Second Regular Session of the 122nd General Assembly (2022)

SENATE ENROLLED ACT No. 382

AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-23-7.3-19, AS ADDED BY P.L.198-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The Indiana mapping data and standards fund is established for the following purposes:

(1) Funding GIS grants.

(2) Administering this chapter.

(3) The purposes set forth in section 23(a)(1) and 23(a)(2) of this chapter (before its expiration).

(b) The fund consists of the following:

(1) Appropriations made to the fund by the general assembly.

(2) Gifts, grants, or other money received by the state for GIS purposes.

(3) Money transferred to the fund under section 23(a) of this chapter (before its expiration).

(c) The state GIS officer shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund is continuously appropriated for the purposes of the fund.

SECTION 2. IC 4-23-7.3-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23. (a) Before July 1, 2023, the budget agency shall transfer seven million one hundred thousand dollars ($7,100,000) from the state general fund to the Indiana mapping standards fund established by section 19 of this chapter which shall be used for:**

(1) the implementation of the geographic information system (GIS) for the state and local income taxes, as well as listed taxes, administrated by the department of state revenue; and

(2) the purposes of the Indiana geographic information office.

(b) The budget agency shall identify and create a report on the current GIS related contract costs for all state agencies that could be eliminated in order to offset the required future state appropriations needed to fund the Indiana geographic information office. The report under this subsection shall be submitted to the interim study committee on fiscal policy established by IC 2-5-1.3-4 before November 1, 2022.

(c) This section expires July 1, 2023.

SECTION 3. IC 4-31-9-3, AS AMENDED BY P.L.165-2021, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) At the close of each day on which a permit holder or satellite facility operator conducts pari-mutuel wagering on live racing or simulcasts at a racetrack or satellite facility, the permit holder or satellite facility operator shall pay to the department of state revenue a tax on the total amount of money wagered on that day as follows:

(1) Two percent (2%) of the total amount of money wagered under IC 4-31-7 at a permit holder's racetrack.

(2) Two and one-half percent (2.5%) of the total amount of money wagered under IC 4-31-5.5-6 at a permit holder's satellite facility.

(b) The taxes collected under subsection (a) shall be paid from the amounts withheld under section 1 of this chapter and shall be distributed as follows:

(1) The first one hundred fifty thousand dollars ($150,000) of taxes collected during each state fiscal year shall be deposited in the veterinary school research account established by IC 4-31-12-22.

(2) The remainder of the taxes collected during each state fiscal year shall be paid into the Indiana horse racing commission operating fund (IC 4-31-10).

(c) The tax imposed by this section is a listed tax for purposes of IC 6-8.1-1.

(d) The payment of the tax under this section must be reported and remitted electronically through the department's online tax filing program.

SECTION 4. IC 4-31-9-10, AS AMENDED BY P.L.159-2021, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10. (a) At the close of each day on which pari-mutuel wagering is conducted at a racetrack or satellite facility, the permit holder or satellite facility operator shall pay the breakage from each of the races on which wagers were taken on that day to the department of state revenue for deposit in the appropriate breed development fund as determined by the rules of the commission.

(b) Not later than March 15 of each year, each permit holder or satellite facility operator shall pay to the commission the balance of the outs tickets from the previous calendar year. The commission shall distribute money received under this subsection to the appropriate breed development fund as determined by the rules of the commission.

(c) The payment of the breakage under this section must be reported and remitted electronically through the department's online tax filing program.

SECTION 5. IC 4-33-12-4, AS AMENDED BY P.L.212-2018(ss), SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) A licensed owner must report:

(1) the daily amount of admissions taxes imposed under section 1 of this chapter (before its repeal on July 1, 2018) and supplemental wagering taxes imposed under section 1.5 of this chapter to the department at the time the taxes are paid under subsection (b); and

(2) gaming activity information to the commission daily on forms prescribed by the commission.

This subsection expires June 30, 2018.

(b) A licensed owner shall pay the admissions taxes imposed under section 1 of this chapter (before its repeal on July 1, 2018) and supplemental wagering taxes imposed under section 1.5 of this chapter to the department on the twenty-fourth calendar day of each month. Any taxes collected during the month but after the day on which the taxes are required to be paid to the department shall be paid to the department at the same time the following month's taxes are due. This

subsection expires June 30, 2018.

(c) This subsection is effective July 1, 2018. A licensed owner must report:

(1) the daily amount of supplemental wagering taxes imposed under section 1.5 of this chapter to the department at the time the taxes are paid under subsection (d); and

(2) gaming activity information to the commission daily on forms prescribed by the commission.

(d) This subsection is effective July 1, 2018. A licensed owner shall pay the supplemental wagering taxes imposed under section 1.5 of this chapter to the department on the twenty-fourth calendar day of each month. Any taxes collected during the month but after the day on which the taxes are required to be paid to the department shall be paid to the department at the same time the following month's taxes are due.

~~(c) The payment of the tax under this section must be on a form prescribed by the department.~~

~~(f)~~ **(e)** The payment of the tax under this section must be ~~in a manner prescribed by the department.~~ **reported and remitted electronically through the department's online tax filing program.**

SECTION 6. IC 4-33-13-1.5, AS AMENDED BY P.L.293-2019, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1.5. (a) This subsection applies only to a riverboat that received at least seventy-five million dollars ($75,000,000) of adjusted gross receipts during the preceding state fiscal year. A graduated tax is imposed on the adjusted gross receipts received from gambling games authorized under this article as follows:

(1) For state fiscal years ending before July 1, 2021, fifteen percent (15%), and for state fiscal years beginning after June 30, 2021, ten percent (10%), of the first twenty-five million dollars ($25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.

(2) Twenty percent (20%) of the adjusted gross receipts in excess of twenty-five million dollars ($25,000,000) but not exceeding fifty million dollars ($50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(3) Twenty-five percent (25%) of the adjusted gross receipts in excess of fifty million dollars ($50,000,000) but not exceeding seventy-five million dollars ($75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(4) Thirty percent (30%) of the adjusted gross receipts in excess of seventy-five million dollars ($75,000,000) but not exceeding one hundred fifty million dollars ($150,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(5) Thirty-five percent (35%) of all adjusted gross receipts in excess of one hundred fifty million dollars ($150,000,000) but not exceeding six hundred million dollars ($600,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(6) Forty percent (40%) of all adjusted gross receipts exceeding six hundred million dollars ($600,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(b) This subsection applies only to a riverboat that received less than seventy-five million dollars ($75,000,000) of adjusted gross receipts during the preceding state fiscal year. A graduated tax is imposed on the adjusted gross receipts received from gambling games authorized under this article as follows:

(1) For state fiscal years ending before July 1, 2021, five percent (5%), and for state fiscal years beginning after June 30, 2021, two and one-half percent (2.5%), of the first twenty-five million dollars ($25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.

(2) For state fiscal years ending before July 1, 2021, twenty percent (20%), and for state fiscal years beginning after June 30, 2021, ten percent (10%), of the adjusted gross receipts in excess of twenty-five million dollars ($25,000,000) but not exceeding fifty million dollars ($50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(3) For state fiscal years ending before July 1, 2021, twenty-five percent (25%), and for state fiscal years beginning after June 30, 2021, twenty percent (20%), of the adjusted gross receipts in excess of fifty million dollars ($50,000,000) but not exceeding seventy-five million dollars ($75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(4) Thirty percent (30%) of the adjusted gross receipts in excess of seventy-five million dollars ($75,000,000) but not exceeding one hundred fifty million dollars ($150,000,000) received during

the period beginning July 1 of each year and ending June 30 of the following year.

(5) Thirty-five percent (35%) of all adjusted gross receipts in excess of one hundred fifty million dollars ($150,000,000) but not exceeding six hundred million dollars ($600,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(6) Forty percent (40%) of all adjusted gross receipts exceeding six hundred million dollars ($600,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(c) The licensed owner or operating agent of a riverboat taxed under subsection (b) shall pay an additional tax of two million five hundred thousand dollars ($2,500,000) in any state fiscal year in which the riverboat's adjusted gross receipts exceed seventy-five million dollars ($75,000,000). The additional tax imposed under this subsection is due before July 1 of the following state fiscal year.

(d) The licensed owner or operating agent shall:

(1) remit the daily amount of tax imposed by this chapter to the department on the twenty-fourth calendar day of each month for the wagering taxes collected that month; and

(2) report gaming activity information to the commission daily on forms prescribed by the commission.

Any taxes collected during the month but after the day on which the taxes are required to be paid to the department shall be paid to the department at the same time the following month's taxes are due.

(e) The payment of the tax under this section must be ~~in a manner prescribed by the department.~~ **reported and remitted electronically through the department's online tax filing program.**

(f) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner or operating agent to file a monthly report to reconcile the amounts remitted to the department.

~~(g) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-33-12.~~

SECTION 7. IC 4-33-13-5, AS AMENDED BY P.L.238-2019, SECTION 2, AND AS AMENDED BY P.L.108-2019, SECTION 73, AND AS AMENDED BY P.L.293-2019, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under

section 4 of this chapter, each month the ~~*treasurer*~~ *auditor* of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) An amount equal to the following shall be set aside for revenue sharing under subsection ~~*(c).*~~ *(d):*

(A) Before July 1, 2021, the first thirty-three million dollars ($33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection ~~*(c).*~~ *(d).*

(B) After June 30, 2021, if the total adjusted gross receipts received by licensees from gambling games authorized under this article during the preceding state fiscal year is equal to or greater than the total adjusted gross receipts received by licensees from gambling games authorized under this article during the state fiscal year ending June 30, 2020, the first thirty-three million dollars ($33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection ~~*(c).*~~ *(d).*

(C) After June 30, 2021, if the total adjusted gross receipts received by licensees from gambling games authorized under this article during the preceding state fiscal year is less than the total adjusted gross receipts received by licensees from gambling games authorized under this article during the state year ending June 30, 2020, an amount equal to the first thirty-three million dollars ($33,000,000) of tax revenues collected under this chapter multiplied by the result of:

(i) the total adjusted gross receipts received by licensees from gambling games authorized under this article during the preceding state fiscal year; divided by

(ii) the total adjusted gross receipts received by licensees from gambling games authorized under this article during the state fiscal year ending June 30, 2020;

shall be set aside for revenue sharing under subsection ~~*(c).*~~ *(d).*

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city *in which the riverboat is located or* that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); ~~or~~

(ii) a city located in a county having a population of more than four hundred thousand (400,000) ~~but~~ **and** less than seven hundred thousand (700,000); *or*

(iii) Terre Haute; or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat *that is not located in a city described in clause (A) or* whose home dock is not in a city described in clause (A).

(3) ~~*Subject to subsection (d),*~~ The remainder of the tax revenue remitted by each licensed owner shall be paid to the state general fund. In each state fiscal year, the ~~*treasurer*~~ *auditor* of state shall make the transfer required by this subdivision ~~not later than the last business day of the month in which the tax revenue is remitted to the state~~ **on or before the fifteenth day of the month based on revenue received during the preceding month** for deposit in the state gaming fund. ~~However, if tax revenue is received by the state on the last business day in a month,~~ **Specifically,** the ~~*treasurer*~~ *auditor* of state may transfer the tax revenue **received by the state in a month** to the state general fund in the immediately following month **according to this subdivision.**

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district after June 30, ~~*2015.*~~ *2019.* After funds are appropriated under section 4 of this chapter, each month the ~~*treasurer*~~ *auditor* of state shall distribute the tax revenue remitted by the operating agent under this chapter as follows:

(1) *For state fiscal years beginning after June 30, 2019, but ending before July 1, 2021,* fifty-six and five-tenths percent (56.5%) shall be paid to the state general fund.

(2) For state fiscal years beginning after June 30, 2021, fifty-six and five-tenths percent (56.5%) shall be paid as follows:

(A) Sixty-six and four-tenths percent (66.4%) shall be paid to the state general fund.

(B) Thirty-three and six-tenths percent (33.6%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, if:

(i) at any time the balance in that fund exceeds twenty-five million dollars ($25,000,000); or

(ii) in any part of a state fiscal year in which the operating agent has received at least one hundred million dollars ($100,000,000) of adjusted gross receipts;

the amount described in this clause shall be paid to the state

general fund for the remainder of the state fiscal year.

~~(2)~~ *(3)* Forty-three and five-tenths percent (43.5%) shall be paid as follows:

(A) Twenty-two and four-tenths percent (22.4%) shall be paid as follows:

(i) Fifty percent (50%) to the fiscal officer of the town of French Lick.

(ii) Fifty percent (50%) to the fiscal officer of the town of West Baden Springs.

(B) Fourteen and eight-tenths percent (14.8%) shall be paid to the county treasurer of Orange County for distribution among the school corporations in the county. The governing bodies for the school corporations in the county shall provide a formula for the distribution of the money received under this clause among the school corporations by joint resolution adopted by the governing body of each of the school corporations in the county. Money received by a school corporation under this clause must be used to improve the educational attainment of students enrolled in the school corporation receiving the money. Not later than the first regular meeting in the school year of a governing body of a school corporation receiving a distribution under this clause, the superintendent of the school corporation shall submit to the governing body a report describing the purposes for which the receipts under this clause were used and the improvements in educational attainment realized through the use of the money. The report is a public record.

(C) Thirteen and one-tenth percent (13.1%) shall be paid to the county treasurer of Orange County.

(D) Five and three-tenths percent (5.3%) shall be distributed quarterly to the county treasurer of Dubois County for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(E) Five and three-tenths percent (5.3%) shall be distributed quarterly to the county treasurer of Crawford County for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal

body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(F) Six and thirty-five hundredths percent (6.35%) shall be paid to the fiscal officer of the town of Paoli.

(G) Six and thirty-five hundredths percent (6.35%) shall be paid to the fiscal officer of the town of Orleans.

(H) Twenty-six and four-tenths percent (26.4%) shall be paid to the Indiana economic development corporation established by IC 5-28-3-1 for transfer as follows:

(i) Beginning after December 31, 2017, ten percent (10%) of the amount transferred under this clause in each calendar year shall be transferred to the South Central Indiana Regional Economic Development Corporation or a successor entity or partnership for economic development for the purpose of recruiting new business to Orange County as well as promoting the retention and expansion of existing businesses in Orange County.

(ii) The remainder of the amount transferred under this clause in each calendar year shall be transferred to Radius Indiana or a successor regional entity or partnership for the development and implementation of a regional economic development strategy to assist the residents of Orange County and the counties contiguous to Orange County in improving their quality of life and to help promote successful and sustainable communities.

To the extent possible, the Indiana economic development corporation shall provide for the transfer under item (i) to be made in four (4) equal installments. However, an amount sufficient to meet current obligations to retire or refinance indebtedness or leases for which tax revenues under this section were pledged before January 1, 2015, by the Orange County development commission shall be paid to the Orange County development commission before making distributions to the South Central Indiana Regional Economic Development Corporation and Radius Indiana or their successor entities or partnerships. The amount paid to the Orange County development commission shall proportionally reduce the amount payable to the South Central Indiana Regional Economic Development Corporation and Radius Indiana or

their successor entities or partnerships.

(c) *This subsection does not apply to tax revenue remitted by an inland casino operating in Vigo County.* For each city and county receiving money under subsection (a)(2), the ~~*treasurer*~~ *auditor* of state shall determine the total amount of money paid by the ~~*treasurer*~~ *auditor* of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The ~~*treasurer*~~ *auditor* of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year, the ~~*treasurer*~~ *auditor* of state shall pay that part of the riverboat wagering taxes that:

(1) exceeds a particular city's or county's base year revenue; and

(2) would otherwise be due to the city or county under this section;

to the state general fund instead of to the city or county.

~~*(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the state general fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars ($250,000,000):*~~

~~*(1) Surplus lottery revenues under IC 4-30-17-3.*~~

~~*(2) Surplus revenue from the charity gaming enforcement fund under IC 4-32.3-7-5.*~~

~~*(3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.*~~

~~*The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the state general fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the state general fund from the transfers under subsection (a)(3) for the state fiscal year.*~~

~~*(e)*~~ *(d)* Except as provided in subsections ~~*(f)*~~ *(k)* and ~~*(m),*~~ *(l),* before August 15 of each year, the ~~*treasurer*~~ *auditor* of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection ~~*(h),*~~ *(g),* the county auditor shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the

city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

~~(f)~~ *(e)* Money received by a city, town, or county under subsection ~~(e)~~ *(d)* or ~~(h)~~ *(g)* may be used for any of the following purposes:

(1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5).

(2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for debt repayment.

(3) To fund sewer and water projects, including storm water management projects.

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

~~(g)~~ *(f) This subsection does not apply to an inland casino operating in Vigo County.* Before July 15 of each year, the ~~treasurer~~ *auditor* of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 or IC 4-33-12-8 during the preceding state fiscal year. If the ~~treasurer~~ *auditor* of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 or IC 4-33-12-8 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-9), the ~~treasurer~~ *auditor* of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the state general fund. Except as provided in subsection ~~(i),~~ *(h),* the amount of an entity's supplemental distribution is equal to:

(1) the entity's base year revenue (as determined under IC 4-33-12-9); minus

(2) the sum of:

(A) the total amount of money distributed to the entity and constructively received by the entity during the preceding state fiscal year under IC 4-33-12-6 or IC 4-33-12-8; plus

(B) the amount of any admissions taxes deducted under

IC 6-3.1-20-7.

~~(h)~~ *(g)* This subsection applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection ~~(e)~~ *(d)* as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

~~(i)~~ *(h) This subsection does not apply to an inland casino operating in Vigo County.* This subsection applies to a supplemental distribution made after June 30, 2017. The maximum amount of money that may be distributed under subsection ~~(g)~~ *(f)* in a state fiscal year is equal to the following:

(1) Before July 1, 2021, forty-eight million dollars ($48,000,000).

(2) After June 30, 2021, if the total adjusted gross receipts received by licensees from gambling games authorized under this article during the preceding state fiscal year is equal to or greater than the total adjusted gross receipts received by licensees from gambling games authorized under this article during the state fiscal year ending June 30, 2020, the maximum amount is forty-eight million dollars ($48,000,000).

(3) After June 30, 2021, if the total adjusted gross receipts received by licensees from gambling games authorized under this article during the preceding state fiscal year is less than the total adjusted gross receipts received by licensees from gambling games authorized under this article during the state fiscal year ending June 30, 2020, the maximum amount is equal to the result of:

(A) forty-eight million dollars ($48,000,000); multiplied by

(B) the result of:

(i) the total adjusted gross receipts received by licensees from gambling games authorized under this article during the preceding state fiscal year; divided by

(ii) the total adjusted gross receipts received by licensees from gambling games authorized under this article during the state fiscal year ending June 30, 2020.

If the total amount determined under subsection ~~(g)~~ *(f)* exceeds the maximum amount determined under this subsection, the amount

distributed to an entity under subsection ~~(g)~~ *(f)* must be reduced according to the ratio that the amount distributed to the entity under IC 4-33-12-6 or IC 4-33-12-8 bears to the total amount distributed under IC 4-33-12-6 and IC 4-33-12-8 to all entities receiving a supplemental distribution.

~~(f)~~ *(i)* This subsection applies to a supplemental distribution, if any, payable to Lake County, Hammond, Gary, or East Chicago under subsections ~~(g)~~ *(f)* and ~~(i).~~ *(h)*. Beginning in July 2016, the ~~treasurer~~ *auditor* of state shall, after making any deductions from the supplemental distribution required by IC 6-3.1-20-7, deduct from the remainder of the supplemental distribution otherwise payable to the unit under this section the lesser of:

(1) the remaining amount of the supplemental distribution; or

(2) the difference, if any, between:

(A) three million five hundred thousand dollars ($3,500,000); minus

(B) the amount of admissions taxes constructively received by the unit in the previous state fiscal year.

The ~~treasurer~~ *auditor* of state shall distribute the amounts deducted under this subsection to the northwest Indiana redevelopment authority established under IC 36-7.5-2-1 for deposit in the development authority revenue fund established under IC 36-7.5-4-1.

~~(k)~~ *(j)* Money distributed to a political subdivision under subsection (b):

(1) must be paid to the fiscal officer of the political subdivision and may be deposited in the political subdivision's general fund *(in the case of a school corporation, the school corporation may deposit the money into either the education fund (IC 20-40-2) or the operations fund (IC 20-40-18))* or riverboat fund established under IC 36-1-8-9, or both;

(2) may not be used to reduce the maximum levy under IC 6-1.1-18.5 of a county, city, or town or the maximum tax rate of a school corporation, but, except as provided in subsection ~~(b)(2)(B),~~ *(b)(3)(B),* may be used at the discretion of the political subdivision to reduce the property tax levy of the county, city, or town for a particular year;

(3) except as provided in subsection ~~(b)(2)(B),~~ *(b)(3)(B),* may be used for any legal or corporate purpose of the political subdivision, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

Money distributed under subsection ~~(b)(2)(B)~~ *(b)(3)(B)* must be used

for the purposes specified in subsection ~~(b)(2)(B).~~ *(b)(3)(B).*

~~(l)~~ *(k)* After June 30, 2020, the amount of wagering taxes that would otherwise be distributed to South Bend under subsection ~~(c)~~ *(d)* shall be deposited as being received from all riverboats whose supplemental wagering tax, as calculated under IC 4-33-12-1.5(b), is over three and five-tenths percent (3.5%). The amount deposited under this subsection, in each riverboat's account, is proportionate to the supplemental wagering tax received from that riverboat under IC 4-33-12-1.5 in the month of July. The amount deposited under this subsection must be distributed in the same manner as the supplemental wagering tax collected under IC 4-33-12-1.5. This subsection expires June 30, 2021.

~~(m)~~ *(l)* After June 30, 2021, the amount of wagering taxes that would otherwise be distributed to South Bend under subsection ~~(c)~~ *(d)* shall be withheld and deposited in the state general fund.

SECTION 8. IC 4-35-8-1, AS AMENDED BY P.L.293-2019, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) A graduated slot machine wagering tax is imposed as follows on ninety-nine percent (99%) of the adjusted gross receipts received after June 30, 2012, and before July 1, 2013, on ninety-one and five-tenths percent (91.5%) of the adjusted gross receipts received after June 30, 2013, and before July 1, 2015, and on eighty-eight percent (88%) of the adjusted gross receipts received after June 30, 2015, from wagering on gambling games authorized by this article:

(1) Twenty-five percent (25%) of the first one hundred million dollars ($100,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.

(2) For periods:

(A) ending before July 1, 2021, thirty percent (30%) of the adjusted gross receipts in excess of one hundred million dollars ($100,000,000) but not exceeding two hundred million dollars ($200,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year; and

(B) beginning after June 30, 2021, thirty percent (30%) of the adjusted gross receipts in excess of one hundred million dollars ($100,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(3) For periods ending before July 1, 2021, thirty-five percent (35%) of the adjusted gross receipts in excess of two hundred

million dollars ($200,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(b) A licensee shall do the following:

(1) Remit the daily amount of tax imposed by this section to the department on the twenty-fourth calendar day of each month. Any taxes collected during the month but after the day on which the taxes are required to be paid shall be paid to the department at the same time the following month's taxes are due.

