) Interest.
(2) Fees.
(3) Penalties.
(4) A market discount or other type of discount.
(5) Rental income.
(6) The gain on a sale of intangible or other property evidencing a loan or extension of credit.
(7) Dividends or other income received as a means of furthering any of the three (3) activities listed in subsection (b).

(d) Extraordinary income is excluded from gross income for purposes of satisfying the eighty percent (80%) test. Extraordinary income includes income which is unusual, infrequent, nonrecurring, and unrelated to the extension of credit.

(e) For purposes of satisfying the eighty percent (80%) test, corporations which are in the business of a financial institution must be conducting the activities of extending credit, leasing that is the economic equivalent of the extension of credit, or credit card operations, as follows:
(1) Making, acquiring, selling, or servicing loans or extensions of credit. For the purpose of this subdivision, loans and extensions of credit include secured or unsecured consumer loans; installment obligations; mortgage or other secured loans on real estate or tangible personal property; credit card loans; secured and unsecured commercial loans of any type; letters of credit and acceptance of drafts; loans arising in factoring; and any other transactions with a comparable economic effect. The following are examples of extending credit:
(A) A corporation is a manufacturer of widgets. In 19x9, the corporation received one million dollars ($1,000,000) in gross income from the sale of widgets. In selling such widgets, the corporation makes available an installment obligation plan whereby its customers buy widgets over an extended period of time. In 19x9, the corporation received one hundred thousand dollars ($100,000) in interest and fees from such installment obligations. Because only ten percent (10%) of the corporation's total receipts from all sources is derived from extending credit, the corporation is not considered a taxpayer for purposes of the FIT.
(B) Corporation A is primarily engaged in the business of a collection agency. Various other corporations enter into contracts with Corporation A for purposes of having delinquent loan monies collected. Corporation A does not originate

or acquire the loans. Corporation A receives income from the various corporations based upon the percentage of payments collected. Corporation A is not a taxpayer for purposes of the FIT. Although one hundred percent (100%) of Corporation A's income is from servicing loans, Corporation A is not extending credit.

(2) Leasing or acting as an agent, broker, or advisor, in connection with leasing real and personal property that is the economic equivalent of the extension of credit if the transaction is not treated as a lease for federal income tax purposes. If the lease is the economic equivalent of the extension of credit, and the lease is not treated as a lease for federal income tax purposes, the income derived from the lease is included in gross income for purposes of satisfying the eighty percent (80%) test whether the corporation is leasing its own real or personal property or is the lessor of real or personal property owned by another.

(3) Operating a credit card, debit card, charge card, or similar business. If eighty percent (80%) of a corporation's total gross income is derived from:

(A) extending credit;
(B) leasing; or
(C) credit card operations;

the corporation is subject to the FIT.

(See 45 IAC 17-4-4 concerning taxation of corporations which are partners in a partnership and corporations which are grantors and beneficiaries of a trust.) *(Department of State Revenue; 45 IAC 17-2-4; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1211)*

45 IAC 17-2-5 Exemptions

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-2-7; IC 6-5.5-9-4; IC 27-1-18-2

Sec. 5. (a) Generally, any taxpayer which is taxable under the FIT (IC 6-5.5) is exempt from the following:

(1) Indiana's gross income tax (IC 6-2.1).
(2) Adjusted gross income tax (IC 6-3).
(3) Supplemental net income tax (IC 6-3-8).
(4) Bank tax (IC 6-5-10).
(5) Savings and loan tax (IC 6-5-11).
(6) Production credit association tax (IC 6-5-12).

However, in the case of a partnership with a corporate partner, transacting the business of a financial institution, only the income subject to FIT shall be exempt from the above listed taxes. (See 45 IAC 17-4-4 regarding the tax liability for corporate partners of a partnership which is doing the business of a financial institution.) NOTE: The exemptions provided for the taxes listed in subdivisions (1) through (3) do not apply to a taxpayer to the extent the taxpayer is acting in a fiduciary capacity.

(b) Four (4) types of corporations are exempt from the FIT as follows:

(1) Insurance companies subject to tax under IC 27-1-18-2 or IC 6-2.1.
(2) International banking facilities, as defined in Regulation D of the Board of Governors of the Federal Reserve System.
(3) Subchapter S corporations, as defined in Section 1363 of the Internal Revenue Code.
(4) Any corporation which is exempt from taxation under the Internal Revenue Code except for the corporation's unrelated business income.

(Department of State Revenue; 45 IAC 17-2-5; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1212)

45 IAC 17-2-6 Transacting business within Indiana

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-3; IC 22-4-2

Sec. 6. (a) A taxpayer is transacting business within Indiana if the taxpayer has activities which include any of the following:

(1) Maintains an office in Indiana by establishing a regular, continuous, and fixed place of business in this state.

