



MULTISTATE INCOME/FRANCHISE TAX

## Indiana updates Internal Revenue Code conformity Tax Alert

### Overview

On April 29, 2021, Indiana Governor Eric Holcomb signed [House Bill 1001](#) (H.B. 1001) into law. H.B. 1001 updates Indiana's conformity to the Internal Revenue Code ("IRC"), as defined in [Indiana Code \(I.C.\) 6-3-1-11](#), to be as of March 31, 2021, effective retroactively to January 1, 2021.

In May 2021, the Indiana Department of Revenue updated [Information Bulletin #119](#), *Internal Revenue Code Provisions Not Followed by Indiana and Clarification of Related Issues*, to address and clarify Indiana's conformity to certain provisions of the IRC.

This Alert summarizes some of the significant updates to Indiana law following its update to IRC conformity.

### Internal Revenue Code conformity

Prior to the 2021 session of the Indiana General Assembly, Indiana conformed to the IRC version in effect on January 1, 2020. During the 2021 session, the Indiana General Assembly updated the definition of IRC to March 31, 2021, effective retroactively to January 1, 2021.

### Business meals deductions

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 amended IRC section 274(n) to allow a full deduction for business meals for amounts paid in 2021 and 2022. According to Information Bulletin #119, (II)(D), Indiana added [I.C. 6-3-1-3.5\(B\)\(17\)](#) to disallow the full deduction for business meals in 2021 and 2022. The state will continue to allow a 50% deduction as the general rule and recognize the exceptions in IRC sections 274(n)(2)(A), (B) and (C).

### Depreciation on qualified improvement property

With respect to qualified improvement property, section 2307 of the CARES Act changed the depreciation life from 39-year property to 15-

year property, allowing the property to be subject to bonus depreciation under IRC section 168(k).

According to Information Bulletin #119, (III)(C), Indiana will now allow qualified improvement property to be subject to the 15-year depreciation life retroactively pursuant to its updated conformity date of March 31, 2021. However, Indiana continues to decouple from IRC section 168(k) through modifications outlined in [IC 6-3-1-3.5\(B\)\(5\)](#). Therefore, any bonus depreciation claimed for these assets will be subject to modifications under Indiana law.

### Excess interest deductions under IRC section 163(j)

Section 2306 of the CARES Act modified the rules for the interest deduction under IRC section 163(j) to increase the allowance of interest from 30% of modified taxable income to 50% for 2019 and 2020.

According to Information Bulletin #119, (V)(A), because Indiana adopted the IRC as in effect on March 31, 2021, it now incorporates these federal changes into Indiana law. However, Indiana continues to decouple from the interest expense limitations under IRC section 163(j) through modifications outlined in [IC 6-3-1-3.5\(B\)\(24\)](#), and the full deduction will continue to be allowed. The amount of the Indiana modification may change compared to previous years due to changes in federal law.

### Net operating loss (NOL) changes

Section 2303 of the CARES Act amended IRC section 172 to allow for NOL carrybacks and temporarily remove the taxable income limitation applicable retroactively to tax years beginning before January 1, 2021.

According to Information Bulletin #119, (V)(B), because Indiana adopted the IRC as in effect on March 31, 2021, it now incorporates these federal changes into Indiana law. However, Indiana's overall treatment will remain unchanged due to its specific addback for federal net operating loss deductions, its conformity modifications, and specific NOL provisions in [IC 6-3-2-2.5](#) and [IC 6-3-2-2.6](#). The amount of the Indiana modification may change compared to previous years due to changes in federal law.

### Get in touch

[Amanda Suasnabar](#)

[Tom Engle](#)

[Amanda Bertram](#)



30 Rockefeller Plaza  
New York, NY 10112-0015  
United States

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