(2) Report gaming activity information to the commission daily on forms prescribed by the commission.

(c) The payment of the tax under this section must be in a manner prescribed by the department.

(d) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensee to file a monthly report to reconcile the amounts remitted to the department.

(e) The payment of the tax under this section must be ~~on a form prescribed by the department.~~ **reported and remitted electronically through the department's online tax filing program.**

SECTION 9. IC 4-35-8.5-2, AS AMENDED BY P.L.255-2015, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~Before~~ **On or before** the fifteenth day of each month, the treasurer of state shall distribute any county gambling game wagering fees received from a licensee during the previous month to the county auditor of the county in which the licensee's racetrack is located.

SECTION 10. IC 4-38-10-5, AS ADDED BY P.L.293-2019, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. The payment of the tax under this chapter must be ~~on a form and in a manner prescribed by the department.~~ **reported and remitted electronically through the department's online tax filing program.**

SECTION 11. IC 6-1.1-3-7.2, AS AMENDED BY P.L.153-2021, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: Sec. 7.2. (a) This section applies to assessment dates occurring after December 31, 2015.

(b) As used in this section, "affiliate" means an entity that effectively controls or is controlled by a taxpayer or is associated with a taxpayer under common ownership or control, whether by shareholdings or other means.

(c) As used in this section, "business personal property" means

personal property that:

(1) is otherwise subject to assessment and taxation under this article;

(2) is used in a trade or business or otherwise held, used, or consumed in connection with the production of income; and

(3) was:

(A) acquired by the taxpayer in an arms length transaction from an entity that is not an affiliate of the taxpayer, if the personal property has been previously used in Indiana before being placed in service in the county; or

(B) acquired in any manner, if the personal property has never been previously used in Indiana before being placed in service in the county.

The term does not include mobile homes assessed under IC 6-1.1-7, personal property held as an investment, or personal property that is assessed under IC 6-1.1-8 and is owned by a public utility subject to regulation by the Indiana utility regulatory commission. However, the term does include the personal property of a telephone company or a communications service provider if that personal property meets the requirements of subdivisions (1) through (3), regardless of whether that personal property is assessed under IC 6-1.1-8 and regardless of whether the telephone company or communications service provider is subject to regulation by the Indiana utility regulatory commission.

(d) Notwithstanding section 7 of this chapter, if the acquisition cost of a taxpayer's total business personal property in a county is less than eighty thousand dollars ($80,000) for that assessment date, the taxpayer's business personal property in the county for that assessment date is exempt from taxation.

(e) **Subject to subsection (f),** a taxpayer that is eligible for the exemption under this section for an assessment date shall include the following information on the taxpayer's personal property tax return:

(1) A declaration that the taxpayer's business personal property in the county is exempt from property taxation.

(2) Whether the taxpayer's business personal property within the county is in one (1) location or multiple locations.

(3) An address for the location of the property.

If the business personal property is in multiple locations within a county, the taxpayer shall provide an address for the location where the sum of acquisition costs for business personal property is greatest. If two (2) or more addresses contain the greatest equivalent sum of acquisition costs for business personal property within a given county, the taxpayer shall choose only one (1) address to list on the return.

(f) Beginning after December 31, 2022, a taxpayer that has included the information required under subsection (e) on the taxpayer's personal property tax return to claim the exemption under this section is not required to file a personal property return for the taxpayer's business personal property for an assessment date that occurs after the assessment date for which the information is first provided under subsection (e), unless or until the taxpayer no longer qualifies for the exemption under subsection (d) for a subsequent assessment date.

SECTION 12. IC 6-1.1-4-46 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 46. (a) This section applies to assessment dates after December 31, 2022.**

(b) As used in this section, "self-service storage facility" means any real property designed and used for the renting of space under a rental agreement that provides a renter access to rented space for the storage and retrieval of the renter's property.

(c) The true tax value of a self-service storage facility must be determined based solely on the land and the improvements, less normal depreciation and normal obsolescence, and must exclude business intangible value. Business intangible value is any value of the self-service storage facility and related business operations in excess of the depreciated replacement cost of the improvements and the value of the land.

(d) The true tax value of a self-service storage facility is the lowest valuation determined by applying each of the following appraisal approaches and excluding business intangible value:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation, together with estimates of the losses in value that have taken place due to wear and tear, design and plan, and other depreciation and obsolescence.

(2) Sales comparison approach, using data for generally comparable property.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

SECTION 13. IC 6-2.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) "Retail transaction" means a transaction of a retail merchant that constitutes

selling at retail as described in IC 6-2.5-4-1 ~~that constitutes making a wholesale sale as described in IC 6-2.5-4-2,~~ or that is described in any other section of IC 6-2.5-4.

(b) "Retail unitary transaction" means a unitary transaction that is also a retail transaction.

SECTION 14. IC 6-2.5-1-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 22.5. "Power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.**

SECTION 15. IC 6-2.5-1-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 25.5. "Public utility" means any organization of any kind or nature that:**

(1) sells electricity, gas, or water for consumption; and

(2) has the right of eminent domain or is otherwise subject to governmental regulation in any phase of its operation.

SECTION 16. IC 6-2.5-3-4, AS AMENDED BY P.L.146-2020, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) The storage, use, and consumption of tangible personal property in Indiana is exempt from the use tax if:

(1) the property was acquired in a retail transaction and the state gross retail tax has been paid on the acquisition of that property; or

(2) the property was acquired in a transaction that is wholly or partially exempt from the state gross retail tax under any part of IC 6-2.5-5 ~~except IC 6-2.5-5-24(b),~~ and the property is being used, stored, or consumed for the purpose for which it was exempted.

(b) If a person issues a state gross retail or use tax exemption certificate for the acquisition of tangible personal property and subsequently uses, stores, or consumes that property for a nonexempt purpose, then the person shall pay the use tax.

SECTION 17. IC 6-2.5-4-1, AS AMENDED BY P.L.146-2020, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) A person is a retail merchant making a retail transaction when the person engages in selling at retail.

(b) A person is engaged in selling at retail when, in the ordinary course of the person's regularly conducted trade or business, the person:

(1) acquires tangible personal property for the purpose of resale; and

(2) transfers that property to another person for consideration.

(c) For purposes of determining what constitutes selling at retail, it does not matter whether:

(1) the property is transferred in the same form as when it was acquired;

(2) the property is transferred alone or in conjunction with other property or services; or

(3) the property is transferred conditionally or otherwise.

~~(d) Notwithstanding subsection (b), a person is not selling at retail if the person is making a wholesale sale as described in section 2 of this chapter. However, in the case of sales of gasoline (as defined in IC 6-6-1.1-103), a person shall collect the gasoline use tax as provided in IC 6-2.5-3.5.~~

(d) Notwithstanding any provision of this article, a person is not making a retail transaction when the person:

(1) acquires tangible personal property owned by another person;

(2) provides industrial processing or servicing, including enameling or plating, on the property; and

(3) transfers the property back to the owner to be sold by that owner either in the same form or as a part of other tangible personal property produced by that owner in the owner's business of manufacturing, assembling, constructing, refining, or processing.

SECTION 18. IC 6-2.5-4-2 IS REPEALED [EFFECTIVE JULY 1, 2022]. ~~Sec. 2. (a) A person is a retail merchant making a retail transaction when he is making wholesale sales.~~

~~(b) For purposes of this section, a person is making wholesale sales when he:~~

~~(1) sells tangible personal property, other than capital assets or depreciable property, to a person who purchases the property for the purpose of reselling it without changing its form;~~

~~(2) sells tangible personal property to a person who purchases the property for direct consumption as a material in the direct production of other tangible personal property produced by the person in his business of manufacturing, processing, refining, repairing, mining, agriculture, or horticulture;~~

~~(3) sells tangible personal property to a person who purchases the property for incorporation as a material or integral part of tangible~~

personal property produced by the person in his business of manufacturing, assembling, constructing, refining, or processing;

(4) sells drugs, medical or dental preparations, or other similar materials to a person who purchases the materials for direct consumption in professional use by a physician, hospital, embalmer, funeral director, or tonsorial parlor;

(5) sells tangible personal property to a person who purchases the property for direct consumption in his business of industrial cleaning; or

(6) sells tangible personal property to a person who purchases the property for direct consumption in the person's business in the direct rendering of public utility service.

(c) Notwithstanding any provision of this article, a person is not making a retail transaction when he:

(1) acquires tangible personal property owned by another person;

(2) provides industrial processing or servicing, including enameling or plating, on the property; and

(3) transfers the property back to the owner to be sold by that owner either in the same form or as a part of other tangible personal property produced by that owner in his business of manufacturing, assembling, constructing, refining, or processing.

SECTION 19. IC 6-2.5-4-5, AS AMENDED BY P.L.288-2013, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. (a) As used in this section, a "power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.

(b) A power subsidiary or a person engaged as a public utility is a retail merchant making a retail transaction when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption.

(c) Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction in any of the following transactions:

(1) The power subsidiary or person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the services or commodities listed in subsection (b).

(2) The power subsidiary or person sells the services or

~~commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter.~~

~~(3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, processing (after December 31, 2012), repairing (after December 31, 2012), refining, recycling (as defined in IC 6-2.5-5-45.8), oil extraction, mineral extraction, irrigation, agriculture, floriculture (after December 31, 2012), arboriculture (after December 31, 2012), or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.~~

~~(4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:~~

~~(A) The services or commodities are sold to a business that:~~

~~(i) relocates all or part of its operations to a facility; or~~

~~(ii) expands all or part of its operations in a facility;~~

~~located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)), or a qualified military base enhancement area established under IC 36-7-34.~~

~~(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.~~

~~(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.~~

~~(D) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(1), the business must satisfy at least one (1) of the following criteria:~~

~~(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined~~

~~in IC 36-7-34-3).~~

~~(ii) The business is a United States Department of Defense contractor.~~

~~(iii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.~~

~~(E) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(2), the business must satisfy at least one (1) of the following criteria:~~

~~(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).~~

~~(ii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).~~

~~However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.~~

SECTION 20. IC 6-2.5-4-18, AS AMENDED BY P.L.146-2020, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 18. (a) A marketplace facilitator shall be considered the retail merchant of each retail transaction (including a retail transaction under section 4 of this chapter) that is facilitated ~~for sellers~~ on its marketplace, **regardless as to whether the marketplace facilitator has a contractual relationship with the seller,** when it does any of the following: ~~on behalf of the seller:~~

(1) Collects the sales price or purchase price of the seller's products.

(2) Provides access to payment processing services, either directly or indirectly.

(3) Charges, collects, or otherwise receives fees or other consideration **from the purchaser** for transactions made on its electronic marketplace.

(b) ~~Regardless of whether a transaction under subsection (a) was~~

~~made by the marketplace facilitator on its own behalf or facilitated on behalf of a seller,~~ A marketplace facilitator is required to do the following with each retail transaction made on its marketplace:

(1) Collect and remit the gross retail tax, even if a seller for whom a transaction was facilitated:

(A) does not have a registered retail merchant certificate; or

(B) would not have been required to collect gross retail tax had the transaction not been facilitated by the marketplace facilitator.

(2) Comply with all applicable procedures and requirements imposed under this article as the retail merchant in such transaction.

(c) The gross retail income from a transaction under this section is equal to the total amount of consideration paid by the purchaser, including the payment of any fee, commission, or other charge by the marketplace facilitator, except that the gross retail income does not include any taxes on the transaction that are imposed directly on the consumer other than taxes described under IC 6-2.5-1-5(c)(2).

SECTION 21. IC 6-2.5-5-5.1, AS AMENDED BY P.L.239-2017, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5.1. (a) As used in this section, "tangible personal property" includes ~~electrical energy, natural or artificial~~ **electricity,** gas, water, ~~steam,~~ and steam. ~~heat.~~

(b) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing, **mining, production,** processing, **repairing, recycling (as defined in section 45.8 of this chapter),** refining, ~~repairing, mining,~~ **oil extraction, mineral extraction, irrigation,** agriculture, **floriculture, arboriculture, or** horticulture. ~~floriculture, or arboriculture.~~ This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

(c) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring that property:

(1) acquires it for the person's direct consumption as a material to be consumed in an industrial processing service; and

(2) is an industrial processor.

(d) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property:

(1) acquires it for the person's direct consumption as a material to be consumed in:

(A) the direct application of fertilizers, pesticides, fungicides, seeds, and other tangible personal property; or

(B) the direct extraction, harvesting, or processing of agricultural commodities;

for consideration; and

(2) is occupationally engaged in providing the services described in subdivision (1) on property that is:

(A) owned or rented by another person occupationally engaged in agricultural production; and

(B) used for agricultural production.

(e) Transactions involving electricity, gas, water, and steam delivered through a single meter provided by a public utility are exempt if the electrical energy, natural or artificial gas, water, steam, or steam heat is consumed for a purpose exempted pursuant to this section and the electricity, gas, water, or steam is predominately used by the purchaser for one (1) or more of the purposes exempted by this section.

SECTION 22. IC 6-2.5-5-8, AS AMENDED BY P.L.156-2020, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.

(b) Except as provided in subsection ~~(j),~~ **(e),** transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

(c) The following transactions involving a new motor vehicle are exempt from the state gross retail tax:

(1) A transaction in which a person that has a franchise in effect at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.

(2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 (before July 1, 2013) or licensed under IC 9-32 (after June 30, 2013) acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or

converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's business as a rental company **(either** as defined in ~~IC 24-4-9-7).~~ **IC 24-4-9-7 or as approved by the department).**

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

~~(e) This subsection applies only to aircraft acquired after June 30, 2008. Except as provided in subsection (h), a transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from the state gross retail tax unless the person establishes, under guidelines adopted by the department in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules, that the annual amount of the gross lease revenue derived from leasing or rental of the aircraft, which may include revenue from related party transactions, is equal to or greater than seven and five-tenths percent (7.5%) of the:~~

~~(1) book value of the aircraft, as published in the Vref Aircraft Value Reference guide for the aircraft; or~~

~~(2) net acquisition price for the aircraft.~~

~~If a person acquires an aircraft below the Vref Aircraft Value Reference guide book value, the person may appeal to the department for a lower lease or rental threshold equal to the actual acquisition price paid if the person demonstrates that the transaction was completed in a commercially reasonable manner based on the aircraft's age, condition, and equipment. The department may request the person to submit to the department supporting documents showing the aircraft is available for general public lease or rental, copies of business and aircraft insurance policies, and other documents that assist the department in determining if an aircraft is exempt from the state gross retail tax.~~

~~(f) A person is required to meet the requirements of subsection (e) until the earlier of the date the aircraft has generated sales tax on leases or rental income that is equal to the amount of the original sales tax exemption or the elapse of thirteen (13) years. If the aircraft is sold by the person before meeting the requirements of this section and before the sale the aircraft was exempt from gross retail tax under subsection (e), the sale of the aircraft shall not result in the assessment or~~

~~collection of gross retail tax for the period from the date of acquisition to the date of sale by the person.~~

~~(g) The person is required to remit the gross retail tax on taxable lease and rental transactions no matter how long the aircraft is used for lease and rental.~~

~~(h) This subsection applies only to aircraft acquired after December 31, 2007. A transaction in which a person acquires an aircraft to rent or lease the aircraft to another person for predominant use in public transportation by the other person or by an affiliate of the other person is exempt from the state gross retail tax. The department may not require a person to meet the revenue threshold in subsection (e) with respect to the person's leasing or rental of the aircraft to receive or maintain the exemption. To maintain the exemption provided under this subsection, the department may require the person to submit only annual reports showing that the aircraft is predominantly used to provide public transportation.~~

~~(i) The exemptions allowed under subsections (e) and (h) apply regardless of the relationship, if any, between the person or lessor and the lessee or renter of the aircraft.~~

~~(j)~~ **(e)** A person who purchases a motor vehicle for sharing through a peer to peer vehicle sharing program (as defined in IC 24-4-9.2-4) is not eligible for the exemption under this section.

SECTION 23. IC 6-2.5-5-8.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 8.2. (a) Except as provided in subsection (f), a transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from the state gross retail tax unless the person establishes, under guidelines adopted by the department in the manner provided in IC 4-22-2 (including the adoption of emergency rules under IC 4-22-2-37.1), that the annual amount of the gross lease revenue derived from leasing or rental of the aircraft, which may include revenue from related party transactions, is equal to or greater than seven and five-tenths percent (7.5%) of the:**

(1) book value of the aircraft, as published in the VREF Aircraft Value Reference guide for the aircraft; or

(2) net acquisition price for the aircraft, which shall include the value of any trade or exchange and excluding any sales commissions paid to third parties.

(b) If a person acquires an aircraft below the VREF Aircraft Value Reference guide book value as set forth in subsection (a)(1),

the person may appeal to the department for a lower lease or rental threshold equal to the actual acquisition price paid if the person demonstrates that the transaction was completed in a commercially reasonable manner based on the aircraft's age, condition, and equipment.

(c) For purposes of this section, the department may request the person to submit to the department supporting documents showing that the aircraft is available for general public lease or rental, copies of business and aircraft insurance policies, and other documents that assist the department in determining if an aircraft is exempt from the state gross retail tax.

(d) A person is required to meet the requirements of subsection (a) until the earlier of the date the aircraft has generated sales tax on leases or rental income that is equal to the amount of the original sales tax exemption, the elapse of thirteen (13) years, or the date the aircraft is sold. No additional sales or use tax is due from the seller on the seller's original purchase when the aircraft is sold if the person has met the terms of this section for all periods prior to the sale.

(e) A person is required to remit the gross retail tax on taxable lease and rental transactions the entire time the aircraft is used for lease and rental, even if the aircraft is used for lease and rental beyond a thirteen (13) year period.

(f) A transaction in which a person acquires an aircraft to rent or lease the aircraft to another person for predominant use in public transportation (as provided for in section 27 of this chapter) by the other person or by an affiliate of the other person is exempt from the state gross retail tax. The department may not require a person to meet the revenue threshold in subsection (a) with respect to the person's leasing or rental of the aircraft to receive or maintain the exemption. To maintain the exemption provided under this subsection, the department may require the person to submit annual reports showing that the aircraft is predominantly used to provide public transportation.

(g) The exemptions allowed under subsections (a) and (f) apply regardless of the relationship, if any, between the person or lessor and the lessee or renter of the aircraft.

SECTION 24. IC 6-2.5-5-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 8.5. Transactions involving electrical energy, natural or artificial gas, water, steam, or steam heating service sold or furnished by a power subsidiary or a person**

engaged as a public utility are exempt from the state gross retail tax when:

(1) the power subsidiary or person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the services or commodities listed in IC 6-2.5-4-5;

(2) the power subsidiary or person sells the services or commodities listed in IC 6-2.5-4-5 to another public utility or power subsidiary or a person described in IC 6-2.5-4-6; or

(3) the power subsidiary or person sells the services or commodities listed in IC 6-2.5-4-5 and all of the following conditions are satisfied:

(A) The services or commodities are sold to a business that:

(i) relocates all or part of its operations to a facility; or

(ii) expands all or part of its operations in a facility;

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)), or a qualified military base enhancement area established under IC 36-7-34.

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operation that relocated to the facility, or expanded in the facility, commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

(D) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(1), the business must satisfy at least one (1) of the following criteria:

(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business is a United States Department of Defense contractor.

(iii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

(E) In the case of a business that uses the services and commodities in a qualified military base enhancement area

established under IC 36-7-34-4(2), the business must satisfy at least one (1) of the following criteria:

(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business and the qualified miliary base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 25. IC 6-2.5-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10. Transactions involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is classified as production plant or power production expenses, according to the uniform system of accounts which was adopted and prescribed for the utility by the Indiana utility regulatory commission; and

(2) the person acquiring the property is:

(A) a public utility that furnishes or sells electrical energy, steam, or steam heat in a retail transaction described in IC 6-2.5-4-5; or

(B) a power subsidiary (as defined in ~~IC 6-2.5-4-5(a))~~ **IC 6-2.5-1-22.5)** that furnishes or sells electrical energy, steam, or steam heat to a public utility described in clause (A).

SECTION 26. IC 6-2.5-5-10.5, AS ADDED BY P.L.159-2021, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10.5. (a) Transactions occurring on or after May 1, 2021, involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is classified as a utility scale battery energy storage system as defined in subsection (b);

(2) the person acquiring the property is:

(A) a public utility that furnishes or sells electrical energy; or

(B) a power subsidiary (as defined in ~~IC 6-2.5-4-5(a))~~ **IC 6-2.5-1-22.5)** that furnishes or sells electrical energy to a public utility described in clause (A); and

(3) the person acquiring the property uses the property to store electrical energy in-front of the customer's meter.

(b) As used in this section, a "utility scale battery energy storage system" means a system capable of storing and releasing greater than 1MW of electrical energy for a minimum of one (1) hour utilizing an AC inverter and DC storage, or equipment which receives, stores, and delivers energy using batteries, compressed air, pumped hydropower, hydrogen storage (including hydrolysis), thermal energy storage, regenerative fuel cells, flywheels, capacitors, and superconducting magnets, but does not include foundations or property used to directly or indirectly connect the AC inverter or DC storage of such system to electrical energy production equipment or the customer's meter.

SECTION 27. IC 6-2.5-5-21, AS AMENDED BY P.L.293-2013(ts), SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 21. (a) For purposes of this section, "private benefit or gain" does not include reasonable compensation paid to an employee for work or services actually performed.

(b) Sales of food and food ingredients are exempt from the state gross retail tax if:

(1) the seller meets the filing requirements under subsection (d) and is ~~any of the following:~~

~~(A) A fraternity, a sorority, or a student cooperative housing organization that is connected with and under the supervision of a postsecondary educational institution if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.~~

~~(B) Any:~~

~~(i) institution;~~

~~(ii) trust;~~

~~(iii) group;~~

~~(iv) united fund;~~

~~(v) affiliated agency of a united fund;~~

~~(vi) nonprofit corporation;~~

~~(vii) cemetery association; or~~

~~(viii) organization;~~

~~that is organized and operated exclusively for religious, charitable, scientific, literary, educational, or civic purposes if no part of its income is used for the private benefit or gain of~~

~~any member, trustee, shareholder, employee, or associate.~~

~~(C) A group, an organization, or a nonprofit corporation that is organized and operated for fraternal or social purposes, or as a business league or association, and not for the private benefit or gain of any member, trustee, shareholder, employee, or associate.~~

~~(D) A:~~

~~(i) hospital licensed by the state department of health;~~

~~(ii) shared hospital services organization exempt from federal income taxation by Section 501(c)(3) or 501(e) of the Internal Revenue Code;~~

~~(iii) labor union;~~

~~(iv) church;~~

~~(v) monastery;~~

~~(vi) convent;~~

~~(vii) school that is a part of the Indiana public school system;~~

~~(viii) parochial school regularly maintained by a recognized religious denomination; or~~

~~(ix) trust created for the purpose of paying pensions to members of a particular profession or business who created the trust for the purpose of paying pensions to each other;~~

~~if the taxpayer is not organized or operated for private profit or gain;~~ **an organization described in section 25(a)(1) of this chapter;**

(2) the purchaser is a person confined to the purchaser's home because of age, sickness, or infirmity;

(3) the seller delivers the food and food ingredients to the purchaser; and

(4) the delivery is prescribed as medically necessary by a physician licensed to practice medicine in Indiana.