(2)(A) Has an employee, representative, or independent contractor conducting business in Indiana evidenced by such persons regularly acting on behalf of the taxpayer in furthering the business of a financial institution, as defined in section 3 of this rule;

(B) both the office from which such person's activities are directed or controlled is located in Indiana and the majority of such person's services are conducted on behalf of the taxpayer in this state; or

(C) a contribution to the Indiana employment security fund is required under IC 22-4-2 with respect to compensation paid to the employee.
(3) Owns or leases to customers real or tangible personal property if the property is physically situated in this state. Mobile tangible personal property is deemed to be located in Indiana if:
(A) such property is operated entirely in Indiana or is only occasionally operated outside this state; or
(B) the principal base of operations from which the property is sent out is in Indiana or there is no principal base of operations and Indiana is the commercial domicile of the lessee or other user of the property.
(4) Regularly solicits business from potential customers in Indiana.
(5) Regularly solicits and receives deposits from Indiana customers in Indiana. Deposits are attributed to this state if they are deposits made by this state or residents, political subdivisions, or agencies and instrumentalities of this state regardless of whether the deposits are accepted or maintained by the taxpayer at locations within Indiana.
(6) Regularly sells products or services of any kind or nature to Indiana customers in Indiana that receive the product or service in Indiana.
(7) Regularly performs services outside Indiana that are consumed within Indiana.
(8) Regularly engages in transactions with Indiana customers that involve intangible property, including loans, but not property described in section 7 of this rule and result in receipts flowing to the taxpayer from within Indiana.

(b) For purposes of this article, "regularly", when applied to any business activity, depends on the number of transactions, and with respect to any transaction, its size and complexity and whether it involves one (1) act or a series of activities to be performed over a substantial time period, and the extent to which any transaction or transactions involve the protection by the laws, government, or public institutions of the state of Indiana. The following are examples:
(1) A corporation which operates a credit card or charge card business and executes a contract with cardholders enforceable in Indiana which is evidenced by one (1) or more of the following: billed to cardholders in Indiana, providing interest on any amount due until paid, providing a card which operates as a form of money for purchasing material and services in Indiana, or establishes contracts with the Indiana vendors.
(2) A regulated financial corporation receiving deposits and making loans in Indiana, operated through mail, telephone, or automated terminals in Indiana with computer generated or other record keeping and billing outside Indiana.
(3) A regulated financial corporation providing an Indiana based corporation with a line of credit with complex credit requirements and supervision.
(4) A construction loan in Indiana requiring many draws and substantial inspection and certification over a period of time in Indiana.

(Department of State Revenue; 45 IAC 17-2-6; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1212)

45 IAC 17-2-7 Exemptions; certain activities
Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-3-8; IC 6-5.5-4

Sec. 7. A taxpayer is not considered to be transacting business in Indiana for the purposes of the FIT if the only activities of the taxpayer in Indiana are, or are in connection with, any of the following:
(1) Maintaining or defending an action or suit.
(2) Filing, modifying, renewing, extending, or transferring a mortgage, deed of trust, or security interest.
(3) Acquiring, foreclosing, or otherwise conveying property in Indiana as a result of a default under the terms of a mortgage, deed of trust, or other security instrument relating to the property.
(4) Selling tangible personal property, if taxation is precluded by 15 U.S.C. 381 through 15 U.S.C. 384.
(5) Owning an interest in the following types of property even though activities are conducted within Indiana that are reasonably required to evaluate and complete the acquisition or disposition of the property, the servicing of the property or the income from the property, the collection of income from the property, or the acquisition or liquidation of collateral relating to the property:
(A) An interest in a real estate mortgage investment conduit, a real estate investment trust, or a regulated investment company (as those terms are defined in the Internal Revenue Code).
(B) An interest in a loan backed security representing ownership or participation in a pool of promissory notes or certificates of interest that provide for payments in relation to payments or reasonable projections of payments on the

notes or certificates.
(C) An interest in a loan or other asset from which the interest is attributed in IC 6-5.5-4-4, IC 6-5.5-4-5, and IC 6-5.5-4-6 and in which the payment obligations were solicited and entered into by a person that is independent and not acting on behalf of the owner.
(D) An interest in the right to service or collect income from a loan or other asset from which interest on the loan or other asset is attributed in IC 6-5.5-4-4 through IC 6-5.5-4-6 and in which the payment obligations were solicited and entered into by a person that is independent and not acting on behalf of the owner.
(E) An amount held in an escrow or a trust account with respect to property described in this subdivision.
(6) Acting:
(A) as an executor of an estate;
(B) as a trustee of a benefit plan;
(C) as a trustee of an employees' pension, profit sharing, or other retirement plan;
(D) as a trustee of a testamentary or inter vivos trust or corporate indenture; or
(E) in any other fiduciary capacity, including holding title to real property in Indiana.
(Department of State Revenue; 45 IAC 17-2-7; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1213)

45 IAC 17-2-8 "Soliciting business" defined
Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-3-1

Sec. 8. A taxpayer is not required to be physically present within Indiana to be soliciting business. Soliciting business includes, but is not limited to, the following:
(1) The distribution, by mail or otherwise, of catalogs, periodicals, advertising flyers, or other written solicitations of business to potential customers in Indiana, without regard to the state from where the distribution originated or where the materials were prepared.
(2) Display of advertisements on billboards or other outdoor advertising in this state.
(3) Advertisements in newspapers published in this state.
(4) Advertisements in trade journals or other periodicals, the circulation of which is primarily within this state.
(5) Advertisements in an Indiana edition of a national or regional publication or a limited regional edition of which this state is included as part of a broader regional or national publication, and which are not placed in other geographically defined editions of the same issue of the same publication.
(6) Advertisements in regional or national publications in an edition which is not by its contents geographically targeted to Indiana, but which is sold over the counter in Indiana or by subscription to Indiana residents.
(7) Advertisements broadcast on a radio or television station which are received by Indiana residents.
(8) Any other solicitation by telegraph, telephone, computer data base, cable, optic, microwave, or other communication system.
(Department of State Revenue; 45 IAC 17-2-8; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1214)

