

## OPINION 35

### OFFICIAL OPINION NO. 35

December 7, 1971

Mr. James O. Mathis  
Commissioner  
Department of Revenue  
State Office Building  
Indianapolis, Indiana

Dear Mr. Mathis:

In your request for my Official Opinion you stated that, when the Indiana Code of 1971 was adopted, Section 6 of the Gross Income Tax Act of 1933 (certain designated exemptions from the gross income that is taxable) was designated as Title 6, Article 2, Chapter 1, Section 7. You further stated that, in said compilation, Code Section 6-2-1-39 (8) was not changed in its wording and that said Section 39(8) still makes reference to Section 6 exemptions of the old Gross Income Tax Act. You also mentioned House Bill 1381, subsequently passed by both Houses of the Legislature and published as 1971 Public Law 62, amended IC 1971, 6-2-1-7(i) by a complete rewriting of that section.

Your Official Opinion request presents the following question:

“What is the legal effect of IC 1971, 6-2-1-39 (8) with respect to the subject matter of IC 1971, 6-2-1-7(i)?”

### ANALYSIS

By referring to Section 3 of 1971 Public Law 62 wherein IC 1971, 6-2-1-7 was amended, we find the following language:

“SECTION 3. IC 1971, 6-2-1-7, subsection (i) (formerly Acts of 1933, c. 50, s. 6, as last amended by Acts of 1965, c. 232, s. 1) is amended \* \* \*”

From the foregoing, it is clearly the Legislative intent that said amending section is to amend the designated Section

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7, sub-section (i) of the Indiana Code of 1971 and that said Section 7 is the same as Section 6 of Chapter 50 of the Acts of 1963 which is commonly known as the Gross Income Tax Act. Where the provisions of a statute are carried forward and embodied of a section or a revision or compilation in the same words, or in words which are substantially the same and not different in meaning, the latter provision will be considered a continuance of the old law and not as a new and original enactment. This is true both where there is an express declaration to that effect in the compilation or revision and in the absence of such declaration. The mere fact that the Acts are incorporated into a compilation of the statutes, and the sections given new numbers by the revisers, does not change the source or effect of the Acts. 82 C. J. S. Sec. 276d. Page 468.

It has been declared to be well settled that a codification of the law by the Legislature operates as a continuation of the old statute, and effects no change in meaning or operation. In re Atwell's Estate, 193 P. (2d) 519.

A statute which is a compilation rather than a new enactment must be construed as a continuation of the existing statute.

It has also been held that where existing legislation on a particular subject has been systematically revised and restated in a comprehensive general statute subsequent enactments touching that subject are to be construed and applied in harmony with the general statute. 50 Am.Jur., Sec. 456, Page 470.

## CONCLUSION

The fact that the revisers of the Indiana Code of 1971 designated Section 6 of the Acts of 1933, Ch. 50, (which specified certain exemptions from gross income that is taxable) into 6-2-1 as Section 7 did not change the meaning, import or operation of said Section 6 as formerly found in the Acts of 1933, Chapter 50.