(c) Sales of food and food ingredients are exempt from the state gross retail tax if the seller is an organization described in ~~subsection (b)(1),~~ **section 25(a)(1) of this chapter,** and the purchaser is a patient in a hospital operated by the seller.

(d) To obtain the exemption provided by this section, a taxpayer must ~~file an application for exemption with the department not later than one hundred twenty (120) days after the taxpayer's formation. In addition, the taxpayer must file an annual report with the department on or before the fifteenth day of the fifth month following the close of each taxable year. If a taxpayer fails to file the report, the department~~

~~shall notify the taxpayer of the failure. If within sixty (60) days after receiving such notice the taxpayer does not provide the report, the taxpayer's exemption shall be canceled. However, the department may reinstate the taxpayer's exemption if the taxpayer shows by petition that the failure was due to excusable neglect.~~ **follow the procedures set forth in section 25(c) of this chapter.**

SECTION 28. IC 6-2.5-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 22. (a) Sales of school meals are exempt from the state gross retail tax if:

(1) the seller is a school containing students in any grade, one (1) through twelve (12);

(2) the purchaser is one (1) of those students or a school employee; and

(3) the school furnishes the food and food ingredients on its premises.

(b) Sales of food and food ingredients by not-for-profit colleges or universities are exempt from the state gross retail tax, if the purchaser is a student at the college or university.

(c) Sales of meals ~~after December 31, 1976,~~ by a fraternity, sorority, or student cooperative housing organization described in section ~~21(b)(1)(A)~~ **25(a)(1)(A)** of this chapter are exempt from the state gross retail tax, if the purchaser:

(1) is a member of the fraternity, sorority, or student cooperative housing organization; and

(2) is enrolled in the college, university, or educational institution with which the fraternity, sorority, or student cooperative housing organization is connected and by which it is supervised.

SECTION 29. IC 6-2.5-5-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 24. ~~(a)~~ Transactions are exempt from the state gross retail tax to the extent that the gross retail income from those transactions is derived from gross receipts that are:

(1) derived from sales to the United States government, to the extent the state is prohibited by the Constitution of the United States; ~~from taxing that gross income;~~

(2) derived from commercial printing that results in printed materials, excluding the business of photocopying, that are shipped, mailed, or delivered outside Indiana;

(3) United States or Indiana taxes received or collected as a collecting agent explicitly designated as a collecting agent for a tax by statute for the state or the United States;

(4) collections by a retail merchant of a retailer's excise tax

imposed by the United States if:

(A) the tax is imposed solely on the sale at retail of tangible personal property;

(B) the tax is remitted to the appropriate taxing authority; and

(C) the retail merchant collects the tax separately as an addition to the price of the property sold;

(5) collections of a manufacturer's excise tax imposed by the United States on motor vehicles, motor vehicle bodies and chassis, parts and accessories for motor vehicles, tires, tubes for tires, or tread rubber and laminated tires, if the excise tax is separately stated by the collecting taxpayer as either an addition to or an inclusion in the price of the property sold; or

(6) amounts represented by an encumbrance of any kind on tangible personal property received by a retail merchant in reciprocal exchange for tangible personal property of like kind.

~~(b) Transactions are exempt from the state gross retail tax to the extent that the gross retail income from those transactions is derived from gross receipts that are:~~

~~(1) interest or other earnings paid on bonds or other securities issued by the United States, to the extent the Constitution of the United States prohibits the taxation of that gross income; or~~

~~(2) derived from business conducted in commerce between the state and either another state or a foreign country, to the extent the state is prohibited from taxing that gross income by the Constitution of the United States.~~

SECTION 30. IC 6-2.5-5-25, AS AMENDED BY P.L.293-2013(ts), SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 25. (a) Transactions involving tangible personal property, accommodations, or service are exempt from the state gross retail tax, if the person acquiring the property, accommodations, or service:

(1) is ~~an organization described in section 21(b)(1) of this chapter,~~ **any of the following types of organizations:**

(A) A fraternity, a sorority, or a student cooperative housing organization that is connected with and under the supervision of a postsecondary educational institution if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(B) Any:

(i) institution;

(ii) trust;

(iii) group;

(iv) united fund;

(v) affiliated agency of a united fund;

(vi) nonprofit corporation;

(vii) cemetery association; or

(viii) organization;

that is organized and operated exclusively for religious, charitable, scientific, literary, educational, or civic purposes if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(C) A group, an organization, or a nonprofit corporation that is organized and operated for fraternal or social purposes, or as a business league or association, and not for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(D) A:

(i) hospital licensed by the state department of health;

(ii) shared hospital services organization exempt from federal income taxation by Section 501(c)(3) or 501(e) of the Internal Revenue Code;

(iii) labor union;

(iv) church;

(v) monastery;

(vi) convent;

(vii) school that is a part of the Indiana public school system;

(viii) parochial school regularly maintained by a recognized religious denomination; or

(ix) trust created for the purpose of paying pensions to members of a particular profession or business who created the trust for the purpose of paying pensions to each other;

if the taxpayer is not organized or operated for private profit or gain;

(2) ~~primarily~~ uses the property, accommodations, or service to carry on or to raise money to carry on its not-for-profit purpose; and

(3) is not an organization operated predominantly for social purposes.

(b) Transactions involving tangible personal property or service are

exempt from the state gross retail tax, if the person acquiring the property or service:

(1) is a fraternity, sorority, or student cooperative housing organization described in ~~section 21(b)(1)(A) of this chapter;~~ **subsection (a)(1)(A);** and

(2) uses the property or service to carry on its ordinary and usual activities and operations as a fraternity, sorority, or student cooperative housing organization.

(c) To obtain the exemption provided by this section, a taxpayer must file an application for exemption with the department not later than one hundred twenty (120) days after the taxpayer's formation. In addition, the taxpayer must file a report with the department on or before the fifteenth day of the fifth month every five (5) years following the date of its formation. The report must be filed electronically with the department in the manner determined by the department. If a taxpayer fails to file the report, the department shall notify the taxpayer of the failure. If within sixty (60) days after receiving such notice the taxpayer does not provide the report, the taxpayer's exemption shall be canceled. However, the department may reinstate the taxpayer's exemption if the taxpayer shows by petition that the failure was due to reasonable cause.

(d) Notwithstanding subsection (c), a taxpayer filing a report under this subsection or section 21(d) of this chapter (prior to recodification) after December 31, 2021, and before January 1, 2023, will be required to file the next required report on or before the following dates:

(1) May 15, 2024, if the taxpayer does not have a federal employer identification number or has a federal employer identification number ending in 00 through 24, inclusive.

(2) May 15, 2025, if the taxpayer has a federal employer identification number ending in 25 through 49, inclusive.

(3) May 15, 2026, if the taxpayer has a federal employer identification number ending in 50 through 74, inclusive.

(4) May 15, 2027, if the taxpayer has a federal employer identification number ending in 75 through 99 inclusive.

SECTION 31. IC 6-2.5-5-26, AS AMENDED BY P.L.214-2018(ss), SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 26. (a) Sales of tangible personal property **by an organization described in section 25(a)(1) of this chapter** are exempt from the state gross retail tax, if:

~~(1) the seller is an organization that is described in section~~

~~21(b)(1) of this chapter;~~

~~(2)~~ **(1)** the organization makes the sale to make money to carry on a not-for-profit purpose; and

~~(3)~~ **(2)** the organization does not make ~~those sales during~~ more than ~~thirty (30) days~~ **twenty thousand dollars ($20,000) in sales** in a calendar year.

Once sales of an organization exceed the amount described in subdivision (2), the organization is required to collect state gross retail tax on sales on an ongoing basis for the remainder of the calendar year.

(b) For purposes of subsection (a), the sales of an organization include sales made by all units operating under the organization's registration pursuant to section 25(c) of this chapter.

~~(b)~~ **(c) If the qualifications of subsection (a) are not met,** sales of tangible personal property **by an organization described in section 25(a)(1) of this chapter** are exempt from the state gross retail tax, if:

~~(1) the seller is an organization described in section 21(b)(1) of this chapter;~~

~~(2)~~ **(1)** the ~~seller~~ **organization** is not operated predominantly for social purposes;

~~(3)~~ **(2)** the property sold is designed and intended primarily either for the organization's educational, cultural, or religious purposes, or for improvement of the work skills or professional qualifications of the organization's members; and

~~(4)~~ **(3)** the property sold is not designed or intended primarily for use in carrying on a private or proprietary business.

~~(c)~~ **(d)** Sales of tangible personal property by a public library, or a charitable organization described in section ~~21(b)(1)~~ **25(a)(1)** of this chapter formed to support a public library, are exempt from the state gross retail tax if the property sold consists of:

(1) items in the library's circulated and publicly available collections, including items from the library's holdings; or

(2) items that would typically be included in the library's circulated and publicly available collections and that are donated by individuals or organizations to a public library or to a charitable organization described in section ~~21(b)(1)~~ **25(a)(1)** of this chapter formed to support a public library.

The exemption provided by this subsection does not apply to any other sales of tangible personal property by a public library.

~~(d)~~ **(e)** The exemption provided by this section does not apply to an accredited college or university's sales of books, stationery,

haberdashery, supplies, or other property.

(f) To obtain the exemption provided by this section, a taxpayer must follow the procedures set forth in section 25(c) of this chapter.

SECTION 32. IC 6-2.5-8-8, AS AMENDED BY P.L.159-2021, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) A person, authorized under subsection (b), who makes a purchase in a transaction which is exempt from the state gross retail and use taxes, may issue an exemption certificate to the seller instead of paying the tax. **Except as provided in subsection (c),** the person shall issue the certificate on forms and in the manner prescribed by the department **on the department's Internet web site.** A seller accepting a proper exemption certificate under this section has no duty to collect or remit the state gross retail or use tax on that purchase.

(b) The following are the only persons authorized to issue exemption certificates:

(1) Retail merchants, wholesalers, and manufacturers, who are registered with the department under this chapter.

~~(2) Organizations which are exempt from the state gross retail tax under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26 and which are registered with the department under this chapter.~~

~~(3)~~ **(2)** Persons who are exempt from the state gross retail tax under IC 6-2.5-4-5 and who receive an exemption certificate from the department.

~~(4)~~ **(3)** Other persons who are exempt from the state gross retail tax with respect to any part of their purchases.

(c) Organizations that are exempt from the state gross retail tax under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26 and that are registered with the department pursuant to IC 6-2.5-5-25(c) shall be electronically issued an exemption certificate by the department.

~~(c)~~ **(d)** The department may also allow a person to issue a blanket exemption certificate to cover exempt purchases over a stated period of time. The department may impose conditions on the use of the blanket exemption certificate and restrictions on the kind or category of purchases that are exempt.

~~(d)~~ **(e)** A seller that accepts an incomplete exemption certificate under subsection (a) is not relieved of the duty to collect gross retail or use tax on the sale unless the seller obtains:

(1) a fully completed exemption certificate; or

(2) the relevant data to complete the exemption certificate;

within ninety (90) days after the sale.

~~(e)~~ **(f)** If a seller has accepted an incomplete exemption certificate under subsection (a) and the department requests that the seller substantiate the exemption, within one hundred twenty (120) days after the department makes the request the seller shall:

(1) obtain a fully completed exemption certificate; or

(2) prove by other means that the transaction was not subject to state gross retail or use tax.

~~(f)~~ **(g)** A power subsidiary (as defined in ~~IC 6-2.5-4-5)~~ **IC 6-2.5-1-22.5)** or a person selling the services or commodities listed in ~~IC 6-2.5-4-5(b)~~ **IC 6-2.5-4-5** who accepts an exemption certificate issued by the department to a person who is exempt from the state gross retail tax under IC 6-2.5-4-5 is relieved from the duty to collect state gross retail or use tax on the sale of the services or commodities listed in ~~IC 6-2.5-4-5(b)~~ **IC 6-2.5-4-5** until notified by the department that the exemption certificate has expired or has been revoked. If the department notifies a power subsidiary or a person selling the services or commodities listed in ~~IC 6-2.5-4-5(b)~~ **IC 6-2.5-4-5** that a person's exemption certificate has expired or has been revoked, the power subsidiary or person selling the services or commodities listed in ~~IC 6-2.5-4-5(b)~~ **IC 6-2.5-4-5** shall begin collecting state gross retail tax on the sale of the services or commodities listed in ~~IC 6-2.5-4-5(b)~~ **IC 6-2.5-4-5** to the person whose exemption certificate has expired or been revoked not later than thirty (30) days after the date of the department's notice. An exemption certificate issued by the department to a person who is exempt from the state gross retail tax under IC 6-2.5-4-5 remains valid for that person regardless of any subsequent one (1) for one (1) meter number changes with respect to that person that are required, made, or initiated by a power subsidiary or a person selling the services or commodities listed in ~~IC 6-2.5-4-5(b),~~ **IC 6-2.5-4-5,** unless the department revokes the exemption certificate. Within thirty (30) days after the final day of each calendar year quarter, a power subsidiary or a person selling the services or commodities listed in ~~IC 6-2.5-4-5(b)~~ **IC 6-2.5-4-5** shall report to the department any meter number changes made during the immediately preceding calendar year quarter and distinguish between the one (1) for one (1) meter changes and the one (1) for multiple meter changes made during the calendar year quarter. A power subsidiary or a person selling the services or commodities listed in ~~IC 6-2.5-4-5(b)~~ **IC 6-2.5-4-5** shall maintain records sufficient to document each one (1) to one (1) meter change. A person may request the department to reissue an exemption certificate with a new meter number in the event of a one (1) to one (1) meter change. Except for a person to whom a blanket utility exemption

applies, any meter number changes not involving a one (1) to one (1) relationship will no longer be exempt and will require the person to submit a new utility exemption application for the new meters. Until an application for a new meter is approved, the new meter is subject to the state gross retail tax and the power subsidiary or the person selling the services or commodities listed in ~~IC 6-2.5-4-5(b)~~ **IC 6-2.5-4-5** is required to collect the state gross retail tax from the date of the meter change.

SECTION 33. IC 6-3-1-3.5, AS AMENDED BY P.L.159-2021, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Except as provided in subsection (c), add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code (as effective January 1, 2017);

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004);

(B) one thousand five hundred dollars ($1,500) for each exemption allowed under Section 151(c) of the Internal Revenue Code (as effective January 1, 2017) for an individual:

(i) who is less than nineteen (19) years of age or is a full-time student who is less than twenty-four (24) years of age;

(ii) for whom the taxpayer is the legal guardian; and

(iii) for whom the taxpayer does not claim an exemption under clause (A); and

(C) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the federal adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000). In the case of a married individual filing a separate return, the qualifying income amount in this clause is equal to twenty thousand dollars ($20,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(7) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(8) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(9) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), and (5) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(10) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(11) In the case of an eligible individual, subtract the amount of

a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(12) Subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse if the taxpayer and the taxpayer's spouse file a joint income tax return or the taxpayer is otherwise entitled to a deduction under this subdivision for the taxpayer's spouse, or both.

(13) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars ($2,500), or one thousand two hundred fifty dollars ($1,250) in the case of a married individual filing a separate return; or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(14) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(16) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (concerning net operating losses).

(17) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding the sum of:

(A) twenty-five thousand dollars ($25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

(i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;

(ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and

(iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(18) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

(19) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

(20) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract the amount necessary from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(21) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political

subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(22) Subtract an amount as described in Section 1341(a)(2) of the Internal Revenue Code to the extent, if any, that the amount was previously included in the taxpayer's adjusted gross income for a prior taxable year.

(23) For taxable years beginning after December 25, 2016, add an amount equal to the deduction for deferred foreign income that was claimed by the taxpayer for the taxable year under Section 965(c) of the Internal Revenue Code.

(24) Subtract any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year. For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(25) Subtract the amount that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(26) For taxable years beginning after December 31, 2019, and before January 1, 2021, add an amount of the deduction claimed under Section 62(a)(22) of the Internal Revenue Code.

(27) For taxable years beginning after December 31, 2019, for payments made by an employer under an education assistance program after March 27, 2020:

(A) add the amount of payments by an employer that are excluded from the taxpayer's federal gross income under Section 127(c)(1)(B) of the Internal Revenue Code; and

(B) deduct the interest allowable under Section 221 of the Internal Revenue Code, if the disallowance under Section 221(e)(1) of the Internal Revenue Code did not apply to the payments described in clause (A). For purposes of applying Section 221(b) of the Internal Revenue Code to the amount allowable under this clause, the amount under clause (A) shall not be added to adjusted gross income.

(28) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(29) For taxable years beginning after December 31, 2017, and before January 1, 2021, add an amount equal to the excess business loss of the taxpayer as defined in Section 461(l)(3) of the Internal Revenue Code. In addition:

(A) If a taxpayer has an excess business loss under this subdivision and also has modifications under subdivisions (15) and (17) for property placed in service during the taxable year, the taxpayer shall treat a portion of the taxable year modifications for that property as occurring in the taxable year the property is placed in service and a portion of the modifications as occurring in the immediately following taxable year.

(B) The portion of the modifications under subdivisions (15) and (17) for property placed in service during the taxable year treated as occurring in the taxable year in which the property is placed in service equals:

(i) the modification for the property otherwise determined under this section; minus

(ii) the excess business loss disallowed under this subdivision;

but not less than zero (0).

(C) The portion of the modifications under subdivisions (15) and (17) for property placed in service during the taxable year treated as occurring in the taxable year immediately following the taxable year in which the property is placed in service equals the modification for the property otherwise determined under this section minus the amount in clause (B).

(D) Any reallocation of modifications between taxable years under clauses (B) and (C) shall be first allocated to the modification under subdivision (15), then to the modification under subdivision (17).

(30) Add an amount equal to the amount excluded from federal gross income under Section 108(f)(5) of the Internal Revenue Code. For purposes of this subdivision:

(A) if an amount excluded under Section 108(f)(5) of the

Internal Revenue Code would be excludible under Section 108(a)(1)(B) of the Internal Revenue Code, the exclusion under Section 108(a)(1)(B) of the Internal Revenue Code shall take precedence; **and**

(B) if an amount would have been excludible under Section 108(f)(5) of the Internal Revenue Code as in effect on January 1, 2020, the amount is not required to be added back under this subdivision.

(31) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(32) Subtract the amount of an annual grant amount distributed to a taxpayer's Indiana education scholarship account under IC 20-51.4-4-2 that is used for a qualified expense (as defined in IC 20-51.4-2-9), to the extent the distribution used for the qualified expense is included in the taxpayer's federal adjusted gross income under the Internal Revenue Code.

(33) For taxable years beginning after December 31, 2019, and before January 1, 2021, add an amount equal to the amount of unemployment compensation excluded from federal gross income under Section 85(c) of the Internal Revenue Code.

(34) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

~~(34)~~ **(35)** Subtract any other amounts the taxpayer is entitled to deduct under IC 6-3-2.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code (concerning charitable contributions).

(3) Except as provided in subsection (c), add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or

measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code (concerning foreign tax credits).

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (concerning net operating losses).

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding the sum of:

(A) twenty-five thousand dollars ($25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

(i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;

(ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and

(iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property

under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(8) Add to the extent required by IC 6-3-2-20:

(A) the amount of intangible expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes; and

(B) any directly related interest expenses (as defined in IC 6-3-2-20) that reduced the corporation's adjusted gross income (determined without regard to this subdivision). For purposes of this clause, any directly related interest expense that constitutes business interest within the meaning of Section 163(j) of the Internal Revenue Code shall be considered to have reduced the taxpayer's federal taxable income only in the first taxable year in which the deduction otherwise would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(9) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

(10) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(11) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(12) Add the amount excluded from federal gross income under

Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(13) For taxable years beginning after December 25, 2016:

(A) for a corporation other than a real estate investment trust, add:

(i) an amount equal to the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1; or

(ii) if the taxpayer deducted an amount under Section 965(c) of the Internal Revenue Code in determining the taxpayer's taxable income for purposes of the federal income tax, the amount deducted under Section 965(c) of the Internal Revenue Code; and

(B) for a real estate investment trust, add an amount equal to the deduction for deferred foreign income that was claimed by the taxpayer for the taxable year under Section 965(c) of the Internal Revenue Code, but only to the extent that the taxpayer included income pursuant to Section 965 of the Internal Revenue Code in its taxable income for federal income tax purposes or is required to add back dividends paid under subdivision (9).

(14) Add an amount equal to the deduction that was claimed by the taxpayer for the taxable year under Section 250(a)(1)(B) of the Internal Revenue Code (attributable to global intangible low-taxed income). The taxpayer shall separately specify the amount of the reduction under Section 250(a)(1)(B)(i) of the Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the Internal Revenue Code.

(15) Subtract any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year. For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(16) Subtract the amount that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December

22, 2017.

(17) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(18) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(19) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

~~(19)~~ **(20)** Add or subtract any other amounts the taxpayer is:

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(c) The following apply to taxable years beginning after December 31, 2018, for purposes of the add back of any deduction allowed on the taxpayer's federal income tax return for wagering taxes, as provided in subsection (a)(2) if the taxpayer is an individual or subsection (b)(3) if the taxpayer is a corporation:

(1) For taxable years beginning after December 31, 2018, and before January 1, 2020, a taxpayer is required to add back under this section eighty-seven and five-tenths percent (87.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(2) For taxable years beginning after December 31, 2019, and before January 1, 2021, a taxpayer is required to add back under this section seventy-five percent (75%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(3) For taxable years beginning after December 31, 2020, and before January 1, 2022, a taxpayer is required to add back under this section sixty-two and five-tenths percent (62.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(4) For taxable years beginning after December 31, 2021, and before January 1, 2023, a taxpayer is required to add back under this section fifty percent (50%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(5) For taxable years beginning after December 31, 2022, and before January 1, 2024, a taxpayer is required to add back under this section thirty-seven and five-tenths percent (37.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(6) For taxable years beginning after December 31, 2023, and before January 1, 2025, a taxpayer is required to add back under this section twenty-five percent (25%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(7) For taxable years beginning after December 31, 2024, and before January 1, 2026, a taxpayer is required to add back under this section twelve and five-tenths percent (12.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(8) For taxable years beginning after December 31, 2025, a taxpayer is not required to add back under this section any amount of a deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(d) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code (concerning charitable contributions).