45 IAC 17-2-9 Regularly soliciting business; presumption
Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-3-4

Sec. 9. A taxpayer is presumed, subject to rebuttal, to regularly solicit business within Indiana during a taxable year if at any time during the taxable year, the sum of the taxpayer's assets, including the assets arising from loan transactions, and the absolute value of the taxpayer's deposits attributable to Indiana, equal at least five million dollars ($5,000,000), or if the taxpayer does any of the following during the taxable year:
(1) Sells products or services of any kind or nature to twenty (20) or more Indiana customers who receive the product or service in Indiana.
(2) Solicits business from twenty (20) or more potential Indiana customers.
(3) Performs services outside Indiana that are consumed within Indiana by twenty (20) or more customers.
(4) Engages in transactions with twenty (20) or more Indiana customers that involve intangible property, including loans, but

not property described in section 7 of this rule and result in receipts flowing to the corporation from such customers within Indiana.

However, if a taxpayer is presumed to be regularly soliciting business in Indiana, but its total activities in Indiana fall within the exempt activities identified in section 7 of this rule, the taxpayer is not subject to the FIT. *(Department of State Revenue; 45 IAC 17-2-9; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1214)*

Rule 3. Computation of Tax

45 IAC 17-3-1 Adjusted gross income

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-1-2

Sec. 1. For corporations other than credit unions or investment companies, "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add an amount equal to a deduction allowed or allowable under Section 166 (Bad Debt), Section 585 (Reserve for Bad Debt), or Section 593 (Reserve for Bad Debt) of the Internal Revenue Code.

(2) Add an amount equal to a deduction allowed or allowable under Section 170 (Charitable Contributions) of the Internal Revenue Code.

(3) Add an amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or for taxes on property levied by a state or a subdivision of a state of the United States. (This provision requires the add back of taxes on property (real and tangible personal) levied at the local level, and taxes on property levied at the state level, e.g., Indiana's motor vehicle excise tax).

(4) Add the amount of interest excluded under Section 103 (Interest on State and Local Bonds) of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 (Expenses and Interest Relating to Tax-Exempt Income) of the Internal Revenue Code.

(5) Add an amount equal to the deduction allowed under Section 172 (Net Operating Loss Deduction) or Section 1212 (Capital Loss Carrybacks and Carryovers) of the Internal Revenue Code for net operating losses or net capital losses.

(6) Subtract income that the United States Constitution or any statute of the United States prohibits from being used to measure the FIT, imposed by IC 6-5.5. Although United States obligations are not subject to income taxation as provided under federal law, United States obligations are not preempted by federal law from franchise taxes. See 15 U.S.C. 3124(a). Therefore, United States obligations are not subtracted from federal taxable income for purposes of the FIT.

(7) Subtract income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(8) Subtract an amount equal to a debt or portion of a debt that becomes worthless during the taxable year within the meaning of Section 166(a) (Wholly or Partially Worthless Debts) of the Internal Revenue Code.

(9) Subtract an amount equal to any bad debt reserves that are included in federal taxable income because of accounting method changes required by Section 585(c)(3)(A) of the Internal Revenue Code.

(Department of State Revenue; 45 IAC 17-3-1; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1214)

45 IAC 17-3-2 Methods of reporting

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-5-1; IC 6-5.5-6-1

Sec. 2. (a) Consolidated reporting is not permitted for purposes of the FIT. Separate or combined reporting are the only methods of reporting which are allowed.

(b) A taxpayer shall file a separate return when the taxpayer is not a member of a unitary group. If the taxpayer is a member of a unitary group as defined in section 5 of this rule, combined reporting is mandatory, unless IC 6-5.5-5-1(b) is applicable. *(Department of State Revenue; 45 IAC 17-3-2; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1215)*

45 IAC 17-3-3 Calculating the FIT liability for resident taxpayers filing a separate return

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-2-1

Sec. 3. (a) A resident taxpayer is a corporation that is transacting business within Indiana under 45 IAC 17-2-6, and is commercially domiciled in this state.

(b) Generally, the FIT liability before allowable credits for a resident taxpayer that is not a member of a unitary group is determined as follows:

STEP ONE: Calculate adjusted gross income as defined under section 1 of this rule. NOTE: Adjusted gross income includes the taxpayer's adjusted gross income from whatever source derived; therefore, adjusted gross income includes income from all taxing jurisdictions and without regard to the type of activity which produced such income. The adjusted gross income is not apportioned.

STEP TWO: Subtract from STEP ONE deductible net operating losses incurred in taxable years beginning after December 31, 1989. NOTE: A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred or until exhausted, whichever occurs first.

STEP THREE: Subtract from the result of STEP TWO an amount equal to net capital losses not to exceed the taxpayer's net capital gains that were incurred for taxable years beginning after December 31, 1989, to the extent that such net capital losses were added back in determining adjusted gross income. NOTE: Capital losses unused during the taxable year may be carried forward to each of the five (5) succeeding taxable years or until exhausted, whichever occurs first. However, net capital losses carried forward can only be deducted to the extent of net capital gains.

STEP FOUR: Multiply the result of STEP THREE by the FIT rate.