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code (concerning foreign tax credits).

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an

earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (concerning net operating losses).

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding the sum of:

(A) twenty-five thousand dollars ($25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

(i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;

(ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and

(iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(8) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(9) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(10) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(11) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(12) For taxable years beginning after December 25, 2016, add:

(A) an amount equal to the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1; or

(B) if the taxpayer deducted an amount under Section 965(c) of the Internal Revenue Code in determining the taxpayer's taxable income for purposes of the federal income tax, the amount deducted under Section 965(c) of the Internal Revenue Code.

(13) Add an amount equal to the deduction that was claimed by the taxpayer for the taxable year under Section 250(a)(1)(B) of the Internal Revenue Code (attributable to global intangible low-taxed income). The taxpayer shall separately specify the amount of the reduction under Section 250(a)(1)(B)(i) of the Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the Internal Revenue Code.

(14) Subtract any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue

Code in the current taxable year. For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(15) Subtract the amount that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(16) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(17) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(18) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

~~(18)~~ **(19)** Add or subtract any other amounts the taxpayer is:

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(e) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code (concerning charitable contributions).

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code

for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code (concerning foreign tax credits).

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (concerning net operating losses).

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding the sum of:

(A) twenty-five thousand dollars ($25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

(i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;

(ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and

(iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property

under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(8) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(9) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(10) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(11) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(12) For taxable years beginning after December 25, 2016, add:

(A) an amount equal to the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1; or

(B) if the taxpayer deducted an amount under Section 965(c) of the Internal Revenue Code in determining the taxpayer's taxable income for purposes of the federal income tax, the amount deducted under Section 965(c) of the Internal Revenue Code.

(13) Add an amount equal to the deduction that was claimed by the taxpayer for the taxable year under Section 250(a)(1)(B) of the Internal Revenue Code (attributable to global intangible

low-taxed income). The taxpayer shall separately specify the amount of the reduction under Section 250(a)(1)(B)(i) of the Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the Internal Revenue Code.

(14) Subtract any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year. For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(15) Subtract the amount that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(16) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(17) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(18) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

~~(18)~~ **(19)** Add or subtract any other amounts the taxpayer is:

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(f) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code)

adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (concerning net operating losses).

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding the sum of:

(A) twenty-five thousand dollars ($25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

(i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;

(ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and

(iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the

acquired property in the year that the property was placed into service.

The amount of deductions allowable for an item of property under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(6) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(7) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(8) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(9) For taxable years beginning after December 25, 2016, add an amount equal to:

(A) the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1;

(B) if the taxpayer deducted an amount under Section 965(c) of the Internal Revenue Code in determining the taxpayer's taxable income for purposes of the federal income tax, the amount deducted under Section 965(c) of the Internal Revenue Code; and

(C) with regard to any amounts of income under Section 965 of the Internal Revenue Code distributed by the taxpayer, the deduction under Section 965(c) of the Internal Revenue Code

attributable to such distributed amounts and not reported to the beneficiary.

For purposes of this article, the amount required to be added back under clause (B) is not considered to be distributed or distributable to a beneficiary of the estate or trust for purposes of Sections 651 and 661 of the Internal Revenue Code.

(10) Subtract any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code. Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year. For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(11) Add an amount equal to the deduction for qualified business income that was claimed by the taxpayer for the taxable year under Section 199A of the Internal Revenue Code.

(12) Subtract the amount that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(13) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(14) For taxable years beginning after December 31, 2017, and before January 1, 2021, add an amount equal to the excess business loss of the taxpayer as defined in Section 461(l)(3) of the Internal Revenue Code. In addition:

(A) If a taxpayer has an excess business loss under this subdivision and also has modifications under subdivisions (3) and (5) for property placed in service during the taxable year, the taxpayer shall treat a portion of the taxable year modifications for that property as occurring in the taxable year the property is placed in service and a portion of the modifications as occurring in the immediately following taxable year.

(B) The portion of the modifications under subdivisions (3) and (5) for property placed in service during the taxable year treated as occurring in the taxable year in which the property is placed in service equals:

(i) the modification for the property otherwise determined under this section; minus

(ii) the excess business loss disallowed under this subdivision;

but not less than zero (0).

(C) The portion of the modifications under subdivisions (3) and (5) for property placed in service during the taxable year treated as occurring in the taxable year immediately following the taxable year in which the property is placed in service equals the modification for the property otherwise determined under this section minus the amount in clause (B).

(D) Any reallocation of modifications between taxable years under clauses (B) and (C) shall be first allocated to the modification under subdivision (3), then to the modification under subdivision (5).

(15) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(16) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

~~(16)~~ **(17)** Add or subtract any other amounts the taxpayer is:

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(g) Subsections ~~(a)(34), (b)(19), (d)(18), (e)(18), or (f)(16)~~ **(a)(35), (b)(20), (d)(19), (e)(19), or (f)(17)** may not be construed to require an add back or allow a deduction or exemption more than once for a particular add back, deduction, or exemption.

(h) For taxable years beginning after December 25, 2016, if:

(1) a taxpayer is a shareholder, either directly or indirectly, in a corporation that is an E&P deficit foreign corporation as defined in Section 965(b)(3)(B) of the Internal Revenue Code, and the

earnings and profit deficit, or a portion of the earnings and profit deficit, of the E&P deficit foreign corporation is permitted to reduce the federal adjusted gross income or federal taxable income of the taxpayer, the deficit, or the portion of the deficit, shall also reduce the amount taxable under this section to the extent permitted under the Internal Revenue Code, however, in no case shall this permit a reduction in the amount taxable under Section 965 of the Internal Revenue Code for purposes of this section to be less than zero (0); and

(2) the Internal Revenue Service issues guidance that such an income or deduction is not reported directly on a federal tax return or is to be reported in a manner different than specified in this section, this section shall be construed as if federal adjusted gross income or federal taxable income included the income or deduction.

(i) If a partner is required to include an item of income, a deduction, or another tax attribute in the partner's adjusted gross income tax return pursuant to IC 6-3-4.5, such item shall be considered to be includible in the partner's federal adjusted gross income or federal taxable income, regardless of whether such item is actually required to be reported by the partner for federal income tax purposes. For purposes of this subsection:

(1) items for which a valid election is made under IC 6-3-4.5-6, IC 6-3-4.5-8, or IC 6-3-4.5-9 shall not be required to be included in the partner's adjusted gross income or taxable income; and

(2) items for which the partnership did not make an election under IC 6-3-4.5-6, IC 6-3-4.5-8, or IC 6-3-4.5-9, but for which the partnership is required to remit tax pursuant to IC 6-3-4.5-18, shall be included in the partner's adjusted gross income or taxable income.

SECTION 34. IC 6-3-2-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 1.7. (a) For purposes of this section:**

(1) "Distributor" means a person or entity located in this state that purchases tangible personal property from an eligible corporation for purposes of resale. For purposes of this section, a distributor is not a person or entity that has a relationship described in Section 267(b) of the Internal Revenue Code with the eligible corporation.

(2) "Eligible corporation" means a corporation otherwise subject to tax under section 1(b) of this chapter. An eligible corporation shall not include a corporation described in

section 2.8(2) of this chapter or a corporation subject to tax under IC 6-5.5.

(3) "Qualifying distribution sale" means a sale of tangible personal property by an eligible corporation to a distributor that:

(A) is a purchase for resale by the distributor as defined in IC 6-2.5-5-8; and

(B) for which the sourcing of the sale of the property to an ultimate customer outside Indiana is agreed to by the department and the eligible corporation, or, in the absence of an agreement, sourced by the ratio of the population of Indiana compared to the population of all states in which the qualified distribution sales are sold to an ultimate customer.

For purposes of this section, a qualifying distribution sale shall not include any sale for which the distributor does not issue an exemption certificate in the manner provided by the department under IC 6-2.5-8-8 or a purchase by the distributor for the distributor's own use other than for resale. A qualifying distribution sale shall not include any sale made by a pass through entity that would otherwise be attributable under this article to the eligible corporation.

(4) "Ultimate customer" means a purchaser of tangible personal property who purchases the tangible personal property without an intent of future resale of property.

(b) If an eligible corporation has greater than one billion dollars ($1,000,000,000) of tangible personal property sales that otherwise would be sourced to this state under section 2(e) of this chapter, and would have an apportionment percentage under section 2 of this chapter of greater than ten percent (10%) prior to application of this section the eligible corporation may elect to determine its tax as follows:

STEP ONE: Determine the apportionment percentage under sections 2 and 2.2 of this chapter, treating qualifying distribution sales as if they were not receipts for purposes of the apportionment numerator, but treating the portion where the ultimate customer would be located in Indiana as part of the receipts numerator.

STEP TWO: Determine Indiana adjusted gross income in the manner otherwise provided in this article, applying the apportionment percentage in STEP ONE. For purposes of this STEP, any adjusted gross income arising from qualified

distribution sales shall be treated as business income of the eligible corporation.

STEP THREE: Determine the tax due under this chapter on the amount computed in STEP TWO, reduced by any nonrefundable credits under IC 6-3-3 or IC 6-3.1, but not less than zero (0). For purposes of this article, any application of a credit under this STEP shall reduce the amount available for carryforward in the same manner as otherwise provided under IC 6-3-3 or IC 6-3.1.

STEP FOUR:

(A) If the eligible corporation's qualified distribution sales are not in excess of two billion dollars ($2,000,000,000), determine one-half of one percent (0.5%) of the qualified distribution sales.

(B) If the eligible corporation's qualified distribution sales are in excess of two billion dollars ($2,000,000,000) but not in excess of three billion dollars ($3,000,000,000), determine three-eighths of one percent (0.375%) of the qualified distribution sales in excess of two billion dollars ($2,000,000,000) plus ten million dollars ($10,000,000).

(C) If the eligible corporation's qualified distribution sales are in excess of three billion dollars ($3,000,000,000) but not in excess of four billion dollars ($4,000,000,000), determine one-fourth of one percent (0.25%) of the qualified distribution sales in excess of three billion dollars ($3,000,000,000) plus thirteen million seven hundred fifty thousand dollars ($13,750,000).

(D) If the eligible corporation's qualified distribution sales are in excess of four billion dollars ($4,000,000,000), determine one-eighth of one percent (0.125%) of the qualified distribution sales in excess of four billion dollars ($4,000,000,000) plus sixteen million two hundred fifty thousand dollars ($16,250,000).

STEP FIVE: Add the amounts determined under STEP THREE and STEP FOUR.

(c) Notwithstanding any other provision of this section, for an eligible corporation that makes an election:

(1) if the tax for a taxable year covered by the election as computed under subsection (b) is less than twenty-six million dollars ($26,000,000), the tax shall be twenty-six million dollars ($26,000,000); and

(2) if the tax for the taxable year covered by an election as

computed under subsection (b) is greater than the amount specified in clauses (A) through (C), the amount of tax shall be the following amounts:

(A) For a taxable year ending after December 31, 2018, and before January 1, 2025, forty million dollars ($40,000,000).

(B) For a taxable year ending after December 31, 2024, and before January 1, 2026, forty-two million dollars ($42,000,000).

(C) For each taxable year ending after December 31, 2025, forty-two million dollars ($42,000,000) plus one million dollars ($1,000,000) for each taxable year ending after December 31, 2025.

For purposes of this subsection, the tax for a taxable year under this section shall be determined after application of any credit allowable under IC 6-3-3 and IC 6-3.1.

(d) If an eligible corporation makes an election under this section, the following apply:

(1) The eligible corporation shall be subject to the election for the taxable year of the election and each taxable year thereafter until the first taxable year ending ten (10) years after the first year in which an election is made under this section, even if the corporation would not be an eligible corporation for a taxable year after the taxable year in which the election is made, and shall be binding on any successor corporation or group of corporations to the eligible corporation.

(2) After the period of the initial election under subdivision (1), the department may permit a taxpayer to make an election under this section for each subsequent taxable year after the election expires under subdivision (1). However:

(A) an election under this subdivision is only permitted for one (1) taxable year; and

(B) if an eligible corporation does make an election for a taxable year, the eligible corporation may only make a new election if the new election is subject to the terms of subdivision (1).

(e) If two (2) or more eligible corporations are part of a consolidated return or combined return, the computation under STEP FOUR of subsection (b) shall be determined separately for each corporation.

(f) For purposes of computing net operating losses for the

taxable year under section 2.6 of this chapter and the deduction allowable against adjusted gross income under section 2.6 of this chapter, the loss for the taxable year or deduction allowable shall be computed pursuant to STEP TWO of subsection (b).

(g) An election under this section shall be in the form and manner prescribed by the department. The election must be completed and filed with the department on or before the date of filing of the original return for a taxable year to be effective beginning with that taxable year. In addition, if an eligible corporation files a consolidated return or combined return for the first taxable year of the election, or for any year subsequent to the first taxable year of the election, the eligible corporation and the department shall enter into an agreement regarding issues specific to consolidated or combined returns. In the absence of such an agreement, any such issues shall be treated in a manner prescribed by the department and published in the Indiana Register. If the original return for a taxable year is filed after the due date for the original return, including any extensions, an election will not be allowed for that taxable year or any subsequent year to which the election otherwise would apply. However, the eligible corporation may file an election for subsequent taxable years, provided the eligible corporation otherwise meets the requirements of this section.

SECTION 35. IC 6-3-2-2.5, AS AMENDED BY P.L.165-2021, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: Sec. 2.5. (a) This section applies to a resident person.

(b) Resident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried over to that year. A taxpayer is not entitled to carryback any net operating losses after December 31, 2011.

(c) An Indiana net operating loss equals the sum of:

(1) the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, adjusted for certain modifications required by IC 6-3-1-3.5 as set forth in subsection (d)(1) and, in the case of an individual, reduced by any deductions allowable in determining the federal net operating loss for the taxable year, but not allowable in determining federal adjusted gross income;

(2) the excess business loss deduction disallowed under IC 6-3-1-3.5(a)(29) and IC 6-3-1-3.5(f)(14); and

(3) for taxable years beginning after December 31, 2020, a loss for a taxable year disallowed because of Section 461(l) of the Internal Revenue Code, without any modifications under subsection (d).

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred, except that the modifications do not include the modifications required under:

(A) IC 6-3-1-3.5(a)(3);

(B) IC 6-3-1-3.5(a)(4);

(C) IC 6-3-1-3.5(a)(5);

(D) ~~IC 6-3-1-3.5(a)(34);~~ **IC 6-3-1-3.5(a)(35);**

(E) IC 6-3-1-3.5(f)(11); and

(F) ~~IC 6-3-1-3.5(f)(16).~~ **IC 6-3-1-3.5(f)(17).**

(2) An Indiana net operating loss includes a net operating loss that arises when the applicable modifications required by IC 6-3-1-3.5 as set forth in subdivision (1) exceed the sum of the taxpayer's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) if the taxpayer is an individual, or federal taxable income (as defined in Section 63 of the Internal Revenue Code) if the taxpayer is a trust or an estate for the taxable year in which the Indiana net operating loss is determined and the modifications otherwise required for federal net operating losses for the taxable year by Section 172(d) of the Internal Revenue Code. A modification that reduces a federal net operating loss shall be treated as a positive number for purposes of this subdivision, and a modification that increases a federal net operating loss shall be treated as a negative number for purposes of this subdivision.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryover shall be available as a deduction from the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryover year provided in subsection (f), but not in excess of the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryover year determined without regard to this section.

(f) Carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(2) An Indiana net operating loss may not be carried over for

more than twenty (20) taxable years after the taxable year of the loss.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried over as provided in subsection (f). The amount of the Indiana net operating loss carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

SECTION 36. IC 6-3-2-2.6, AS AMENDED BY P.L.165-2021, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried over to that year. A taxpayer is not entitled to carryback any net operating losses after December 31, 2011.

(c) An Indiana net operating loss equals the sum of:

(1) the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for certain modifications required by IC 6-3-1-3.5 as set forth in subsection (d)(1) and, for a nonresident individual, reduced by any deductions from Indiana sources allowable in determining the federal net operating loss for the taxable year, but not allowable in determining federal adjusted gross income;

(2) the excess business loss deduction disallowed under IC 6-3-1-3.5(a)(29) and IC 6-3-1-3.5(f)(14) and incurred from Indiana sources; and

(3) for taxable years beginning after December 31, 2020, the portion of the loss for a taxable year disallowed because of Section 461(l) of the Internal Revenue Code and incurred from Indiana sources, without any modifications under subsection (d). Any net operating loss under this subdivision shall be computed

in a manner consistent with the computation of adjusted gross income under IC 6-3.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred, except that the modifications do not include the modifications required under:

(A) IC 6-3-1-3.5(a)(3);

(B) IC 6-3-1-3.5(a)(4);

(C) IC 6-3-1-3.5(a)(5);

(D) ~~IC 6-3-1-3.5(a)(34);~~ **IC 6-3-1-3.5(a)(35);**

(E) IC 6-3-1-3.5(b)(14);

(F) ~~IC 6-3-1-3.5(b)(19);~~ **IC 6-3-1-3.5(b)(20);**

(G) IC 6-3-1-3.5(d)(13);

(H) ~~IC 6-3-1-3.5(d)(18);~~ **IC 6-3-1-3.5(d)(19);**

(I) IC 6-3-1-3.5(e)(13);

(J) ~~IC 6-3-1-3.5(e)(18);~~ **IC 6-3-1-3.5(e)(19);**

(K) IC 6-3-1-3.5(f)(11); and

(L) ~~IC 6-3-1-3.5(f)(16).~~ **IC 6-3-1-3.5(f)(17).**

(2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's adjusted gross income derived from sources within Indiana is determined under section 2 of this chapter for the same taxable year during which each loss was incurred.

(3) An Indiana net operating loss includes a net operating loss that arises when the applicable modifications required by IC 6-3-1-3.5 as set forth in subdivision (1) exceed the sum of:

(A) either:

(i) the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, nonresident estate, or nonresident trust; or

(ii) the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident individual;

for the taxable year in which the Indiana net operating loss is determined; and

(B) the modifications otherwise required for federal net operating losses for the taxable year of the Indiana net operating loss under Section 172(d) of the Internal Revenue Code or Section 512(b) of the Internal Revenue Code. A

modification that reduces a federal net operating loss shall be treated as a positive number for purposes of this subdivision, and a modification that increases a federal net operating loss shall be treated as a negative number for purposes of this subdivision.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryover year provided in subsection (f), but not in excess of the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryover year determined without regard to the deduction allowable under this section.

(f) Carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(2) An Indiana net operating loss may not be carried over for more than twenty (20) taxable years after the taxable year of the loss.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried over as provided in subsection (f). The amount of the Indiana net operating loss carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

(h) An Indiana net operating loss deduction determined under this section shall be allowed notwithstanding the fact that in the year the taxpayer incurred the net operating loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(1) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(2) an insurance company subject to tax under Section 831 of the

Internal Revenue Code.

(i) In the case of a life insurance company, this section shall be applied by substituting life insurance company taxable income (as defined in Section 801 the Internal Revenue Code) in place of references to taxable income (as defined in Section 63 of the Internal Revenue Code).

SECTION 37. IC 6-3-4-3, AS AMENDED BY P.L.212-2018(ss), SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: Sec. 3. **(a)** Returns required to be made pursuant to section 1 of this chapter shall be filed with the department on or before the later of the following:

(1) The 15th day of the fourth month following the close of the taxable year.

(2) For a corporation whose federal tax return is due on or after the date set forth in subdivision (1), as determined without regard to any extensions, ~~weekends,~~ **Saturdays, Sundays,** or holidays **recognized by the Internal Revenue Service,** the 15th day of the **fifth** month following the ~~due date of the federal tax return.~~ **close of the taxable year.**

(b) ~~However,~~ If the due date for a federal income tax return is extended by the Internal Revenue Service to a date that is later than the date specified in ~~subdivision (1) or (2)~~ **subsection (a)(1) or (a)(2)** (as applicable), the department may extend the due date of a return required to be made under section 1 of this chapter to **reflect** the due date permitted for the federal income tax return.

(c) If the due date for a federal income tax return in the Internal Revenue Code, as determined without regard to any extensions, Saturdays, Sundays, or holidays recognized by the Internal Revenue Service, is later than the date provided in subsection (a), the due date for the return made pursuant to section 1 of this chapter shall be the later of the due date for the federal income tax return or the due date provided under this section.

SECTION 38. IC 6-3-4-12, AS AMENDED BY P.L.85-2017, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 12. (a) Every partnership shall, at the time that the partnership pays or credits amounts to any of its nonresident partners on account of their distributive shares of partnership income, for a taxable year of the partnership, deduct and retain therefrom the amount prescribed in the withholding instructions referred to in section 8 of this chapter. Such partnership so paying or crediting any nonresident partner:

(1) shall be liable to the state of Indiana for the payment of the tax

required to be deducted and retained under this section and shall not be liable to such partner for the amount deducted from such payment or credit and paid over in compliance or intended compliance with this section; and

(2) shall make return of and payment to the department monthly whenever the amount of tax due under IC 6-3 and IC 6-3.6 exceeds an aggregate amount of fifty dollars ($50) per month with such payment due on the thirtieth day of the following month, unless an earlier date is specified by section 8.1 of this chapter.

Where the aggregate amount due under IC 6-3 and IC 6-3.6 does not exceed fifty dollars ($50) per month, then such partnership shall make return and payment to the department quarterly, on such dates and in such manner as the department shall prescribe, of the amount of tax which, under IC 6-3 and IC 6-3.6, it is required to withhold.

(b) Every partnership shall, at the time of each payment made by it to the department pursuant to this section, deliver to the department a return upon such form as shall be prescribed by the department showing the total amounts paid or credited to its nonresident partners, the amount deducted therefrom in accordance with the provisions of this section, and such other information as the department may require. Every partnership making the deduction and retention provided in this section shall furnish to its nonresident partners annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax deducted and retained from such partners on forms to be prescribed by the department.

(c) All money deducted and retained by the partnership, as provided in this section, shall immediately upon such deduction be the money of the state of Indiana and every partnership which deducts and retains any amount of money under the provisions of IC 6-3 shall hold the same in trust for the state of Indiana and for payment thereof to the department in the manner and at the times provided in IC 6-3. Any partnership may be required to post a surety bond in such sum as the department shall determine to be appropriate to protect the state of Indiana with respect to money deducted and retained pursuant to this section.

(d) The provisions of IC 6-8.1 relating to additions to tax in case of delinquency and penalties shall apply to partnerships subject to the provisions of this section, and for these purposes any amount deducted, or required to be deducted and remitted to the department under this section, shall be considered to be the tax of the partnership, and with respect to such amount it shall be considered the taxpayer.

(e) Amounts deducted from payments or credits to a nonresident

partner during any taxable year of the partnership in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such nonresident partner for the nonresident partner's taxable year within or with which the partnership's taxable year ends. A return made by the partnership under subsection (b) shall be accepted by the department as evidence in favor of the nonresident partner of the amount so deducted for the nonresident partner's distributive share.

(f) This section shall in no way relieve any nonresident partner from the nonresident partner's obligations of filing a return or returns at the time required under IC 6-3 or IC 6-3.6, and any unpaid tax shall be paid at the time prescribed by section 5 of this chapter.

(g) Instead of the reporting periods required under subsection (a), the department may permit a partnership to file one (1) return and payment each year if the partnership pays or credits amounts to its nonresident partners only one (1) time each year. The return and payment are due on or before the fifteenth day of the fourth month after the end of the year. However, if a partnership is permitted an extension to file its income tax return under IC 6-8.1-6-1, the return and payment due under this subsection shall be allowed the same treatment as an extended income tax return with respect to due dates, interest, and penalties under IC 6-8.1-6-1.

(h) If a partnership fails to withhold and pay any amount of tax required to be withheld under this section and thereafter the tax is paid by the partners, the amounts of tax as paid by the partners shall not be collected from the partnership but it may not be relieved from liability for interest or penalty otherwise due in respect to the failure to withhold under IC 6-8.1-10.

(i) A partnership shall file a composite adjusted gross income tax return on behalf of all nonresident partners. The composite return must include each nonresident partner regardless of whether or not the nonresident partner has other Indiana source income.

(j) If a partnership does not include all nonresident partners in the composite return, the partnership is subject to the penalty imposed under IC 6-8.1-10-2.1(j).

(k) For taxable years beginning after December 31, 2013, the department may not impose a late payment penalty on a partnership for the failure to file a return, pay the full amount of the tax shown on the partnership's return, or pay the deficiency of the withholding taxes due under this section if the partnership pays the department before the fifteenth day of the fourth month after the end of the partnership's taxable year at least:

(1) eighty percent (80%) of the withholding tax due for the current year; or

(2) one hundred percent (100%) of the withholding tax due for the preceding year.

(l) Notwithstanding subsection (a) or (i), a ~~pass through entity~~ **partnership** is not required to withhold tax or file a composite adjusted gross income tax return for a nonresident ~~member~~ **partner** if the ~~entity:~~ **partnership:**

(1) is a publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code;

(2) meets the exception for partnerships under Section 7704(c) of the Internal Revenue Code; and

(3) has agreed to file an annual information return reporting the name, address, taxpayer identification number, and other information requested by the department of each unit holder.

The department may issue written guidance explaining circumstances under which limited partnerships or limited liability companies owned by a publicly traded partnership may be excluded from the withholding requirements of this section.

(m) Notwithstanding subsection (k), a partnership is subject to a late payment penalty for the failure to file a return, pay the full amount of the tax shown on the partnership's return, or pay the deficiency of the withholding taxes due under this section for any amounts of withholding tax, including any interest under IC 6-8.1-10-1, reported or paid after the due date of the return, as adjusted by any extension under IC 6-8.1-6-1.

(n) For purposes of this section, a "nonresident partner" is:

(1) an individual who does not reside in Indiana;

(2) a trust that does not reside in Indiana;

(3) an estate that does not reside in Indiana;

(4) a partnership not domiciled in Indiana;

(5) a C corporation not domiciled in Indiana; or

(6) an S corporation not domiciled in Indiana.

SECTION 39. IC 6-3-4-14, AS AMENDED BY P.L.136-2018, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 14. (a) An affiliated group of corporations shall have the privilege of making a consolidated return with respect to the taxes imposed by IC 6-3. The making of a consolidated return shall be upon the condition that all corporations which at any time during the taxable year have been members of the affiliated group consent to all of the provisions of this section including all provisions of the

consolidated return regulations prescribed pursuant to Section 1502 of the Internal Revenue Code and incorporated in this section by reference and all regulations promulgated by the department implementing this section prior to the last day prescribed by law for the filing of such return. The making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year, the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(b) For the purposes of this section the term "affiliated group" shall mean an "affiliated group" as defined in Section 1504 of the Internal Revenue Code with the exception that the affiliated group shall not include any corporation which does not have adjusted gross income derived from sources within the state of Indiana.

(c) For purposes of IC 6-3-1-3.5(b), the determination of "taxable income," as defined in Section 63 of the Internal Revenue Code, of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, shall be determined pursuant to the regulations prescribed under Section 1502 of the Internal Revenue Code.

(d) Any credit against the taxes imposed by IC 6-3 which is available to any corporation which is a member of an affiliated group of corporations making a consolidated return shall be applied against the tax liability of the affiliated group.

(e) For purposes of this section, the following rules shall apply:

(1) In the case of the sale of a corporation, the filing status of the remaining members of the consolidated group shall continue absent an election by those consolidated members to file separately or on a combined basis.

(2) In the case of a merger, the previous filing status of the surviving corporation shall continue. If the surviving corporation is part of an affiliated group that filed a consolidated return in the immediately preceding taxable year, the surviving corporation shall be considered to be part of the consolidated return, provided that the surviving corporation would otherwise be part of the affiliated group under subsection (b).

(3) In the case of an acquisition of a corporation, the filing status of the acquiring group shall continue absent an election by the corporations to file separately or on a combined basis.

(4) In the case of a corporation that was previously part of a consolidated return but ceased to be part of a consolidated

return for any other reason, the election to be part of a consolidated return shall be considered to continue for all corporations.

Provided, however, that if a consolidated election is discontinued as a result of sale, merger, acquisition, or any other reason, nothing in this section shall be construed to prevent a new election to file a consolidated return under this section.

SECTION 40. IC 6-3-4-15.1, AS ADDED BY P.L.159-2021, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 15.1. For purposes of IC 6-3-4-12, IC 6-3-4-13, and IC 6-3-4-15, the department may:

(1) prescribe procedures by which a pass through entity remits tax on behalf of partners, shareholders, and beneficiaries who are considered residents for purposes of those sections in the same manner as tax is remitted for partners, shareholders, and beneficiaries who are considered nonresidents for purposes of those sections, provided that such procedures do not relieve filing requirements otherwise applicable to partners, shareholders, and beneficiaries who are considered residents for purposes of those sections;

(2) prescribe special procedures for persons or entities that are otherwise subject to withholding under those sections but who may have circumstances such that a standard tax computation may result in excess withholding;

(3) prescribe procedures for individuals and trusts that are residents for part of the taxable year and nonresidents for part of the taxable year; ~~and~~

(4) prescribe procedures by which an entity subject to those sections may request alternative withholding arrangements, provided that such arrangements do not jeopardize the tax otherwise due under IC 6-3 or IC 6-5.5; **and**

(5) prescribe procedures and guidelines by which a partner, shareholder, or beneficiary may elect to not be subject to withholding, in whole or in part, provided that:

(A) the election by the partner, shareholder, or beneficiary lists the conditions of the election and that the election is signed under penalty of perjury prior to the due date for the pass through entity to remit tax for the taxable year;

(B) the election states that partner, shareholder, or beneficiary has adequate funds to remit any tax due under this article or IC 6-5.5;

(C) the election provides any periods for which

withholding is not required or is reduced;

(D) the election provides that the partner, shareholder, or beneficiary agree to be subject to the jurisdiction of the state of Indiana and shall be liable to file any returns otherwise due under this article or IC 6-5.5, including any composite and withholding returns, and to remit any tax otherwise due, including any interest or penalties due on any tax due;

(E) the election provides that the election is subject to department approval and that the department may revoke the election at any time for any reason; and

(F) the election is attached to the returns of the pass through entity and of the partner, shareholder, or beneficiary required under this article or IC 6-5.5.

A failure by the pass through entity to obtain an election for a taxable year or to attach the election to the pass through entity's return for a taxable year shall be treated as if the election was not made for the taxable year.

SECTION 41. IC 6-3-4.5-1, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Adjustment year" means the partnership taxable year described in Section 6225(d)(2) of the Internal Revenue Code.

(2) "Administrative adjustment request" means an administrative adjustment request filed by a partnership under Section 6227 of the Internal Revenue Code.

(3) "Affected year" means any taxable year for a taxpayer that is affected by an adjustment under this chapter, regardless of whether the partnership has received an adjustment for that taxable year.

(4) "Audited partnership" means a partnership subject to a partnership level audit resulting in a federal adjustment.

(5) "Corporate partner" means a partner that is subject to the state adjusted gross income tax under IC 6-3-2-1(b) or the financial institutions tax under IC 6-5.5-2-1. In the case of a partner that is a corporation described in IC 6-3-2-2.8(2) that also is subject to tax under IC 6-3-2-1(b), the corporation is a corporate partner only to the extent that its income is subject to tax under IC 6-3-2-1(b).

(6) "Direct partner" means a partner that holds an interest directly in a partnership or pass through entity.

(7) "Exempt partner" means a partner that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(1) or the financial institutions tax under IC 6-5.5-2-7(4), except to the extent of unrelated business taxable income.

(8) "Federal adjustment" means a change to an item or amount determined under the Internal Revenue Code or a change to any other tax attribute that is used by a taxpayer to compute state adjusted gross income taxes or financial institutions tax owed, whether that change results from action by the Internal Revenue Service, including a partnership level audit, or the filing of an amended federal return, a federal refund claim, or an administrative adjustment request by the taxpayer. A federal adjustment is positive to the extent that it increases state adjusted gross income as determined under IC 6-3 or IC 6-5.5 and is negative to the extent that it decreases state adjusted gross income as determined under IC 6-3 or IC 6-5.5.

(9) "Federal adjustment reports" includes methods or forms required by the department for use by a taxpayer to report final federal adjustments for purposes of this chapter, including an amended Indiana tax return, information return, or uniform multistate report.

(10) "Federal partnership representative" means a person the partnership designates for the taxable year as the partnership's representative, or the person the Internal Revenue Service has appointed to act as the federal partnership representative, pursuant to Section 6223(a) of the Internal Revenue Code.

(11) "Final determination date" means the following:

(A) Except as provided in clause (B) or (C), if the federal adjustment arises from an Internal Revenue Service audit or other action by the Internal Revenue Service, the final determination date is the date on which the federal adjustment is a final determination under IC 6-3-4-6(d).

(B) For federal adjustments arising from an Internal Revenue Service audit or other action by the Internal Revenue Service, if the taxpayer filed as a member of a consolidated tax return filed under IC 6-3-4-14, a combined return filed under IC 6-3-2-2 or IC 6-5.5-5-1, or a return combined by the department under IC 6-3-2-2(p), the final determination date means the first date on which no related federal adjustments arising from that audit remain to be finally determined, as described in clause (A), for the entire group.

(C) If the federal adjustment results from filing an amended

federal return, a federal refund claim, or an administrative adjustment request, the final determination date means the day on which the amended return, refund claim, administrative adjustment request, or other similar report was filed.

(12) "Final federal adjustment" means a federal adjustment after the final determination date for that federal adjustment has passed.

(13) "Indirect partner" means a partner in a partnership or pass through entity that itself holds an interest directly, or through another indirect partner, in a partnership or pass through entity.

(14) "Internal Revenue Code" has the meaning set forth in IC 6-3-1-11.

(15) "Nonresident partner" has the meaning provided in IC 6-3-4-12(n).

(16) "Partner" means a person or entity that holds an interest directly or indirectly in a partnership or other pass through entity.

(17) "Partner level adjustments report" means a report provided by a partnership to its partners as a result of a department action with regard to the partnership. A partner level adjustments report does not include an amended statement provided by a partnership or other entity as a result of an adjustment reported by the partnership.

(18) "Partnership" has the meaning set forth in IC 6-3-1-19.

(19) "Partnership level audit" means an examination by the Internal Revenue Service at the partnership level under Sections 6221 through 6241 of the Internal Revenue Code, as enacted by the Bipartisan Budget Act of 2015, Public Law 114-74, which results in federal adjustments.

(20) "Partnership return" means a return required to be filed by a partnership pursuant to IC 6-3-4-10. In the case of a partnership that is required to withhold tax or file a composite return pursuant to IC 6-3-4-12 or IC 6-5.5-2-8, the term also includes the returns or schedules required for tax withholding or composite filing.

(21) "Pass through entity" means an entity defined in IC 6-3-1-35, other than a partnership, that is not subject to tax under IC 6-3.

(22) "Reallocation adjustment" means a federal adjustment resulting from a partnership level audit or an administrative adjustment request that changes the shares of one (1) or more items of partnership income, gain, loss, expense, or credit allocated to direct partners. A positive reallocation adjustment means the portion of a reallocation adjustment that would

increase federal adjusted gross income or federal taxable income for one (1) or more direct partners, and a negative reallocation adjustment means the portion of a reallocation adjustment that would decrease federal adjusted gross income or federal taxable income for one (1) or more direct partners, according to Section 6225 of the Internal Revenue Code and the regulations under that section.

(23) "Resident partner" means a partner that is not a nonresident partner.

(24) "Review year" means the taxable year of a partnership that is subject to a partnership level audit, **an administrative adjustment request, or an amended federal return** that results in federal adjustments, **regardless of whether any federal tax determined to be due is the responsibility of the partnership or partners.**

(25) "Statement" means a form or schedule prescribed by the department through which a **partnership or** pass through entity reports tax attributes to its owners or beneficiaries.

(26) "Tax attribute" means any item of income, deduction, credit, receipts for apportionment, or other amount or status that determines a partner's liability under IC 6-3, IC 6-3.6, or IC 6-5.5.

(27) "Taxable year" means, in the case of a partnership, the year or partial year for which a partnership files a return for state and federal purposes and, in the case of a partner, the taxable year in which the partner reports tax attributes from the partnership.

(28) "Taxpayer" has the meaning set forth in IC 6-3-1-15 (in the case of the adjusted gross income tax) and IC 6-5.5-1-17 (in the case of the financial institutions tax) and, unless the context clearly indicates otherwise, includes a partnership subject to a partnership level audit or a partnership that has made an administrative adjustment request, as well as a tiered partner of that partnership.

(29) "Tiered partner" means any partner that is a partnership or pass through entity.

(30) "Unrelated business taxable income" has the meaning set forth in Section 512 of the Internal Revenue Code.

SECTION 42. IC 6-3-4.5-2, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 2. The following apply for purposes of this chapter:

(1) If a taxpayer has not filed a return under IC 6-3 or IC 6-5.5 for

a taxable year, review year, or adjustment year, any reference to an amended return shall be a reference to an original return that includes any adjustments under this chapter.

(2) If a taxpayer is a **partnership or** pass through entity and has not issued a statement to its owners or beneficiaries, any reference to an amended statement shall be a reference to an original statement that includes any adjustment under this chapter.

(3) Any reference to tax shall include interest under IC 6-8.1-10-1 and penalties under IC 6-8.1.

(4) In the case of ~~an~~ **a final federal** adjustment for a review year that is required, ~~to be paid or otherwise reported for federal purposes in an adjustment year,~~ the adjustment shall be treated as:

(A) occurring in the review year, ~~if any tax, interest, or~~ **if and to the extent the adjustment:**

(i) results in an imputed underpayment for federal purposes to the partnership;

(ii) would result in an imputed underpayment for federal purposes to the partnership for the review year except that the adjustment is reported by the partners of the partnership in the manner provided under Section 6225(c)(2) of the Internal Revenue Code; or

(iii) results in an adjustment that is passed through to the review year partners for federal tax purposes, in the case of a partnership that makes a valid election pursuant to Section 6226 of the Internal Revenue Code; or ~~penalties are based on the review year for federal purposes; or~~

(B) occurring in **the adjustment year, to the extent a tax attribute is taken into account by the partnership as provided under Section 6225(a)(2) of the Internal Revenue Code and regardless of whether the item is a separately stated item for partners for federal income tax purposes.**

~~(i) the adjustment year, if the item is required to be reported for federal purposes on the federal tax return or in any other manner for the adjustment year; or~~

~~(ii) any other year, if the item is required to be reported for federal purposes on the federal tax return or in any other manner for such other year;~~

~~and is not described in clause (A).~~

(C) For purposes of clauses (A) and (B):

(i) a federal adjustment netted against another federal adjustment for purposes of determining an imputed

underpayment for federal purposes to the partnership, or for purposes of determining a partner's federal tax due with respect to a review year, is considered to occur in the review year;

(ii) a federal adjustment permitted to reduce the imputed underpayment for federal purposes for a partnership, or permitted for purposes of determining a partner's federal tax due or federal tax attributes with respect to a review year, and not otherwise described in item (i), is considered to occur in the review year; and

(iii) if an adjustment related to a review year affects a tax attribute of a partner such that the partner is required to change one (1) or more tax attributes for federal purposes for a year other than the review year, the partner shall treat the change in the tax attribute as occurring for Indiana purposes in the same year as the change is required for federal purposes.

(5) In the case of a state adjustment, the change shall be treated as occurring in the taxable year to which the state adjustment relates, unless the adjustment is treated as occurring in a different year as a result of subdivision (4).

(6) For taxable years beginning before January 1, 2017, any reference to IC 6-3.6 shall be construed to include IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7, prior to their repeal.

(7) With respect to partnerships and tiered partners:

(A) a partner that is a partnership that receives a report of partnership adjustments, receives a final federal adjustment, or files an amended return is considered a tier one (1) entity;

(B) a tiered partner that is a direct partner of a tier one (1) entity is considered a tier two (2) entity; and

(C) each tiered partner that is an owner, beneficiary, or partner of an entity that is a tier two (2) entity or higher shall be assigned a tier number that is one (1) tier higher and is considered an entity in that tier.

If, after application of this subdivision, a tiered partner is assigned to more than one (1) tier, the tiered partner shall be treated as being assigned to the highest numerical tier to which the tiered partner could be assigned.

(8) In the case of a partnership or tiered partner that is assigned a numerical tier, the applicable deadline for purposes of this chapter is:

(A) in the case of a tier one (1) entity receiving a report of

partnership adjustments, ninety (90) days from the date the report of partnership adjustments is final;

(B) in the case of a tier one (1) entity that has received a final federal ~~determination,~~ **adjustment,** one hundred eighty (180) days from the final determination date;

(C) in the case of a tier one (1) entity that has filed an amended return under this chapter other than an amended return resulting from a final federal ~~determination,~~ **adjustment,** zero (0) days; and

(D) in the case of a tiered partner that has received adjustments resulting from a tier one (1) partnership, a number of days equal to:

(i) the number of days described in clauses (A) through (C), as applicable; plus

(ii) thirty (30) multiplied by the tier number assigned to the tiered partner; minus

(iii) thirty (30).

However, if a tiered partner receives an adjustment reported on a partnership audit tracking report under Section 6226 of the Internal Revenue Code, the time period applicable for the tiered partner is the longer of the time period described in clause (D) or ninety (90) days from the date prescribed in Section 6226(b)(4)(B) of the Internal Revenue Code, and any other applicable deadlines under this subdivision or subdivision (9).

(9) Any reference to an election under section 9(c) of this chapter includes an election under sections 6(d) and 8(c) of this chapter.

~~(9)~~ **(10)** In the case of a direct partner or indirect partner that is not a tiered partner, the applicable deadline for purposes of this chapter is ninety (90) days after the applicable deadline that is determined for the partnership or tiered partner under subdivision (8). If a direct partner or indirect partner described in this subdivision is subject to more than one (1) applicable deadline, the applicable deadline is the latest date determined under this subdivision.

SECTION 43. IC 6-3-4.5-3, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 3. (a) If the department conducts an audit or investigation of a partnership, and the department determines that the partnership:

(1) did not correctly report any tax attribute for a taxable year; or

(2) did not correctly allocate any tax attribute for a taxable year;

the department may adjust or reallocate the tax attribute. If the department makes an adjustment or reallocation to one (1) or more tax attributes, the department shall provide a report of **proposed** partnership adjustments for the taxable year to the partnership.

(b) The ~~preliminary~~ report of **proposed** partnership adjustments shall list:

(1) the department's adjustments to tax attributes; and

(2) the allocation of the department's adjustments to all affected direct partners.

(c) If the ~~preliminary~~ report of **proposed** partnership adjustments for a taxable year results in either:

(1) a potential increase in tax to one (1) or more direct partners; or

(2) if the partnership reported tax attributes that would result in a refund of tax to one (1) or more partners, a reduction in that refund;

such report shall be treated as a proposed assessment under IC 6-8.1-5 to the partnership.

(d) If the result for partnership adjustments for a taxable year results in:

(1) no direct increase in tax to any direct partner; and

(2) a change in tax attributes to one (1) or more direct partners that would result in a refund in excess of any refund claimed;

the department shall issue a report of proposed partnership adjustments to the partnership reflecting such adjustments. Any refund arising from a report of proposed partnership adjustments shall be issued to the partners, subject to the partner claiming the refund and any statute of limitations on such refunds. In the case of partnership adjustments otherwise described in this subsection that result from a partnership adjustment described in subsection (c), all such partnership adjustments shall be treated as adjustments to which subsection (c) applies.

SECTION 44. IC 6-3-4.5-5, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 5. (a) For purposes of this chapter, a report of **proposed** partnership adjustments for a taxable year is considered a ~~final~~ report of **final** partnership adjustments upon the latest of:

(1) the last day a protest of the report of proposed partnership adjustments could have been filed by the partnership, if no protest

is filed;

(2) if a protest is filed, but no original tax appeal is filed pursuant to IC 6-8.1-5, the last day on which an original tax appeal could have been filed;

(3) if an original tax appeal has been filed, the last day on which no further appeal may be taken from a decision requested; or

(4) the date set in subsection (b).

(b) If, upon protest or appeal, an adjustment in a report of proposed partnership adjustments is determined to be incorrect, the department shall issue a report of final partnership adjustments consistent with the determination not more than one hundred eighty (180) days after the determination is otherwise determined to be final under subsection (a)(1) through (a)(3). If the report of final partnership adjustments is not issued within one hundred eighty (180) days, one (1) day for each day that the report of final partnership adjustments is issued after the one hundred eighty (180) day deadline is added to the deadline for which a partnership or tiered partner may act without being subject to assessment under section 18 of this chapter. In the case of a partnership with multiple tiers, this extension applies to each tier.

(c) Notwithstanding subsection (a), if the partnership and the department enter into a settlement agreement under IC 6-8.1-3-17 to resolve all matters related to the report of proposed partnership adjustments for a taxable year, the report of final partnership adjustments for that taxable year reflected in the agreement shall be issued final one hundred eighty (180) days after the date of the signature of the last party required to sign the agreement.

SECTION 45. IC 6-3-4.5-8, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 8. (a) If a partnership:

(1) determines that it did not correctly report any tax attribute for a taxable year;

(2) determines that it did not correctly allocate any tax attribute for a taxable year; or

(3) receives final federal adjustments as a result of a federal partnership audit or administrative adjustment request for a taxable year;

the partnership shall file an amended partnership return with the department and provide its direct partners with amended statements or a report in the form and manner prescribed by the department reflecting the correctly reported and allocated tax attributes for any applicable year.