(Department of State Revenue; 45 IAC 17-3-3; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1215)

45 IAC 17-3-4 Calculating the FIT liability for the nonresident taxpayer filing a separate return

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-2-1; IC 6-5.5-2-3

Sec. 4. (a) A nonresident taxpayer is a corporation which is transacting business in Indiana under 45 IAC 17-2-6 and has its commercial domicile in a taxing jurisdiction outside Indiana.

(b) Generally, the FIT liability before allowable credits for a nonresident taxpayer which is not a member of a unitary group is determined as follows:

STEP ONE: Calculate adjusted gross income as defined under section 1 of this rule. NOTE: Adjusted gross income includes the taxpayer's adjusted gross income from whatever source derived. The adjusted gross income is then apportioned. The adjusted gross income for the taxable year is multiplied by the quotient of:

(A) the taxpayer's total receipts attributed to transacting business in Indiana as determined under section 10 of this rule; divided by

(B) the taxpayer's total receipts from transacting business in all taxing jurisdictions.

STEP TWO: Subtract from STEP ONE deductible Indiana net operating losses incurred in taxable years beginning after December 31, 1989. When calculating the Indiana portion of the net operating losses, use the apportionment percentage used for the taxable year of the loss. NOTE: A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred or until exhausted, whichever occurs first.

STEP THREE: Subtract from the result in STEP TWO an amount equal to any capital loss carry forward for taxable years beginning after December 31, 1989, multiplied by the apportionment percentage used for the applicable loss year plus any capital loss incurred during the taxable year multiplied by the current year's apportionment percentage. The amount of losses available to be deducted are limited to the extent of the current year's apportioned capital gains. NOTE: Capital losses unused during the taxable year may be carried forward to each of the five (5) succeeding taxable years or until exhausted, whichever occurs first.

STEP FOUR: Multiply the result of STEP THREE by the FIT rate.

(Department of State Revenue; 45 IAC 17-3-4; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1215)

45 IAC 17-3-5 Unitary groups
Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-1-18; IC 6-5.5-5-1

Sec. 5. (a) A designated taxpayer who is a member of a unitary group shall file a combined return covering all the operations of the unitary business and including all taxpayer members of the unitary group.

(b) A corporation must be a taxpayer as defined under 45 IAC 17-2 in order to be a member of a unitary group for purposes of the FIT.

(c) A “unitary business” means business activities or operations that are of mutual benefit, dependent upon, or contributory to one another, individually, or as a group, in transacting the business of a financial institution. Unity of ownership exists when a corporation is a member of a group of two (2) or more entities and more than fifty percent (50%) of the voting stock of each member of the group is directly or indirectly owned by:

(1) a common owner or common owners, either corporate or noncorporate; or

(2) one (1) or more of the member corporations of the group. Example 1, Corporation A owns eighty percent (80%) of Subsidiary B. Subsidiary B owns sixty percent (60%) of Subsidiary C. Corporation A directly owns eighty percent (80%) of Subsidiary B and indirectly owns forty-eight percent (48%) of Subsidiary C. There is unity of ownership between Corporation A and Subsidiary B because Corporation A directly owns more than fifty percent (50%) of Subsidiary B. There is unity of ownership between Subsidiary B and Subsidiary C because Subsidiary B directly owns more than fifty percent (50%) of Subsidiary C. Although Corporation A indirectly owns only forty-eight percent (48%) of Subsidiary C, there is unity of ownership between Corporation A and Subsidiary B and Subsidiary C because Subsidiary B is a member corporation of the group and directly owns more than fifty percent (50%) of Subsidiary C. Example 2, Corporation A owns one hundred percent (100%) of Corporations B and C. Corporations B and C each owns thirty percent (30%) of Corporation D. Although no single corporation owns more than fifty percent (50%) of Corporation D, the unitary group owns sixty percent (60%) of Corporation D. Therefore Corporation D is a member of the unitary group.

Unity is presumed whenever there is unity of ownership, operation, and use evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction among entities that are members of a unitary group.

(d) A unitary group for purposes of the FIT is composed of those taxpayer members that are engaged in a unitary business transacted wholly or partially within Indiana. Therefore, if one (1) member of a unitary group is conducting the business of a financial institution in Indiana, then all members of the unitary group engaged in a unitary business must file a combined return, even if some of the members are not transacting business in Indiana. The following are examples of unitary groups:

(1) A parent corporation is a taxpayer and commercially domiciled in Indiana. Parent owns fifty-five percent (55%) of Subsidiary A which is a taxpayer and commercially domiciled in Indiana. Parent also owns fifty-five percent (55%) of Subsidiary B which transacts the business of a financial institution and is commercially domiciled outside the state of Indiana. Subsidiary B does not extend credit in Indiana. Assume that the parent and Subsidiary A and Subsidiary B are engaged in a unitary business. The combined return must include the respective adjusted gross income of the parent and both subsidiaries.

(2) A parent corporation owns more than fifty percent (50%) of five (5) subsidiaries. Three (3) of the corporations are conducting the business of a financial institution. Two (2) of the corporations derive one hundred percent (100%) of their income from manufacturing. For purposes of the FIT, the three (3) corporations conducting the business of a financial institution are a unitary group and must file a combined return. The two (2) corporations which are manufacturers are neither subject to the FIT nor a member of the unitary group.

(3) Assume the same facts as stated in subdivision (2). The parent corporation derives sixty percent (60%) of its income from the three (3) subsidiaries which are financial institutions and forty percent (40%) from its subsidiaries' manufacturing operations. If the parent is not a taxpayer for purposes of the FIT, the parent would not be a member of the unitary group for purposes of the FIT. (In the event the parent is a taxpayer under the Gross Income Tax Act (IC 6-2.1-2-11), the parent would exclude income attributable to the members of the group subject to the franchise tax.) However, if the parent satisfies the eighty percent (80%) test because eighty percent (80%) or more of its gross income is derived from the business of a financial institution (either from the parent's financial activities alone or in conjunction with the income stream from the financial subsidiaries), the parent would be included as a member of the unitary group.

(Department of State Revenue; 45 IAC 17-3-5; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1216)

45 IAC 17-3-6 Calculating the FIT liability for taxpayers filing a combined return

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-2-4; IC 6-5.5-5-2

Sec. 6. Generally, the FIT liability before allowable credits for a taxpayer filing a combined return for a unitary group is determined as follows:

STEP ONE: Eliminate all income and deductions from transactions between entities that are included in the unitary group.

STEP TWO: Calculate the unitary group's adjusted gross income which consists of:

(A) all of the adjusted gross income of the resident taxpayer members of the unitary group; plus

(B) the adjusted gross income of all nonresident taxpayer members of the unitary group for the taxable year multiplied by the quotient of:

(i) the receipts of the nonresident taxpayer members of the unitary group attributable to transacting business in Indiana, as determined under section 10 of this rule; divided by

(ii) the receipts of the nonresident taxpayer members of the unitary group from transacting business in all taxing jurisdictions, as determined under section 10 of this rule.

The above calculation does not permit each member to separately calculate its own Indiana adjusted gross income.

STEP THREE: Subtract from the result in STEP TWO an amount equal to the unitary group's net operating losses attributed to Indiana that were incurred in taxable years beginning after December 31, 1989. The amount of the net operating loss deduction shall be computed similar to STEP TWO above for the tax year in which the net operating loss occurred. The unitary group's net operating loss deduction consists of:

(A) all of the adjusted gross income of the resident taxpayer members of the unitary group for the loss year; plus

(B) all of the adjusted gross income of all nonresident taxpayer members of the unitary group for the loss year multiplied by the quotient of:

(i) the receipts during the loss year of the nonresident taxpayer members of the unitary group attributable to transacting business in Indiana, as determined under section 10 of this rule; divided by

(ii) the receipts during the loss year of the nonresident taxpayer members of the unitary group from transacting business in all taxing jurisdictions.

STEP FOUR: Subtract from the result in STEP THREE an amount equal to the unitary group's capital loss carry forward for taxable years beginning after December 31, 1989, and the capital loss for the current taxable year which is attributable to Indiana. The amount of losses available to be deducted are limited to the extent of the current year's capital gains attributed to Indiana. (Note: Capital losses unused during the taxable year may be carried forward to each of the five (5) succeeding taxable years or until exhausted, whichever occurs first.) The current year's capital gains attributed to Indiana is determined by the sum of the capital gains of the resident members plus the capital gains attributed to Indiana for the nonresident members. The unitary group's capital losses attributed to Indiana for the current taxable year must be multiplied by the capital loss ratio. The capital loss ratio is determined by the sum of Indiana's resident member's total receipts plus nonresident member's receipts attributed to Indiana divided by the unitary group's total receipts derived from all taxing jurisdictions. The unitary group's capital loss carry forward attributed to Indiana for taxable years beginning after December 31, 1989, must be multiplied by the capital loss ratio used for the respective loss year. The capital loss ratio is determined by the sum of Indiana's resident member's total receipts plus nonresident member's receipts attributed to Indiana divided by the unitary group's total receipts derived from all taxing jurisdictions.

STEP FIVE: Multiply the result in STEP FOUR by the FIT rate.

(Department of State Revenue; 45 IAC 17-3-6; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1217)

45 IAC 17-3-7 Credits for taxes paid to other states

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5

Sec. 7. (a) A resident taxpayer or a resident member of a unitary group is entitled to a credit against the FIT.

(b) To claim a credit for creditable taxes paid to other taxing jurisdictions, the resident taxpayer must provide the department with a schedule which lists the separate taxing jurisdictions and the respective amounts paid.

(c) As used in this section, “creditable tax” means a tax imposed by a taxing jurisdiction and based on any of the following:

(1) Net income.
(2) Franchise.
(3) Deposits.
(4) Investment capital.
(5) Shares.
(6) Net worth or capital.
(7) A combination of these tax bases.
(8) Any other tax that is imposed instead of an income tax.
(d) Taxes paid to political subdivisions of a state are not creditable taxes.
(e) The credit equals the lesser of any of the following:
(1) The amount of creditable tax actually paid by the resident taxpayer or member to any other taxing jurisdiction on the resident taxpayer's or member's adjusted gross income.
(2) The amount of creditable tax calculated on the taxpayer's adjusted gross income that is subject to taxation by the other taxing jurisdiction using Indiana's tax rate.
(3) The amount of creditable tax calculated on the taxpayer's adjusted gross income that is attributable to the other taxing jurisdictions under the rules for attributing gross receipts under section 10 of this rule using Indiana's tax rate.
(Department of State Revenue; 45 IAC 17-3-7; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1218)