(b) If the partnership files an amended partnership return under this section for a taxable year:

(1) the partnership shall remit any composite tax or withholding tax due under IC 6-3-4-12 or IC 6-5.5-2-8 on its direct partners resulting from the amended return at the time of filing;

(2) any tiered partners shall, not later than the applicable deadline for the tiered partner:

(A) file an amended return and, if applicable, remit any tax due under IC 6-3, IC 6-3.6, or IC 6-5.5, including any amounts due under IC 6-3-4-12, IC 6-3-4-13, IC 6-3-4-15, or IC 6-5.5-2-8; and

(B) report any adjustments to the tiered partner's owners or beneficiaries by providing amended statements to the tiered partner's owners or beneficiaries, or a report in the form and manner prescribed by the department; and

(3) any direct or indirect partners who are not tiered partners and who are required to file a return under IC 6-3 or IC 6-5.5 or who have filed a return under IC 6-3 or IC 6-5.5 shall file amended returns with the department for any taxable year affected by the amended partnership return and remit any tax due not later than the applicable deadline for the partner.

(c) Notwithstanding any other provision of this chapter or IC 6-3-4-11:

(1) A partnership that has filed an amended partnership return under this section, or a tiered partner that is a partnership and that is a partner of a partnership that has filed an amended partnership return under this section, may elect to pay any tax due arising from an amended partnership return.

(2) Such election must be filed with the department not later than the date on which the amended partnership return is filed with the department or, in the case of an election by a tiered partner that is a partnership, not later than the date by which the tiered partner is required to file an amended return under this section.

(3) The computation and payment of tax and other provisions governing this election shall be ~~made~~ in a manner consistent with an election under section 9(c) of this chapter.

(4) If a partnership has made an election under this chapter to report and remit all tax otherwise due at the partnership level for a taxable year, the partnership shall be considered to have made a timely election under this subsection with regard to any changes arising from an amended return under this section for that taxable

year.

(d) If the department determines that a partnership:

(1) did not correctly report any tax attributes for a taxable year; or

(2) did not correctly allocate any tax attributes for a taxable year;

the department may proceed against the partnership in the manner provided under sections 3 through 6 of this chapter.

SECTION 46. IC 6-3-4.5-9, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 9. (a) Partnerships and partners shall report final federal adjustments arising from a partnership level audit or an administrative adjustment request and make payments as required under this section.

(b) Final federal adjustments subject to the requirements of this section, except those subject to a properly made election under subsection (c), shall be reported as follows:

(1) Not later than the applicable deadline, the partnership shall:

(A) file an amended partnership return for the review year and any other taxable year affected by the final federal adjustments with the department as provided in section 8 of this chapter and provide any other information required by the department;

(B) notify each of its direct partners of their distributive share of the final federal adjustments as provided in section 8 of this chapter for all affected taxable years for which the partnership filed an amended partnership return by an amended statement or a report in the form and manner prescribed by the department; and

(C) file an amended composite return for direct partners and an amended withholding return for direct partners for the review year and any affected taxable years as otherwise required by IC 6-3-4-12 or IC 6-5.5-2-8 and pay any tax due for the taxable years.

(2) Each direct partner that is subject to tax under IC 6-3, IC 6-3.6, or IC 6-5.5 shall, on or before the applicable deadline:

(A) file an amended return as provided in section 8 of this chapter reporting their distributive share of the adjustments reported to them under subdivision (1)(B) for the taxable year in which affected taxable year attributes would be reported by the direct partner as provided in section 8 of this chapter; and

(B) pay any additional amount of tax due as if final federal partnership adjustments had been properly reported, less any credit for related amounts paid or withheld and remitted on

behalf of the direct partner.

(3) Each tiered partner shall treat any final federal partnership adjustments under this section in a manner consistent with the treatment of tiered partners under section 8 of this chapter.

(c) Except as provided in subsection (d), an audited partnership making an election under this subsection shall:

(1) not later than the applicable deadline, file an amended partnership return for the review year and for any other affected taxable year elected by the audited partnership, including information as required by the department, and notify the department that it is making the election under this subsection; and

(2) not later than ninety (90) days after the applicable deadline, pay an amount, determined as follows, in lieu of taxes owed by its direct or indirect partners:

(A) Exclude from final federal adjustments the distributive share of these adjustments reported to a direct exempt partner that is not unrelated business income.

(B) For the total distributive shares of the remaining final federal adjustments reported to direct corporate partners and to direct exempt partners, apportion and allocate such adjustments as provided under IC 6-3-2-2 or IC 6-3-2-2.2 (in the case of the adjusted gross income tax) or IC 6-5.5-4 (in the case of the financial institutions tax), and multiply the resulting amount by the tax rate for the taxable year under IC 6-3-2-1(b), IC 6-3-2-1.5, or IC 6-5.5-2-1, as applicable.

(C) For the total distributive shares of the remaining final federal adjustments reported to nonresident direct partners other than **tiered partners or** corporate partners, determine the amount of such adjustments which is Indiana source income under IC 6-3-2-2 or IC 6-3-2-2.2, and multiply the resulting amount by the tax rate under IC 6-3-2-1(a), and if applicable IC 6-3.6. If a partnership is unable to determine whether a nonresident is subject to tax under IC 6-3.6, or to determine in what county the nonresident is subject to tax under IC 6-3.6, tax shall also be imposed at the highest rate for which a county imposes a tax under IC 6-3.6 for the taxable year.

(D) For the total distributive shares of the remaining final federal adjustments reported to tiered partners:

(i) determine the amount of any adjustment that is of a type that it would be subject to sourcing in Indiana under

IC 6-3-2-2, IC 6-3-2-2.2, or IC 6-5.5-4, as applicable, and determine the portion of this amount that would be sourced to Indiana;

(ii) determine the amount of any adjustment that is of a type that it would not be subject to sourcing to Indiana by a nonresident partner under IC 6-3-2-2, IC 6-3-2-2.2, or IC 6-5.5-4, as applicable;

(iii) determine the portion of the amount determined under item (ii) that can be established, as prescribed by the department by rule under IC 4-22-2, to be properly allocable to nonresident indirect partners or other partners not subject to tax on the adjustments; and

(iv) multiply the sum of the amounts determined in items (i) and (ii) reduced by the amount determined in item (iii) by the highest combined rate for the ~~review~~ **taxable** year under IC 6-3-2-1(a) and IC 6-3.6 for any county, the rate under IC 6-3-2-1(b), or the rate under 6-5.5-2-1 for the taxable year, whichever is highest.

(E) For the total distributive shares of the remaining final federal adjustments reported to resident individual, estate, or trust direct partners, multiply that amount by the tax rate under IC 6-3-2-1(a) and IC 6-3.6. If a partnership does not reasonably ascertain the county of residence for an individual direct partner, the rate under IC 6-3.6 for that partner shall be treated as the highest rate imposed in any county under IC 6-3.6 for the taxable year.

(F) Add an amount equal to any credit reduction under IC 6-3-3, IC 6-3.1, and IC 6-5.5 attributable as a result of final federal adjustments.

~~(F)~~ **(G)** Add the amounts determined in clauses (B), (C), (D)(iv), ~~and~~ (E), **and (F).** For purposes of determining interest and penalties, the due date of payment shall be the due date of the partnership's return under IC 6-3-4-10 for the taxable year, determined without regard to any extensions.

~~If a partnership has made an election under this chapter to report and remit all tax otherwise due at the partnership level for a taxable year, the partnership shall be considered to have made a timely election under this subsection with regard to any changes arising from an amended return under this section for that taxable year.~~

(d) Final federal adjustments subject to an election under subsection (c) shall not include:

(1) the distributive share of final federal adjustments that would

constitute income derived from a partnership to any direct or indirect partner that is a corporation taxable under IC 6-3-2-1(b), IC 6-3-2-1.5, or IC 6-5.5-2-1 and is considered unitary to the partnership;

(2) any final federal adjustments resulting from an administrative adjustment request; or

(3) any other circumstances that the department determines would result in avoidance or evasion of any tax otherwise due from one (1) or more partners under IC 6-3 or IC 6-5.5.

(e) Notwithstanding IC 6-3-4-11, an audited partnership not otherwise subject to any reporting or payment obligations to Indiana that makes an election under subsection (c) consents to be subject to Indiana law related to reporting, assessment, payment, and collection of Indiana tax calculated under the election.

SECTION 47. IC 6-3-4.5-14, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 14. For purposes of this chapter and IC 6-8.1-5-2, an assessment may not be issued against a direct or indirect partner or partnership with regard to changes related to a ~~proposed or~~ report of final partnership adjustments if the report of proposed partnership adjustments is issued by the department to a partnership after the latest of:

(1) three (3) years after the due date of the partnership's return, including any valid extension granted under IC 6-8.1-6-1;

(2) three (3) years after the date the partnership's return is filed with the department;

(3) in the case of the partnership's underreporting of its adjusted gross income by more than twenty-five percent (25%), the periods provided in subdivisions (1) and (2) shall be six (6) years;

(4) if the partnership fails to file a return required under IC 6-3-4-10, files a fraudulent return, or files a substantially blank return, no time limit;

(5) in the case of a report of proposed partnership adjustments arising from final federal adjustments:

(A) one hundred eighty (180) days after the date on which the department receives the final federal adjustments from the partnership in the manner prescribed by the department; or

(B) December 31, 2021;

whichever is later; or

(6) in the case of a report of proposed partnership adjustments issued to a tiered partner that is a partnership as a direct or

indirect result of another partnership's report of final partnership adjustments, final federal adjustments, or an amended return, one hundred eighty (180) days after the applicable deadline for the tiered partner or the date otherwise determined under this section for the partnership, whichever is later.

SECTION 48. IC 6-3-4.5-15, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 15. (a) If the department receives the partner level adjustments report, amended statement, or similar report required to be provided under section 6 of this chapter and the department determines that a taxpayer has not reported the correct amount of tax to the department for a taxable year of the taxpayer affected by the partner level adjustments report, the department shall issue a proposed assessment to the taxpayer not later than:

(1) one hundred eighty (180) days after the department receives the partner level adjustments report or amended statement arising from the partner level adjustments report from the entity required to provide the report or statement to the department;

(2) one hundred eighty (180) days after the applicable deadline for the taxpayer; or

(3) the period during which the taxpayer could otherwise be issued a proposed assessment under IC 6-8.1-5-2;

whichever is latest.

(b) If a taxpayer receives multiple partner level adjustments reports or amended statements relating to the same ~~final~~ report of **final** partnership adjustments, the last day for issuing a proposed assessment to the taxpayer is the latest time for which the department could issue an assessment for any partner level adjustments report or amended statement arising from the report of partnership adjustments as determined under this section.

(c) The taxpayer may protest or appeal the proposed assessment or refund denial in the same manner as prescribed in IC 6-8.1-5 or IC 6-8.1-9-1, whichever is applicable. However, any adjustments made pursuant to a ~~final~~ report of **final** partnership adjustments shall be considered final as to the taxpayer.

SECTION 49. IC 6-3-4.5-17, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 17. **(a)** If the department determines that a taxpayer reported a tax attribute in an inconsistent manner with the partnership's reporting of the tax attribute and the taxpayer does not disclose the inconsistent reporting in a manner

prescribed by the department, the department may issue a proposed assessment against the taxpayer as a result of the inconsistent reporting not later than:

(1) three (3) years after the due date of the partnership's return, including any valid extensions granted under IC 6-8.1-6-1;

(2) three (3) years after the partnership's return is filed with the department;

(3) in the case of the partnership's underreporting of its adjusted gross income by more than twenty-five percent (25%), the periods provided in subdivisions (1) and (2) shall be six (6) years;

(4) if the partnership fails to file a return required under IC 6-3-4-10, files a fraudulent return, or files a substantially blank return, no time limit; or

(5) the latest date for which the taxpayer could be assessed under IC 6-8.1-5-2;

whichever date is latest.

(b) For purposes of this section:

(1) if a partnership is required to file a return under IC 6-3-4-10 and fails to file such return or fails to provide the partner with a statement setting forth the tax attributes from the partnership, the taxpayer will be considered to have reported all tax attributes from the partnership in an inconsistent manner with the partnership's reporting of the tax attributes;

(2) in the case of a partner who owns a direct or indirect interest in a partnership that has made a valid election under Section 6221(b) of the Internal Revenue Code and has received a final federal adjustment with regard to an item of the partnership:

(A) the partner shall be considered to have reported items consistently with the partnership only if the partner properly reports the federal adjustment in a manner consistent with the federal treatment of such adjustment; and

(B) for purposes of this chapter, IC 6-8.1-5-2, and IC 6-8.1-9-1, the federal adjustment shall be considered a final federal adjustment with regard to such partner; and

(3) for purposes of any protest or appeal with regard to a proposed assessment under this section, any reporting by the partnership shall be considered conclusive with regard to the direct or indirect partners of the partnership, provided that the reporting by the partnership is determined to be neither fraudulent nor in bad faith.

SECTION 50. IC 6-3-4.5-18, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 18. (a) If a partnership or tiered partner is required to issue a report, issue an amended statement, or issue other information to a partner, owner, or beneficiary under this chapter, and does not issue such report, statement, or information within the period such issuance is required under this chapter, the partnership or tiered partner shall be liable for any tax that otherwise may be due from the partner, owner, or beneficiary, notwithstanding any other provision in IC 6-3 or IC 6-5.5. The tax rate under this section shall be computed at the highest rate for the taxable year under:

(1) IC 6-3-2-1(a), plus the highest rate imposed in any county under IC 6-3.6;

(2) IC 6-3-2-1(b); or

(3) IC 6-5.5-2-1;

unless the partnership or tiered partner can establish that a lower rate should apply, the partnership or tiered partner has made an election to be subject to tax under sections 6, 8, or 9 of this chapter, or to the extent the partnership, tiered partner, or the department can determine that the tax was otherwise properly reported and remitted. Such tax shall be considered to be due on the due date of the partnership's or tiered partner's return for the taxable year, determined without regard to extensions.

(b) If a partnership or tiered partner issues the report, amended statement, or other information:

(1) to an address that the partnership or tiered partner knows or reasonably should know is incorrect; or

(2) if the report, amended statement, or other information not described in subdivision (1) is returned and the partnership or tiered partner:

(A) fails to take reasonable steps to determine a proper address for reissuance within thirty (30) days after the report, amended statement, or other information is returned; or

(B) takes such steps and fails to reissue the report, **amended statement, or other information** to a proper address within thirty (30) days after the report, amended statement, or other information is returned;

such report, amended statement, or other information shall be considered to have not been issued for purposes of this section.

(c) The department may issue a proposed assessment under this section not later than three (3) years after the department receives a

return or amended return from the partnership or tiered partner for which the partnership or tiered partner fails to issue reports, amended statements, or other information, **or from the date a partnership is required to issue partner level adjustments reports to its partners.**

(d) If:

(1) a direct or indirect partner files and remits the tax otherwise due under this section, the assessment to the partnership **or tiered partner** under this section shall be reduced by the portion of the tax attributable to the direct or indirect partner; and

(2) a partnership or tiered partner files and remits the tax under this section, such tax shall be treated as payment of tax to the direct or indirect partners. However, in no event shall the direct or indirect partners be permitted a refund of tax paid by a partnership or tiered partner under this section unless otherwise permitted under this chapter or IC 6-8.1-9-1.

(e) Nothing in this section shall be construed to relieve a partnership or tiered partner from any duty to issue a report, amended statement, or other information otherwise required under this chapter or under any other provision of IC 6-3 or IC 6-5.5. If a partnership or tiered partner issues a report, amended statement, or other information provided under this chapter after the date otherwise required for issuance, the department may grant relief to any tiered partner, direct partner, or indirect partner affected by the late issuance, including extension of applicable deadlines.

SECTION 51. IC 6-3-4.5-20, AS ADDED BY P.L.159-2021, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: Sec. 20. (a) Notwithstanding any other provision of this chapter or IC 6-8.1, if, before the end of the time period within which the department may take an action under this chapter:

(1) in the case of a partnership or tiered partner that has more than ten thousand (10,000) direct owners, the department shall extend the time period one (1) time by sixty (60) days upon written request of the partnership or tiered partner, regardless of whether the department signs the extension;

(2) in the case of an action required to be taken with regard to a partnership under this chapter, the department and the partnership agree to extend that period, the period may be extended according to the terms of a written agreement signed by both the department and the partnership; and

(3) in the case of an action required to be taken with regard to a tiered partner, direct partner, or indirect partner under this

chapter, the department and the tiered partner, direct partner, or indirect partner, as applicable, agree to extend that period, the period may be extended according to the terms of a written agreement signed by both the department and the tiered partner, direct partner, or indirect partner, as appropriate.

(b) If an extension is entered into under subsection (a), the request for automatic extension or agreement must contain:

(1) the date to which the extension is made; and

(2) a statement that the person or entity agrees to preserve the person's or entity's records until the extension terminates.

(c) If an extension is entered into under subsection (a), the applicable deadlines and statute of limitations for any actions arising from an action required by a partnership, tiered partner, direct partner, or indirect partner shall be extended in a manner consistent with the extension under subsection ~~(a)(1) or (a)(2).~~ **(a).**

(d) The department and a partnership, tiered partner, direct partner, or indirect partner may enter into more than one (1) extension agreement under this section.

(e) The department may, by rules adopted under IC 4-22-2 or by guidelines published in the Indiana Register, provide for automatic extensions or relief from liability and reporting for certain situations. The following apply:

(1) In the case of an automatic extension, the extension shall be considered signed by both the department and the partnership, tiered partner, direct partner, or indirect partner before the time the department may take an action under this section. In addition, the partnership, tiered partner, direct partner, or indirect partner shall preserve the person's or entity's records until the automatic extension terminates.

(2) In the case of relief from liability, such relief shall be granted only under the situations specifically granted by the rules or guidelines.

(3) The department may adopt rules or guidelines to establish a de minimis amount upon which a taxpayer shall not be required to comply with specified provisions of this chapter.

SECTION 52. IC 6-3.1-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

Chapter 35. Affordable and Workforce Housing Tax Credit

Sec. 1. The state tax credit provided by this chapter applies only to taxable years beginning on or after January 1, 2024. However,

beginning July 1, 2023:

(1) eligible applicants may submit applications to the authority for state tax credits for qualified projects; and

(2) the authority may evaluate applications and issue eligibility statements;

under section 7 of this chapter.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Authority" refers to the Indiana housing and community development authority created by IC 5-20-1-3.

(2) "Eligibility statement" refers to the statement issued by the authority to an eligible applicant under section 7 of this chapter.

(3) "Eligible applicant" means a taxpayer who is:

(A) an owner of a qualified project; or

(B) a shareholder, member, or partner of an owner of a qualified project that is designated by the owner in the manner prescribed by the authority.

(4) "Federal tax credit" means a federal low income housing credit under Section 42 of the Internal Revenue Code that is a thirty percent (30%) present value credit. The term does not include a seventy percent (70%) present value credit under Section 42 of the Internal Revenue Code for certain new buildings.

(5) "Holder of a state tax credit" for a taxable year in a qualified project's state tax credit period means:

(A) the eligible applicant for the qualified project;

(B) a shareholder, member, or partner of the owner of the qualified project; or

(C) a successor, assignee, or transferee of the eligible applicant under section 6 of this chapter;

that has a right to claim all or part of the tax credit for the taxable year.

(6) "Qualified basis" of a qualified project has the meaning set forth in Section 42 of the Internal Revenue Code.

(7) "Qualified project" means a qualified low income building (as defined in Section 42(c) of the Internal Revenue Code):

(A) that is located in Indiana;

(B) for which a federal affordable housing tax credit was awarded using a thirty percent (30%) present value of the qualified basis of the building; and

(C) that is financed by tax exempt bonds that are subject

to the private activity bond volume cap (under Section 42(h)(4) of the Internal Revenue Code).

(8) "State tax credit" means the tax credit provided by this chapter.

(9) "State tax credit period" for a qualified project means the period of five (5) taxable years beginning with the taxable year in which any amount of the federal tax credit for the qualified project is first claimed by a taxpayer.

(10) "State tax liability" means a taxpayer's total tax liability incurred under:

(A) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(B) IC 6-5.5 (the financial institutions tax);

(C) IC 27-1-18-2 (the insurance premiums tax); and

(D) IC 27-1-20-12 (the insurance premiums retaliatory tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

(11) "Tax credit application" means an application submitted by an eligible applicant to the authority under section 7 of this chapter.

(12) "Taxpayer" means an individual, a corporation, an S corporation, a partnership, a limited partnership, a limited liability partnership, a limited liability company, or a joint venture.

Sec. 3. (a) Except as otherwise provided in this chapter, for each taxable year in the state tax credit period of a qualified project, the holder of a state tax credit awarded under this chapter for the qualified project is entitled to a credit against the holder's state tax liability for the taxable year in an amount equal to:

(1) the percentage of the state tax credit for the taxable year that the holder retains at the end of the last day of the taxable year, as determined under subsection (c); multiplied by

(2) the amount of the state tax credit for the qualified project for the taxable year, as determined under subsections (d) and (e).

(b) At the time an eligibility statement is issued to an eligible applicant, the eligible applicant is considered to have acquired one hundred percent (100%) of the state tax credit for each taxable year in the state tax credit period of the qualified project.

(c) The percentage of a state tax credit for a taxable year that a

holder retains at the end of the last day of a taxable year under subsection (a)(1) is equal to:

(1) the sum of the percentages of the state tax credit for the taxable year that the holder acquires before the end of the last day of the taxable year; minus

(2) the sum of the percentages of the state tax credit for the taxable year that the holder transfers before the end of the last day of the taxable year.

(d) The amount of a state tax credit for a taxable year in the state tax credit period of a qualified project under subsection (a)(2) is equal to:

(1) a factor equal to:

(A) one (1); divided by

(B) the number of taxable years in the state tax credit period for the qualified project; multiplied by

(2) the lesser of:

(A) the amount of the total federal credit allowed for the qualified project, as shown on Internal Revenue Service Form 8609, Line 1(b) for the qualified project; or

(B) the maximum aggregate amount of state tax credits awarded for the qualified project, as stated in the eligibility statement issued under section 7 of this chapter.

(e) The department shall determine the amounts of the state tax credits specified under subsection (d) for each taxable year in the state tax credit period of each qualified project as those amounts are able to be computed and promptly publish the amounts on the department's Internet web site to assist holders in claiming the state tax credit provided by this chapter.

Sec. 4. (a) If a holder's state tax credit exceeds the holder's state tax liability for the taxable year, the excess may be carried forward for up to nine (9) consecutive taxable years immediately following the first taxable year of the holder's state tax credit period and may be used to reduce the holder's state tax liability during those taxable years. Only the unused part of a state tax credit may be carried forward and used in a subsequent taxable year.

(b) The holder of a state tax credit is not entitled to a carryback or refund of any unused credit.

Sec. 5. (a) If a pass through entity is entitled to a state tax credit but does not have state tax liability against which the state tax credit may be applied, the pass through entity may allocate or otherwise transfer the state tax credit among the shareholders, members, or partners of the pass through entity in any manner

agreed to by the shareholders, members, or partners, regardless of how the federal tax credit for the qualified project is allocated or transferred or whether the allocation or transfer of the state tax credit under the agreement has substantial economic effect under Section 704(b) of the Internal Revenue Code. A pass through entity or its designee shall certify to the department the amount of the state tax credit that is allocated or transferred to each shareholder, member, or partner of the pass through entity for the taxable year, if any, in the manner prescribed by the department.

(b) The credit provided under subsection (a) is in addition to a state tax credit to which a shareholder, member, or partner of a pass through entity is otherwise entitled under this chapter.

Sec. 6. (a) A holder of a state tax credit may transfer, sell, or assign all or part of a state tax credit for a taxable year in the state tax credit period of the associated qualified project if the holder of the state tax credit complies with this section.

(b) A holder shall furnish the following to the transferee, purchaser, or assignee:

(1) A copy of the eligibility statement for the qualified project.

(2) A declaration, on a form prescribed by the department, that states:

(A) the percentage of the state tax credit for the taxable year that was held by the transferor before the transfer;

(B) the percentage of the state tax credit for the taxable year that will be held by the transferor after the transfer;

(C) the percentage of the state tax credit for the taxable year that will be held by the transferee after the transfer; and

(D) any other information required by the department.

The percentage specified in clause (A) must equal the sum of the percentages specified in clauses (B) and (C).

(3) Copies of other documents in the possession of the transferor that relate to the transferor's right to claim the state tax credit provided by this chapter, if any.

(c) A transferor of all or part of a state tax credit for a taxable year under this section shall report the transaction to the department in the manner prescribed by the department.

Sec. 7. (a) An eligible applicant who wishes to obtain the state tax credit provided by this chapter for a qualified project must submit an application to the authority after June 30, 2023, and before January 1, 2028, in the manner prescribed by the authority.

(b) An application submitted under subsection (a) must include:

(1) the name and address of the qualified project;

(2) the name and address of the owner of the qualified project; and

(3) any other information required by the authority.

(c) Subject to section 8 of this chapter, the authority may approve a tax credit application if:

(1) the applicant is an eligible applicant;

(2) the project identified in the application is a qualified project; and

(3) the tax credit application meets any other requirements for receipt of state tax credits established by the authority.

(d) If the authority approves a tax credit application for a qualified project, for each taxable year in the tax credit period the authority may approve a maximum amount of state tax credits. The maximum aggregate amount of state tax credits awarded by the authority for the state tax credit period of a qualified project is an amount that is the product of:

(1) a percentage determined by the authority, which must be:

(A) greater than or equal to forty percent (40%); and

(B) less than or equal to one hundred percent (100%); multiplied by

(2) the anticipated aggregate federal tax credits specified in a letter issued by the authority for the qualified project under Section 42(m) of the Internal Revenue Code.

(e) If the authority approves a tax credit application for a qualified project, the authority shall issue an eligibility statement to the eligible applicant. The eligibility statement must specify at least the following:

(1) A unique identification code for the eligibility statement, determined by the authority.

(2) The name of the qualified project.

(3) For each taxable year in the state tax credit period of the qualified project, the maximum amount of state tax credit that the authority is awarding to the eligible applicant for the qualified project.

(f) The authority shall transmit a copy of each eligibility statement issued under subsection (e) to the department.

Sec. 8. (a) For each state fiscal year beginning after June 30, 2023, and before July 1, 2028, the aggregate amount of state tax credits awarded by the authority under this chapter may not exceed thirty million dollars ($30,000,000). For purposes of

calculating the aggregate state tax credit limit for a state fiscal year, the amounts awarded by the authority are considered to be awarded in the year the award is made to the state tax credit recipient by the authority, notwithstanding the fact that the awarded state tax credit is to be claimed over the state tax credit period.

(b) To the extent that the tax credit applications requesting state tax credits exceed the amount of available state tax credits in a year, or the authority reasonably anticipates that the requests will exceed the state fiscal year limitation established in subsection (a), the authority may allocate the state tax credits in a manner that furthers the mission and purpose of the authority and otherwise promotes the establishment of qualified projects.

Sec. 9. To receive the state tax credit provided by this chapter, a holder of a state tax credit must claim the credit on the holder's annual state tax return in the manner prescribed by the department. The holder of the state tax credit shall submit to the department all information that the department determines is necessary for the calculation of the state tax credit.

Sec. 10. The department or the authority, or both, may adopt rules to implement this chapter.

Sec. 11. This chapter is subject to review under IC 2-5-3.2-1 to evaluate the effectiveness of the state tax credit one (1) year prior to its expiration under section 12 of this chapter.

Sec. 12. This chapter expires July 1, 2028.

SECTION 53. IC 6-3.6-6-2.7, AS AMENDED BY P.L.257-2019, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2.7. (a) A county fiscal body may adopt an ordinance to impose a tax rate for correctional facilities and rehabilitation facilities in the county. The tax rate must be in increments of one-hundredth of one percent (0.01%) and may not exceed two-tenths of one percent (0.2%). The tax rate may not be in effect for more than:

(1) twenty-two (22) years, **in the case of a tax rate imposed in an ordinance adopted before January 1, 2019; or**

(2) twenty-five (25) years, in the case of a tax rate imposed in an ordinance adopted on or after January 1, 2019.

If an ordinance is adopted after June 30, 2019, to impose a tax rate under this section, not more than twenty percent (20%) of the revenue from the tax rate under this section may be used for operating expenses for correctional facilities and rehabilitation facilities in the county.

(b) The revenue generated by a tax rate imposed under this section

must be distributed directly to the county before the remainder of the expenditure rate revenue is distributed. The revenue shall be maintained in a separate dedicated county fund and used by the county only for paying for correctional facilities and rehabilitation facilities in the county.

SECTION 54. IC 6-3.6-9-4, AS AMENDED BY P.L.165-2021, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. Revenue derived from the imposition of the tax shall, in the manner prescribed by this chapter, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of tax revenue that the budget agency determines has been:

(1) ~~received from~~ **attributed to** that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return **filed by or for a county taxpayer and** processed by the department in the state fiscal year ending before July 1, or for a federal income tax deadline set after July 1, a date set by the department for a period of not more than sixty (60) days beyond the federal deadline, of the calendar year in which the determination is made.

~~as adjusted for refunds of tax made in the state fiscal year.~~

SECTION 55. IC 6-5.5-1-2, AS AMENDED BY P.L.199-2021, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) 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 levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 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 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding the sum of:

(i) twenty-five thousand dollars ($25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in item (ii); and

(ii) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017, the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code, and the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service. The

amount of deductions allowable for an item of property under this item may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(I) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(J) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code for active financing income under Subpart F, Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(K) Add an amount equal to the remainder of:

(i) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(ii) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method

changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation.

(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding the sum of:

(i) twenty-five thousand dollars ($25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in item (ii); and

(ii) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017, the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code, and the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service. The amount of deductions allowable for an item of property under this item may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017.

(G) Income that is:

(i) exempt from taxation under IC 6-3-2-21.7; and

(ii) included in the taxpayer's taxable income under the Internal Revenue Code.

(H) The amount that would have been excluded from gross

income but for the enactment of Section 118(b)(2) of the Internal Revenue Code for taxable years ending after December 22, 2017.

(I) For taxable years ending after March 12, 2020, an amount equal to the deduction disallowed pursuant to:

(i) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(ii) Section 3134(e) of the Internal Revenue Code.

(J) Subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

(3) Make the following adjustments:

(A) Subtract the amount of any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code.

(B) Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year.

For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income adjusted as follows:

(1) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(2) Make the following adjustments:

(A) Subtract the amount of any interest expense paid or accrued in the current taxable year but not deducted as a result of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code.

(B) Add any interest expense paid or accrued in a previous taxable year but allowed as a deduction under Section 163 of the Internal Revenue Code in the current taxable year.

For purposes of this subdivision, an interest expense is considered paid or accrued only in the first taxable year the deduction would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(3) Multiply the amount determined after the adjustments in subdivisions (1) and (2) by the quotient of:

(A) 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

(B) 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.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, 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 to be made to itself and issues in exchange for the payment:

(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) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except

dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

(e) If a partner is required to include an item of income, a deduction, or another tax attribute in the partner's adjusted gross income tax return pursuant to IC 6-3-4.5, such item shall be considered to be includible in the partner's federal adjusted gross income or federal taxable income, regardless of whether such item is actually required to be reported by the partner for federal income tax purposes. For purposes of this subsection:

(1) items for which a valid election is made under IC 6-3-4.5-6, IC 6-3-4.5-8, or IC 6-3-4.5-9 shall not be required to be included in the partner's adjusted gross income or taxable income; and

(2) items for which the partnership did not make an election under IC 6-3-4.5-6, IC 6-3-4.5-8, or IC 6-3-4.5-9, but for which the partnership is required to remit tax pursuant to IC 6-3-4.5-18, shall be included in the partner's adjusted gross income or taxable income.

SECTION 56. IC 6-5.5-6-2, AS AMENDED BY P.L.239-2017, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: Sec. 2. **(a)** Annual returns required by this chapter shall be filed with the department on or before ~~the later of the following:~~

~~(1)~~ the fifteenth day of the ~~fourth~~ **fifth** month following the close of the taxpayer's taxable year.

~~(2) For a taxpayer whose federal tax return is due on or after the date set forth in subdivision (1), as determined without regard to any extensions, weekends, or holidays, the fifteenth day of the month following the due date of the federal tax return.~~

However, if a taxpayer receives an extension of time from the United States Internal Revenue Service for the filing of its federal income tax return for a taxable year, the department shall grant ~~a similar~~ **an** extension of time to the taxpayer for the filing of a return required by this chapter for that taxable year **to the date otherwise provided by IC 6-8.1-6-1.** In addition, the department may grant an additional reasonable extension of time for filing a return required by this chapter **as provided by IC 6-8.1-6-1.**

(b) If the due date for a federal income tax return is extended by the Internal Revenue Service to a date that is later than the date specified in subsection (a), the department may extend the due date of a return required to be made under this chapter to reflect the due date permitted for the federal income tax return.

(c) If the due date for a federal income tax return in the Internal Revenue Code, as determined without regard to any extensions, Saturdays, Sundays, or holidays, is later than the date provided in subsection (a), the due date for the return made pursuant to this section shall be the later of the due date for the federal income tax return or the due date provided under this section.

SECTION 57. IC 6-7-1-2, AS AMENDED BY P.L.191-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. Unless the context requires otherwise, "cigarette" shall mean and include any roll for smoking **or heating** made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material **not containing tobacco.** Provided the definition in this section shall not be construed to include cigars **(as defined in IC 6-7-2-0.3).** Excepting where context clearly shows that cigarettes alone are intended, the term "cigarettes" shall mean and include cigarettes upon which a tax is imposed by sections 12 and 13 of this chapter.

SECTION 58. IC 6-7-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 15. (a) The department is the official agent of the state for the administration and enforcement of this chapter. A sufficient sum to pay salaries and expenses is appropriated to the department out of the monies received by virtue of this chapter.

(b) The department may issue registration certificates, upon the terms and conditions provided in this chapter, and may revoke or suspend the same upon the violation of this chapter **or a violation of IC 24-3-5.4-17** by the holder of such a certificate.

(c) The department may apply for membership in the National Tobacco Tax Association.

(d) The department may design and have printed or manufactured stamps of sizes and denominations to be affixed to each individual package. The stamps shall be firmly affixed on each individual package in such a manner that the stamps can not be removed without being mutilated or destroyed; however, the department may by regulation designate some other manner for ~~cancelation~~ **cancellation** of stamps. In addition to the stamps, the department may by rules and regulations authorize distributors to use metered stamping machines or other devices which will imprint distinctive indicia evidencing the payment of the tax upon each individual package. The machines shall be constructed in such a manner as will accurately record or meter the

number of impressions or tax stamps made. The tax meter machines or other devices shall be kept available at all reasonable times for inspection by the department, and the machines shall be maintained in proper operating condition. A person who knowingly tampers with the printing or recording mechanism of such a machine commits a Class B misdemeanor.

SECTION 59. IC 6-7-1-38 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 38. A retailer who purchases cigarettes from a distributor who has not obtained a registration certificate required under section 16 of this chapter or whose registration certificate has been suspended or revoked by the department is subject to a penalty not to exceed the greater of:**

(1) one hundred percent (100%) of the retail value of the cigarettes described in this section; or

(2) five thousand dollars ($5,000);

on each such purchase.

SECTION 60. IC 6-7-2-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 0.1. As used in this chapter:**

(1) "actual cost" means the price paid by a remote seller for an individual taxable product; and

(2) "actual cost list" means an annual list (prepared, maintained, and certified by each remote seller) of the cost of each individual taxable product. For purposes of this subdivision, the actual cost for each individual product in a cost list shall be the average of the actual price paid by a remote seller for the individual product over the twelve (12) calendar months prior to January 1 of the year in which the sale by the remote seller occurs.

SECTION 61. IC 6-7-2-0.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 0.2. As used in this chapter, "alternative nicotine product" means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any means. The term does not include cigarettes (as defined in IC 6-7-1-2), tobacco products, closed system cartridges, consumable material, open system containers (as defined in IC 6-7-4-5), vapor products (as defined in IC 6-7-4-8), or any product regulated as a drug or device by the United States Food and Drug Administration under 21 U.S.C. 351 to 360fff-7.**

SECTION 62. IC 6-7-2-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 0.3. As used in this chapter, "cigar" means a tobacco product that is a roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco that is a cigarette within the meaning of IC 6-7-1-2). The term includes tobacco products commonly known as "little cigars", which are cigars with an integrated cellulose acetate filter and that are wrapped in a substance containing tobacco.**

SECTION 63. IC 6-7-2-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 3.1. As used in this chapter, "pipe tobacco" means a tobacco product that, because of its appearance, type, packaging, or labeling, is suitable and likely to be smoked in a pipe.**

SECTION 64. IC 6-7-2-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 3.3. As used in this chapter, "remote seller" means a retail dealer that meets one (1) or both of the economic thresholds under IC 6-2.5-2-1(d) and sells taxable products to an ultimate consumer under either of the following circumstances:**

(1) By means of a telephone or other method of voice transmission, the mail, or the Internet or other electronic service.

(2) When the taxable products are delivered to the consumer by common carrier, private delivery service, or other method of delivery.

SECTION 65. IC 6-7-2-3.5, AS ADDED BY P.L.165-2021, SECTION 104, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3.5. As used in this chapter, "taxable product" means tobacco products, **alternative nicotine products,** or closed system cartridges, or ~~both.~~ **any combination thereof.**

SECTION 66. IC 6-7-2-4, AS AMENDED BY P.L.165-2021, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. As used in this chapter, "retail dealer" means a person engaged in the business of selling taxable products to ultimate consumers, **including a retail merchant that meets one (1) or both of the economic thresholds under IC 6-2.5-2-1(d).**

SECTION 67. IC 6-7-2-5, AS AMENDED BY P.L.172-2011, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. **(a)** As used in this chapter, "tobacco product"

means

~~(1) any product made from tobacco, other than a cigarette (as defined in IC 6-7-1-2), that is made for smoking, chewing, or both; or~~

~~(2) snuff, including moist snuff.~~

any product containing, made, or derived from tobacco that is intended for human consumption, or is likely to be consumed, whether chewed, smoked, heated, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product.

(b) The term includes, but is not limited to:

(1) cigars;

(2) pipe tobacco;

(3) chewing tobacco;

(4) moist snuff;

(5) snus; and

(6) other similar kinds and forms of tobacco.

(c) The term does not include:

(1) cigarettes (as defined in IC 6-7-1-2);

(2) closed system cartridges;

(3) consumable material;

(4) open system containers (as defined in IC 6-7-4-5);

(5) vapor products (as defined in IC 6-7-4-8);

(6) alternative nicotine products; or

(7) any drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration and defined in the Federal Food, Drug, and Cosmetic Act.

SECTION 68. IC 6-7-2-7, AS AMENDED BY P.L.165-2021, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. (a) A tax is imposed on the distribution of tobacco products in Indiana at the rate of:

(1) twenty-four percent (24%) of the wholesale price of tobacco products other than moist snuff; or

(2) for moist snuff, forty cents ($0.40) per ounce, and a proportionate tax at the same rate on all fractional parts of an ounce. If the tax calculated for a fractional part of an ounce carried to the third decimal place results in the numeral in the third decimal place being greater than four (4), the amount of the tax shall be rounded to the next additional cent.

(b) A tax is imposed on the distribution of alternative nicotine products in Indiana at a rate of forty cents ($0.40) per ounce, and

a proportionate tax at the same rate on all fractional parts of an ounce, calculated based upon the product weight as listed by the manufacturer. If the tax calculated for a fractional part of an ounce carried to the third decimal place being greater than four (4), the amount of the tax shall be rounded to the next additional cent.

~~(b)~~ **(c)** The distributor of the tobacco products **or alternative nicotine products** ~~including a person that sells tobacco products through an Internet web site,~~ is liable for the tax imposed under ~~subsection~~ **subsections** (a) **or (b).** The tax is imposed at the time the distributor:

(1) brings or causes tobacco products **or alternative nicotine products** to be brought into Indiana for distribution;

(2) manufactures tobacco products **or alternative nicotine products** in Indiana for distribution; ~~or~~

(3) transports tobacco products **or alternative nicotine products** to retail dealers in Indiana for resale by those retail dealers; **or**

(4) first receives the tobacco products or alternative nicotine products in Indiana in the case of a distributor or distributor transactions.

~~(c)~~ **(d)** The Indiana general assembly finds that the tax rate on smokeless tobacco should reflect the relative risk between such products and cigarettes.

~~(d)~~ **(e)** A consumer who purchases untaxed tobacco products **or alternative nicotine products** from a distributor or retailer ~~including through an Internet web site, a catalog, or other similar means,~~ is liable for the tax imposed under ~~subsection~~ **subsections** (a) **or (b).**

SECTION 69. IC 6-7-2-7.5, AS ADDED BY P.L.165-2021, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7.5. (a) A tax is imposed on the distribution of closed system cartridges in Indiana at the rate of ~~twenty-five percent (25%)~~ **fifteen percent (15%)** of the wholesale price of the closed system cartridge. **If a closed system cartridge is sold in the same package as a vapor product device, the tax imposed under this subsection shall only apply to the wholesale price of the closed system cartridge if the wholesale cost of the closed system cartridge can be isolated from the vapor product device on the invoice.**

(b) The distributor of closed system cartridges, including a person that sells closed system cartridges through an Internet web site, is liable for the tax imposed under subsection (a). The tax is imposed at the time the distributor:

(1) brings or causes closed system cartridges to be brought into Indiana for distribution;

(2) manufactures closed system cartridges in Indiana for distribution; or

(3) transports closed system cartridges to retail dealers in Indiana for resale by those retail dealers.

(c) A consumer who purchases untaxed closed system cartridges from a distributor or retailer ~~including closed system cartridges purchased through an Internet web site, a catalog, or other similar means,~~ is liable for the tax imposed under subsection (a).

SECTION 70. IC 6-7-2-7.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 7.7. (a) The tax imposed under sections 7(a)(1), 7(b), and 7.5(a) of this chapter shall also be imposed on the sale of taxable products in Indiana by remote sellers, and shall be calculated based on one (1) of the following methods:**

(1) For remote sellers using an actual cost method, the tax shall be calculated by applying the rate to the actual cost of each individual product.

(2) For remote sellers using an actual cost list method, the tax shall be calculated by applying the rate to the cost established for each individual product in the remote seller's actual cost list.

(b) The remote seller of taxable products is liable for the tax imposed under section 7(a)(1), 7(b), or 7.5(a) of this chapter.

(c) The tax under this section shall be imposed at the time of purchase by an ultimate consumer.

SECTION 71. IC 6-7-2-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 8.5. (a) A remote seller, including a person that sells taxable products through an Internet web site, must obtain a license under this section before a remote seller can sell taxable products in Indiana. The department shall issue licenses to applicants that qualify under this section. A license issued under this section is valid for one (1) year unless revoked or suspended by the department and is not transferable.**

(b) An applicant for a license under this section must submit proof to the department of the appointment of an agent for service of process in Indiana if the applicant is:

(1) an individual whose principal place of residence is outside Indiana; or

(2) a person, other than an individual, that has its principal

place of business outside Indiana.

(c) To obtain or renew a license under this section, a person must:

(1) submit an application that includes all information required by the department;

(2) meet one (1) or both of the economic thresholds under IC 6-2.5-2-1(d) and obtain a registered retail merchant certificate;

(3) attest that the person uses third party age verification technology as described in subsection (d);

(4) pay a fee of twenty-five dollars ($25) at the time of application; and

(5) at the time of application, post a bond, issued by a surety company approved by the department, in an amount not less than one thousand dollars ($1,000) and conditioned on the applicant's compliance with this chapter.

(d) A remote seller must use age verification through an independent, third party age verification service that compares:

(1) information available from a commercially available data base (or aggregate of data bases) that are regularly used by government agencies and businesses for the purpose of age and identity verification; and

(2) personal information entered by the individual during the ordering process;

that establishes that the individual is of the required minimum age.

(e) A remote seller that collects the tax imposed under section 7.7 of this chapter using the actual cost list method to calculate the tax must provide to the department a certified actual cost list for each individual product offered for sale in the subsequent calendar year. The actual cost list shall be updated annually as new products are added to a remote seller's inventory. New products must be added to the actual cost list using the actual cost first paid for each individual product.

(f) If a business owns multiple entities that qualify as a remote seller, a separate license must be obtained for each remote seller.

(g) Each license must be numbered, show the name and address of the remote seller, and be kept at the place of business for which it is issued.

(h) If the department determines that a bond provided by a licensee is inadequate, the department may require a new bond in the amount necessary to fully protect the state.

(i) A license issued under this section does not permit the remote

seller to sell cigarettes, vapor products, or other products subject to tax under IC 6-7-1 or IC 6-7-4.

SECTION 72. IC 6-7-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. A distributor **or remote seller** that changes its place of business shall return its license, and the department shall issue, free of charge, a new license for the new place of business.