45 IAC 17-3-8 Credits for certain nonresident taxpayers
Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-2; IC 6-5.5-4

Sec. 8. (a) A nonresident taxpayer filing separately or a combined return is entitled to a credit against its FIT liability in the amount of direct net income tax, a franchise tax, or other tax measured by net income that is due for a taxable year to the nonresident taxpayer's domiciliary state if:
(1) the receipt of interest or other income from a loan or loan transaction is attributed both to the taxpayer's domiciliary state under that state's laws and also to Indiana under IC 6-5.5-4; and
(2) the principal amount of the loan is at least two million dollars ($2,000,000).
(b) The credit is available only in regard to loans which are in a principal amount of two million dollars ($2,000,000) or more as expressed in the loan document. There may be instances when a corporation extends many loans but only some of the loans meet the two million dollar ($2,000,000) qualifying limit. To determine the amount of tax attributable to the qualified loans, divide the receipts attributable to the qualified loans by the total receipts and multiply that fraction expressed as a percentage by the amount of the FIT due.
(c) The amount of the credit is equal to the lesser of the actual taxes paid to the domiciliary state for the loan transaction or the amount due to Indiana on the loan transaction.
(d) If the nonresident taxpayer's domiciliary state grants a credit for taxes paid to other states, the credit available for the purposes of Indiana's FIT is the net tax paid to the domiciliary state. The credit granted by Indiana's FIT must be reduced by the amount of credit granted by the taxpayer's domiciliary state.
(e) Rather than applying the credit, if the domiciliary state's method of calculating the tax base is similar to Indiana's method, but the domiciliary state's tax rate is higher than Indiana's tax rate, the nonresident corporation has the option of excluding the receipts attributable to Indiana from the numerator and denominator of the apportionment formula. However, the taxpayer must include in the return an estimate of the total of those receipts.
(f) The following are examples of credits for certain nonresident taxpayers:
(1) A nonresident taxpayer makes a two million dollar ($2,000,000) loan and the receipts from the loan are attributable to both Indiana and the taxpayer's domiciliary state. The domiciliary state grants a credit for taxes due to the state of Indiana. Assume both Indiana and the domiciliary state have the same tax rate. If the nonresident corporation owes taxes to Indiana in the amount of five thousand dollars ($5,000) and the domiciliary state grants a credit for such five thousand dollars ($5,000), then the tax liability to Indiana is five thousand dollars ($5,000), and the amount of the Indiana credit is zero (0).
(2) A nonresident taxpayer makes a two million dollar ($2,000,000) loan and the receipts from the loan are attributable to both Indiana and the taxpayer's domiciliary state. The domiciliary state grants a credit for taxes due to the state of Indiana. If the nonresident taxpayer owes taxes to Indiana in the amount of four thousand dollars ($4,000) and the taxpayer owes its

domiciliary state a five thousand dollar ($5,000) tax liability, the domiciliary state would grant a credit only to the extent of the four thousand dollar ($4,000) tax due. The amount of Indiana's potential credit granted is reduced by four thousand dollar *[sic.]* ($4,000). Therefore, zero (0) credit is available to be used against the taxpayer's Indiana four thousand dollar ($4,000) tax liability.
(3) A nonresident taxpayer makes a two million dollar ($2,000,000) loan and the receipts from the loan are attributable to both Indiana and the taxpayer's domiciliary state. The domiciliary state does not grant a credit for taxes due to the state of Indiana. If the nonresident taxpayer owes taxes to Indiana in the amount of five thousand dollars ($5,000) and the taxpayer owes a three thousand dollar ($3,000) tax liability to its domiciliary state, the five thousand dollar ($5,000) Indiana tax liability would be reduced by three thousand dollars ($3,000).
(Department of State Revenue; 45 IAC 17-3-8; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1218)

45 IAC 17-3-9 Other credits that can be applied against the FIT
Authority: IC 6-5.5-9-1
Affected: IC 6-3-3-10; IC 6-3.1; IC 6-5.5

Sec. 9. The following credits are available to be taken for purposes of reducing a corporation's FIT liability:
(1) Enterprise zone employment expense credit (IC 6-3-3-10).
(2) Teacher's summer employment credit (IC 6-3.1-2).
(3) Donation of high technology equipment for schools credit (IC 6-3.1-3).
(4) Investment credit (IC 6-3.1-5).
(5) Enterprise zone loan interest credit (IC 6-3.1-7).
(6) Neighborhood assistance credit (IC 6-3.1-9).
(7) Industrial recovery tax credit (IC 6-3.1-11).
(8) Drug and alcohol abuse prevention credit (IC 6-3.1-12).
(Department of State Revenue; 45 IAC 17-3-9; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1219)

45 IAC 17-3-10 Attributing receipts for nonresident taxpayers and nonresident members of a unitary group
Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-1-10; IC 6-5.5-4

Sec. 10. (a) As used in this article, the following definitions apply:
(1) “Receipts” includes all gross income as defined in Section 61 of the Internal Revenue Code. However, upon the disposition of assets such as securities and money market transactions, when derived from transactions and activities in the regular course of the taxpayer's trade or business, receipts are limited to the gain (as defined in Section 1001 of the Internal Revenue Code) that is recognized upon the disposition.
(2) “Money market instruments” means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments.
(3) “Securities” means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock and other securities, participation in securities backed by mortgages held by United States or state government agencies, loans backed securities and similar investments.
(b) Attribution of receipts shall be as follows:
(1) Receipts from the lease or rental of real or tangible personal property must be attributed to Indiana if the property is located in Indiana.
(2) Receipts from the sale of an asset, tangible or intangible, must be apportioned in the manner that the income from the asset would be apportioned under this article.
(3) Receipts from the performance of fiduciary and other services must be attributed to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one (1) state, the receipts from those benefits must be apportioned to Indiana on a pro rata basis according to the portion of the benefits consumed in Indiana.
(4) Receipts from the issuance of traveler's checks, money orders, or United States savings bonds must be attributed to the state in which the traveler's checks, money orders, or bonds are purchased.
(5) Receipts from investments of a financial institution in securities of this state and its political subdivisions, agencies, and

instrumentalities must be attributed to Indiana. "Political subdivision" means a county, township, city, town, separate municipal corporation, special taxing district, or school corporation. "State agency" means a board, commission, department, division, bureau, committee, authority, military body, college, university, or other instrumentality of this state, but does not include a political subdivision or an instrumentality of a political subdivision.

(6) Interest income and other receipts from assets in the nature of loans or installment sales contracts that are primarily secured by or deal with real or tangible personal property must be attributed to Indiana if the security or sale property is located in Indiana.

(7) Interest income and other receipts from consumer loans not secured by real or tangible personal property must be attributed to Indiana if the loan is made to a resident of Indiana.

(8) Interest income and other receipts from commercial loans and installment obligations not secured by real or tangible personal property must be attributed to Indiana if the proceeds of the loan are to be applied in Indiana. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the business applied for the loan. As used in this section, "applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.

(9) Interest income, merchant discount, and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit cardholders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(10) Interest income and other receipts from a participating financial institution's portion of participation loans must be attributed under this article. A participation loan is a loan in which more than one (1) lender is a creditor to a common borrower.

(11) Fee income and other receipts from letters of credit, acceptance of drafts, and other devices for assuring or guaranteeing loans of credit must be apportioned in the same manner as interest income and other receipts from commercial loans are apportioned.

(12) Any other receipts of gross income not specfically attributable to Indiana or to another taxing jurisdiction applying this subsection, shall be attributed to Indiana in the same proportion that aggregate receipts are attributed to Indiana under subdivisions 1 through 11.

(c) If a taxpayer has adjusted gross income from a trade or business subject to apportionment under this section and in addition has income not connected with that trade or business, the unconnected income must be allocated to its commercial domicile and therefore will not be included in either the numerator or denominator for purposes of determining the apportionment percentage. Intangible property is employed in a trade or business if the owner of the property holds it as a means of furthering the trade or business. Income from such intangible property is considered to be connected with the trade or business and is subject to apportionment. *(Department of State Revenue; 45 IAC 17-3-10; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1219)*

Rule 4. Other Taxpayers

45 IAC 17-4-1 Resident state chartered credit unions

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5; IC 28-7-1-24

Sec. 1. (a) State chartered credit unions incorporated in Indiana are subject to the FIT. (See 45 IAC 7-2.) For purposes of computing the adjusted gross income of the credit union, adjusted gross income equals the total transfers to undivided earnings, minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24. In other words, adjusted gross income can be defined as net transfers to undivided earnings. No other deductions are permitted.

(b) A resident taxpayer's income is not apportioned to other states. Therefore, the taxpayer's adjusted gross income equals all of the taxpayer's adjusted gross income from whatever source derived.

(c) For purposes of computing the FIT liability, the adjusted gross income of the credit union is multiplied by the FIT rate.

(d) A copy of the Year End Call Report submitted to the National Credit Union Association must be included when filing the annual tax return. *(Department of State Revenue; 45 IAC 17-4-1; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1220)*

45 IAC 17-4-2 Nonresident state chartered credit unions

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5; IC 28-7-1-24

Sec. 2. (a) Credit unions chartered in a state other than Indiana may be subject to the FIT under 45 IAC 17-2. For purposes of computing the adjusted gross income of the nonresident credit union, adjusted gross income is the total transfers to undivided earnings, minus dividends for the taxable year after statutory reserves are set aside under IC 28-7-1-24. In other words, adjusted gross income can be defined as net transfers to undivided earnings. No other deductions are permitted.

(b) For purposes of determining the statutory reserves under IC 28-7-1-24(e), the Indiana department of financial institutions may revise the statutory reserve requirement. The Indiana department of financial institutions has promulgated rules which allow the statutory reserves for Indiana purposes to coincide with the Federal Credit Union Act (12 U.S.C. 1762). Therefore, a nonresident state chartered credit union may determine its statutory reserves for purposes of the FIT by applying the reserve requirements of the Federal Credit Union Act.

(c) For purposes of computing the FIT liability, the adjusted gross income must be apportioned by dividing the total receipts attributable to transacting business in Indiana by the total receipts from transacting business in all taxing jurisdictions. This quotient, expressed as a percentage, is multiplied by the total adjusted gross income to arrive at the apportioned adjusted gross income which is multiplied by the FIT rate. *(Department of State Revenue; 45 IAC 17-4-2; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1221)*

45 IAC 17-4-3 Federally chartered credit unions; exemption

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5

Sec. 3. Federal law prohibits the state taxation of federally chartered credit unions under the Federal Credit Union Act (12 U.S.C. 1768). *(Department of State Revenue; 45 IAC 17-4-3; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1221)*

45 IAC 17-4-4 Partnerships or trusts

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-2-8

Sec. 4. (a) Neither partnerships nor trust entities are subject to the FIT. However, partnerships with a corporate partner, and trusts which have a corporate grantor and beneficiary which are conducting the business of a financial institution, are required to file annual information returns. The information returns must be filed on a schedule provided by the department. The partnership or trust must calculate the tax liability as if the partnership or trust were a taxpayer for purposes of the FIT.

(b) If a partnership or trust that is commercially domiciled in Indiana is transacting the business of a financial institution in Indiana, and the partners or grantors and beneficiaries are nonresident corporations, the partnership or trust is responsible to withhold and remit the nonresident corporation's tax liability on its apportioned income if the nonresident corporation is otherwise not a taxpayer for purposes of the FIT. The apportioned income attributable to the corporate partner is the same percentage as its distributive share. The corporate partner which is a resident or nonresident and otherwise subject to the FIT is responsible for the FIT in accordance with the corporate partner's percentage share of the partnership or trust's adjusted gross income or apportioned income.

(c) If a resident corporate partner is otherwise not subject to the FIT, the corporate partner must pay the FIT liability attributable to its partnership income. The income attributed to the corporate partner's share which has been taxed under IC 6-5.5 would not be included in the income calculation for purposes of any other taxes under 45 IAC 17-2-5. For example, a nonresident partnership is conducting the business of a financial institution both within and without Indiana. Assume Corporation A owns sixty percent (60%) of the partnership and Corporation B owns forty percent (40%) of the partnership. Further assume that eighty percent (80%) of the partnership's receipts are attributable to Indiana and twenty percent (20%) of the partnership's receipts are attributable to other states. Corporation A's distributive share of income is forty-eight percent (48%) (sixty percent (60%) multiplied by eighty percent (80%)) of the total adjusted gross income. Corporation B's distributive share is thirty-two percent (32%) (forty percent (40%) multiplied by eighty percent (80%)) of the total adjusted gross income for purposes of attributing income to the corporate partners. *(Department of State Revenue; 45 IAC 17-4-4; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1221)*

45 IAC 17-4-5 Investment companies

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5-1-2

Sec. 5. (a) For purposes of the FIT, an “investment company” means a person, copartnership, association, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment and issues in exchange for such payment an investment contract as evidenced by:

(A) a so-called bond;
(B) a share;
(C) a coupon;
(D) a certificate of membership;
(E) an agreement;
(F) a pretended agreement; or
(G) another evidence of obligation;

entitling the holder to anything of value at some future date, if the gross payments to the holder equal at least fifty percent (50%) of the sum of the company's gross payments on all investment contracts plus the company's gross income from all other sources, except dividends from subsidiaries, for the taxable year.

The term “gross payments” means the amount received during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts. The interest and dividends earned on investment contracts are determined by prorating the total dividends and interest for the taxable year in question in the same proportion that certificate reserves, as defined by the Investment Company Act of 1940, are to total assets.

(b) To qualify as a taxpayer, the investment company must satisfy the eighty percent (80%) test under 45 IAC 17-2. Regardless of whether or not a corporation meets the definition of an investment company, a corporation which makes investments may be a taxpayer if the eighty percent (80%) test is satisfied.

(c) In the case of an investment company, adjusted gross income means the company's federal taxable income multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(Department of State Revenue; 45 IAC 17-4-5; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1222)

Rule 5. Reporting

45 IAC 17-5-1 Required reporting

Authority: IC 6-5.5-9-1
Affected: IC 6-5.5; IC 6-8.1-6-2

Sec. 1. (a) Annual returns are required to be filed with the department by every taxpayer subject to the FIT, including any taxpayer which has a loss for that taxable year. A unitary group is required to file only one (1) return covering all members of the unitary group. A schedule of all members of the unitary group must be attached to the annual return. A copy of the taxpayer's federal income tax return which has been filed with the Internal Revenue Service for the same taxable year must accompany the Indiana annual return.

(b) The annual return must be filed with the department on or before the fifteenth day of the fourth month following the close of the taxable year. The department will recognize an extension of time which has been granted by the Internal Revenue Service, provided that such extension of time can be verified through the Internal Revenue Service, and a copy of the federal application for extension of time is attached to the Indiana annual return.

(c) If an additional extension period is needed for purposes of filing Indiana's annual return, and such time exceeds the federal extension period granted, the taxpayer is required to file a petition for a separate Indiana extension of time in accordance with IC 6-8.1-6-2.

(d) Each taxpayer shall report and submit a quarterly estimated tax payment to the department equal to twenty-five percent (25%) of the taxpayer's total estimated tax liability for the taxable year. The quarterly estimated payment is due on or before the last day of the month following the close of each quarter of the taxable year.

(e) Failure to make quarterly estimated payments at least equal to:

(1) twenty percent (20%) of the final tax liability for the taxable year; or

(2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year;

will result in a ten percent (10%) penalty imposed upon the difference between the actual amount paid and the amount required to be paid for each quarter. *(Department of State Revenue; 45 IAC 17-5-1; filed Jan 22, 1991, 4:55 p.m.: 14 IR 1222)*

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