SECTION 73. IC 6-7-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10. A license issued under this chapter may be surrendered to the department at any time before its expiration, and the department shall refund an amount of money that bears the same proportion to the fee originally paid as the unexpired period of the permit bears to one (1) year. No refund may be allowed if a license is suspended or revoked. ~~and no refund may be made that is:~~

~~(1) greater than seventy-five dollars ($75);~~ ~~or~~

~~(2) less than twenty-five dollars ($25).~~

SECTION 74. IC 6-7-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 11. The department:

(1) may revoke or suspend a license issued under this chapter for any violation of this chapter, ~~or~~ IC 6-7-1-18, **or IC 24-3-5.4-17** by the licensee; and

(2) may not issue a license under this chapter to an applicant within six (6) months after the revocation of that applicant's license.

SECTION 75. IC 6-7-2-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 11.5. (a) The department may refuse to issue or renew a license issued under this chapter if:**

(1) the application is filed by a person whose license has previously been canceled for cause (including a similar license issued by another state);

(2) the application is not filed in good faith, as determined by the department;

(3) the application is filed by a person as a subterfuge for the real person in interest whose license has previously been canceled for cause;

(4) the applicant has been convicted of fraud, misrepresentation, or any other offense that indicates the applicant may not comply with this chapter if issued a license;

(5) the applicant has an outstanding listed tax liability; or

(6) the applicant has not complied with a filing requirement of the department.

(b) Before being denied a license as a distributor, the applicant is entitled to a hearing with five (5) days written notice. At the hearing the applicant may appear in person or by counsel and present testimony.

SECTION 76. IC 6-7-2-12, AS AMENDED BY P.L.165-2021, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: Sec. 12. Before the fifteenth day of each month, each distributor **(and remote seller beginning July 1, 2023)** liable for a tax imposed by this chapter shall:

(1) file a return with the department that includes all information required by the department including, but not limited to:

(A) name of distributor **(or remote seller beginning July 1, 2023);**

(B) address of distributor **(or remote seller beginning July 1, 2023);**

(C) license number of distributor **(or remote seller beginning July 1, 2023);**

(D) invoice date;

(E) invoice number;

(F) name and address of person from whom taxable products were purchased or name and address of person to whom taxable products were sold **(except in the case of sales to an end consumer beginning July 1, 2023);**

(G) the wholesale price for tobacco products other than moist snuff **and cigars (or the actual cost in the case of remote sellers beginning July 1, 2023);**

(H) for moist snuff, the weight of the moist snuff; ~~and~~

(I) for cigars, the wholesale price of the cigars;

(J) for alternative nicotine products, the weight of the alternative nicotine products; and

~~(I)~~ **(K)** for closed system cartridges, the wholesale price of closed system cartridges sold; and

(2) pay the taxes for which it is liable under this chapter for the preceding month minus the amount specified in section 13 of this chapter.

All returns required to be filed and taxes required to be paid under this chapter must be made in an electronic format prescribed by the department.

SECTION 77. IC 6-7-2-13, AS AMENDED BY P.L.165-2021,

SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 13. A distributor **or remote seller** that files a complete return and pays the taxes due within the time specified in section 12 of this chapter is entitled to deduct and retain from the tax a collection allowance of seven-thousandths (0.007) of the amount due. If a distributor **or remote seller** files an incomplete report, the department may reduce the collection allowance by an amount that does not exceed the lesser of:

(1) ten percent (10%) of the collection allowance; or

(2) fifty dollars ($50).

SECTION 78. IC 6-7-2-14, AS AMENDED BY P.L.165-2021, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 14. The department shall credit or refund to a distributor **or remote seller** the taxes paid under this chapter on taxable products that are:

(1) shipped outside Indiana;

(2) returned to the manufacturer; or

(3) destroyed by the distributor in the presence of an employee or agent of the department.

SECTION 79. IC 6-7-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 20. A distributor **or remote seller** who does not comply with the requirements of IC 6-8.1-5-4 commits a Class B misdemeanor.

SECTION 80. IC 6-7-2-21, AS AMENDED BY P.L.165-2021, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 21. **(a)** A distributor **or remote seller** who knowingly:

(1) acts as a distributor **or remote seller** without a license;

(2) makes a false statement in a report under this chapter; or

(3) does not pay a tax for which the distributor **or remote seller** is liable under this chapter;

commits a Class B misdemeanor. However, the offense is a Level 6 felony if it is committed with intent to evade the tax imposed by this chapter or to defraud the state.

(b) Violations of this chapter described in subsection (a) may be reported to the department or the office of the attorney general.

SECTION 81. IC 6-7-2-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 24. A retailer (except a remote seller that is required to remit tax imposed by this chapter) who purchases a taxable product from a distributor who has not obtained a license required**

under section 8 of this chapter or whose license has been suspended or revoked by the department is subject to a penalty not to exceed the greater of:

(1) one hundred percent (100%) of the retail value of the taxable product; or

(2) five thousand dollars ($5,000);

on the purchase.

SECTION 82. IC 6-8.1-1-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: **Sec. 9. (a) If any due date or date required for a particular act by the taxpayer or the department falls on Saturday, Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act by the taxpayer or the department that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one of those holidays.**

(b) If the due date of a particular act is later than the date otherwise provided for the act as a result to the due date falling on Saturday, Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the last date on which a proposed assessment or demand notice must be issued or the last day on which a refund claim may be filed shall be determined without regard to the original due date (including allowable extensions) falling on a Saturday, Sunday, or holiday.

SECTION 83. IC 6-8.1-1-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]: **Sec. 10. (a) This section applies for purposes of determining:**

(1) the last date on which a proposed assessment can be issued under IC 6-8.1-5;

(2) the date by which withholding payments were required to be made to meet the safe harbor requirements under IC 6-3-4-12 or IC 6-3-4-13;

(3) the date by which ninety percent (90%) of tax reasonably expected to be due under IC 6-8.1-6-1 is required to be paid;

(4) the last date on which a demand notice or tax warrant can be issued under IC 6-8.1-8;

(5) the last date on which a refund claim can be filed under IC 6-8.1-9-1;

(6) the first date on which interest can accrue on refunds under IC 6-8.1-9-2;

(7) the first date on which interest can be assessed under

IC 6-8.1-10-1; and

(8) the due date for a return or payment under IC 6-2.3-6-1, IC 6-3-4-4.1, IC 6-5.5-6-3, or IC 6-8.1-10-2.1.

(b) For an estimated tax payment under IC 6-2.3-6-1, IC 6-3-4-4.1, or IC 6-5.5-6-3 that otherwise was due after March 23, 2020, and before July 15, 2020, the due date of the payment shall be treated as July 15, 2020.

(c) For a return or other tax payment under IC 6-2.3, IC 6-3, or IC 6-5.5, that otherwise was due after March 23, 2020, and before May 1, 2020, the due date of the return or tax payment shall be treated as July 15, 2020.

(d) For a return or other tax payment under IC 6-3 or IC 6-5.5 that otherwise was due after April 30, 2020, and before July 16, 2020, the due date of the return or tax payment shall be treated as:

(1) August 15, 2020, to the extent an action is determined without regard to a Saturday; or

(2) August 17, 2020, to the extent an action is permitted to be delayed due to a Saturday.

(e) A due date for payment determined under subsection (c) or (d) shall be treated as the due date by which a tax payment is required by meet minimum payment requirements for penalty deferment under:

(1) IC 6-3-4-12(k);

(2) IC 6-3-4-13(l); and

(3) IC 6-8.1-6-1(d).

(f) For a return or payment with regard to individual adjusted gross income tax under IC 6-3 for taxable years ending December 31, 2020, the due date shall be treated as:

(1) May 15, 2021, to the extent an action is determined without regard to a Saturday; or

(2) May 17, 2021, to the extent an action is permitted to be delayed due to a Saturday.

(g) This section expires December 31, 2024.

SECTION 84. IC 6-8.1-3-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 28. (a) If the department determines that an amount of a listed tax has been distributed to a county, taxing district, or taxing unit in error or determines that all or part of the distribution was refunded subsequent to the distribution, the department shall notify the county treasurer and the county auditor of the excess distribution and request that the excess distribution be repaid to the department or that the department be**

permitted to offset the excess distribution against listed taxes. The notification under this section shall consist of:

(1) the listed tax for which the excess distribution occurred;

(2) the period to which the excess distribution relates; and

(3) the county, taxing district, or taxing unit that received the excess distribution.

(b) If the department is unable to obtain repayment from the county or obtain an agreement to offset against other listed taxes after a request by the department is made under subsection (a), the department may offset distributions of that listed tax or other listed taxes distributable to that county upon notification of:

(1) the listed tax from which the offset will be applied;

(2) in the case of an offset applied against local income tax, the particular share from which the offset will be obtained; and

(3) the amount of the repayment to be obtained.

The department may recover any excess distribution over a period of multiple distributions.

(c) The department shall attempt to apply any offset against the same listed tax as the over distribution or other listed taxes otherwise distributable to the county, taxing district, or taxing unit as closely as possible. If the department determines that such an offset is not practicable, the department shall offset the distribution against the local income tax distributions otherwise required under IC 6-3.6 and the state budget agency shall adjust the distributions of local income tax for the calendar year in which the offset occurs or will occur to reflect such distribution.

SECTION 85. IC 6-8.1-6-1, AS AMENDED BY P.L.190-2014, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: Sec. 1. (a) This subsection does not apply to a person's Indiana adjusted gross income tax return or a person's financial institutions tax return. If a person responsible for filing a tax return is unable to file the return by the appropriate due date, the person may petition the department, before that due date, for a filing extension. When the department receives the petition, the department shall grant the person a sixty (60) day extension.

(b) If a person responsible for filing a tax return has received an extension of the due date and is still unable to file the return by the extended due date, the person may petition the department for another extension. The person must include in the petition a statement of the reasons for the person's inability to file the return by the due date. If the department finds that the person's petition is proper and that the person has good cause for requesting the extension, the department may

extend the person's due date for any period that the department deems reasonable under the circumstances. The department may allow additional, successive extensions if the person properly petitions for the extension before the end of the person's current extension period.

(c) The following apply only to a person's Indiana adjusted gross income tax return or a person's financial institutions tax return:

(1) If the Internal Revenue Service allows a person an extension on the person's federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended ~~for the same period~~ **to the last day** as the federal extension, plus ~~thirty (30) days.~~ **one (1) month. For purposes of this subdivision, if the last day of the federal extension is a Saturday, Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the last day of the federal extension shall be determined without regard to Saturdays, Sundays, or holidays.**

(2) If a person petitions the department for a filing extension for the person's Indiana adjusted gross income tax return or financial institutions tax return without obtaining an extension for filing the person's federal income tax return, the department shall extend the person's due date for the person's Indiana adjusted gross income tax return or financial institutions tax return for the same period that the person would have been allowed under subdivision (1) if the person had been granted an extension by the Internal Revenue Service. **For purposes of this subdivision, if a person files an extension request for the person's federal income tax return for a taxable year but the extension is denied by the Internal Revenue Service, the department shall consider the person to have filed an extension under this subsection for that taxable year, provided that the person did not have a previous extension request denied by the Internal Revenue Service for that taxable year.**

(d) A person submitting a petition for an extension under this section is not required to include any payment of tax with the petition. However, a person obtaining an extension under this section must pay at least ninety percent (90%) of the tax that is reasonably expected to be due on the original due date by that due date, or the person may be subject to the penalties imposed for failure to pay the tax. **This subsection does not apply to payments required under IC 6-3-4-12(k) and IC 6-3-4-13(l).**

(e) Any tax that remains unpaid during an extension period accrues interest at a rate established under IC 6-8.1-10-1 from the original due

date, but that tax will not accrue any late payment penalties until the extension period has ended. Any penalties must be determined based on the amount of tax not paid on or before the end of the extension period after application of payments provided under IC 6-8.1-8-1.5 and determined as of the deadline of the extension period.

SECTION 86. IC 6-8.1-6-2 IS REPEALED [EFFECTIVE JANUARY 1, 2023]. ~~Sec. 2. If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one of those holidays.~~

SECTION 87. IC 6-8.1-7-1, AS AMENDED BY P.L.159-2021, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to any of the following when it is agreed that the information is to be confidential and to be used solely for official purposes:

(1) Members and employees of the department.

(2) The governor.

(3) A member of the general assembly or an employee of the house of representatives or the senate when acting on behalf of a taxpayer located in the member's legislative district who has provided sufficient information to the member or employee for the department to determine that the member or employee is acting on behalf of the taxpayer.

(4) An employee of the legislative services agency to carry out the responsibilities of the legislative services agency under IC 2-5-1.1-7 or another law.

(5) The attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes.

(6) Any authorized officers of the United States.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the

state tax department of any other state, district, territory, or possession of the United States when:

(1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a county office of the division of family resources located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any

information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana when it is agreed that the information is to be confidential and to be used solely for official purposes.

(h) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(k) may be released solely for tax collection purposes to township assessors and county assessors.

(i) The department shall notify the appropriate innkeeper's tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(j) All information relating to the delinquency or evasion of the vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

(n) This section does not apply to:

(1) the beer excise tax, including brand and packaged type (IC 7.1-4-2);

(2) the liquor excise tax (IC 7.1-4-3);

(3) the wine excise tax (IC 7.1-4-4);

(4) the hard cider excise tax (IC 7.1-4-4.5);

(5) the vehicle excise tax (IC 6-6-5);

(6) the commercial vehicle excise tax (IC 6-6-5.5); and

(7) the fees under IC 13-23.

(o) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

(p) The name and business address of a person licensed by the department under IC 6-6 or IC 6-7, or issued a registered retail merchant's certificate under IC 6-2.5, may be released for the purpose of reporting the status of the person's license or certificate.

(q) The department may release information concerning total incremental tax amounts under:

(1) IC 5-28-26;

(2) IC 36-7-13;

(3) IC 36-7-26;

(4) IC 36-7-27;

(5) IC 36-7-31;

(6) IC 36-7-31.3; or

(7) any other statute providing for the calculation of incremental state taxes that will be distributed to or retained by a political subdivision or other entity;

to the fiscal officer of the political subdivision or other entity that established the district or area from which the incremental taxes were received if that fiscal officer enters into an agreement with the department specifying that the political subdivision or other entity will use the information solely for official purposes.

(r) The department may release the information as required in IC 6-8.1-3-7.1 concerning:

(1) an innkeeper's tax, a food and beverage tax, or an admissions tax under IC 6-9;

(2) the supplemental auto rental excise tax under IC 6-6-9.7; and

(3) the covered taxes allocated to a professional sports development area fund, sports and convention facilities operating fund, or other fund under IC 36-7-31 and IC 36-7-31.3.

(s) Information concerning state gross retail tax exemption certificates that relate to a person who is exempt from the state gross retail tax under IC 6-2.5-4-5 may be disclosed to a power subsidiary (as defined in ~~IC 6-2.5-4-5)~~ **IC 6-2.5-1-22.5)** or a person selling the services or commodities listed in ~~IC 6-2.5-4-5(b)~~ **IC 6-2.5-4-5** for the purpose of enforcing and collecting the state gross retail and use taxes

under IC 6-2.5.

(t) The department may release a statement of tax withholding or other tax information statement provided on behalf of a taxpayer to the department to:

(1) the taxpayer on whose behalf the tax withholding or other tax information statement was provided to the department;

(2) the taxpayer's spouse, if:

(A) the taxpayer is deceased or incapacitated; and

(B) the taxpayer's spouse is filing a joint income tax return with the taxpayer; or

(3) an administrator, executor, trustee, or other fiduciary acting on behalf of the taxpayer if the taxpayer is deceased.

(u) Information related to a listed tax regarding a taxpayer may be disclosed to an individual without a power of attorney under IC 6-8.1-3-8(a)(2) if:

(1) the individual is authorized to file returns and remit payments for one (1) or more listed taxes on behalf of the taxpayer through the department's online tax system before September 8, 2020;

(2) the information relates to a listed tax described in subdivision (1) for which the individual is authorized to file returns and remit payments;

(3) the taxpayer has been notified by the department of the individual's ability to access the taxpayer's information for the listed taxes described in subdivision (1) and the taxpayer has not objected to the individual's access;

(4) the individual's authorization or right to access the taxpayer's information for a listed tax described in subdivision (1) has not been withdrawn by the taxpayer; and

(5) disclosure of the information to the individual is not prohibited by federal law.

Except as otherwise provided by this article, this subsection does not authorize the disclosure of any correspondence from the department that is mailed or otherwise delivered to the taxpayer relating to the specified listed taxes for which the individual was given authorization by the taxpayer. The department shall establish a date, which may be earlier but not later than September 1, 2023, after which a taxpayer's information concerning returns and remittances for a listed tax may not be disclosed to an individual without a power of attorney under IC 6-8.1-3-8(a)(2) by providing notice to the affected taxpayers and previously authorized individuals, including notification published on the department's Internet web site. After the earlier of the date

established by the department or September 1, 2023, the department may not disclose a taxpayer's information concerning returns and remittances for a listed tax to an individual unless the individual has a power of attorney under IC 6-8.1-3-8(a)(2) or the disclosure is otherwise allowed under this article.

SECTION 88. IC 6-8.1-10-2.1, AS AMENDED BY P.L.159-2021, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: Sec. 2.1. (a) Except as provided in IC 6-3-4-12(k) and IC 6-3-4-13(l), a person that:

(1) fails to file a return for any of the listed taxes;

(2) fails to pay the full amount of tax shown on the person's return on or before the due date for the return or payment;

(3) incurs, upon examination by the department, a deficiency that is due to negligence;

(4) fails to timely remit any tax held in trust for the state;

(5) fails to file a return in the electronic manner required by the department if such return is required to be filed electronically; or

(6) is required to make a payment by electronic funds transfer (as defined in IC 4-8.1-2-7), overnight courier, personal delivery, or any other electronic means and the payment is not received by the department by the due date in such manner and in funds acceptable to the department;

is subject to a penalty.

(b) Except as provided in subsection (g), the penalty described in subsection (a) is ten percent (10%) of:

(1) the full amount of the tax due if the person failed to file the return or, in the case of a return required to be filed electronically, the return is not filed in the electronic manner required by the department;

(2) the amount of the tax not paid, if the person filed the return but failed to pay the full amount of the tax shown on the return;

(3) the amount of the tax held in trust that is not timely remitted;

(4) the amount of deficiency as finally determined by the department; or

(5) the amount of tax due if a person failed to make payment required to be made by electronic funds transfer, overnight courier, personal delivery, or any other electronic means by the due date in such manner.

(c) For purposes of this section, the filing of a substantially blank or unsigned return does not constitute a return.

(d) If a person subject to the penalty imposed under this section can

show that the failure to file a return, pay the full amount of tax shown on the person's return, timely remit tax held in trust, or pay the deficiency determined by the department was due to reasonable cause and not due to willful neglect, the department shall waive the penalty.

(e) A person who wishes to avoid the penalty imposed under this section must make an affirmative showing of all facts alleged as a reasonable cause for the person's failure to file the return, pay the amount of tax shown on the person's return, pay the deficiency, or timely remit tax held in trust, in a written statement containing a declaration that the statement is made under penalty of perjury. The statement must be filed with the return or payment within the time prescribed for protesting departmental assessments. A taxpayer may also avoid the penalty imposed under this section by obtaining a ruling from the department before the end of a particular tax period on the amount of tax due for that tax period.

(f) The department shall adopt rules under IC 4-22-2 to prescribe the circumstances that constitute reasonable cause and negligence for purposes of this section.

(g) A person who fails to file a return for a listed tax that shows no tax liability for a taxable year, other than an information return (as defined in section 6 of this chapter), on or before the due date of the return shall pay a penalty of ten dollars ($10) for each day that the return is past due, up to a maximum of two hundred fifty dollars ($250).

(h) A:

(1) corporation which otherwise qualifies under IC 6-3-2-2.8(2);

(2) partnership; or

(3) trust;

that fails to withhold and pay any amount of tax required to be withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15 shall pay a penalty equal to twenty percent (20%) of the amount of tax required to be withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15. This penalty shall be in addition to any penalty imposed by section 6 of this chapter.

(i) Subsections (a) through (c) do not apply to a motor carrier fuel tax return.

(j) If a ~~partnership or an S corporation~~ **pass through entity (as defined in IC 6-3-1-35)** fails to include all ~~nonresidential individual~~ **nonresident** partners, ~~or nonresidential individual~~ **nonresident** shareholders, **or nonresident beneficiaries** in a composite return as required by IC 6-3-4-12(i), ~~or~~ IC 6-3-4-13(j), **or IC 6-3-4-15(h),** a penalty of five hundred dollars ($500) per ~~partnership or S corporation~~

pass through entity is imposed on the ~~partnership or S corporation.~~ **pass through entity.**

(k) If a person subject to the penalty imposed under this section provides the department with documentation showing that the person is or has been subject to incarceration for a period of a least one hundred eighty (180) days, the department shall waive any penalty under this section and interest that accrues during the time the person was incarcerated, but not to an extent greater than the penalty or interest relief to which a person would otherwise have been entitled under the federal Servicemembers Civil Relief Act (50 U.S.C. 3901-4043), if the person was in military service. Nothing in this subsection shall preclude the department from issuing a proposed assessment, demand notice, jeopardy proposed assessment, jeopardy demand notice, or warrant otherwise permitted by law.

SECTION 89. IC 6-9-24-8, AS AMENDED BY P.L.65-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the fiscal body of the municipality shall establish a food and beverage tax receipts fund.

(b) The fiscal officer of the municipality shall deposit in this fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

(d) Money in this fund shall be used by the municipality to:

(1) finance, construct, improve, equip, operate, and maintain public parking and public restroom facilities;

(2) renovate, equip, operate, and maintain any structure that may be used as a public parking or public restroom facility; ~~or~~

(3) finance, construct, improve, equip, operate, and maintain sidewalks and other streetscape improvements; **or**

(4) provide grants to businesses located within the municipality that meet the criteria developed under subsection (e) to be used for:

(A) exterior improvements to the building in which the business is located, including signage, lighting, and decor improvements; and

(B) architectural or engineering services or consultation.

The municipality may enter into lease or contractual arrangements, or both, with governmental, not-for-profit, or other private entities to operate and maintain these facilities and improvements.

(e) The fiscal body of the municipality shall develop criteria for

awarding a grant under subsection (d)(4), including eligibility requirements, grant guidelines, and an application process.

SECTION 90. IC 6-9-24-9 IS REPEALED [EFFECTIVE JULY 1, 2022]. ~~Sec. 9. (a) If the tax is imposed by a municipality under this chapter, the tax terminates January 1, 2023.~~

~~(b) This chapter expires July 1, 2023.~~

SECTION 91. IC 6-9-29-1.5, AS AMENDED BY P.L.122-2021, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1.5. (a) Unless otherwise provided in this article, a county fiscal body that adopts an ordinance to impose, rescind, or increase or decrease the rate of a county innkeeper's tax, or to make a change between collection of the tax by the county treasurer or the department of state revenue, must specify the effective date of the ordinance to provide that the ordinance takes effect:

(1) at least thirty (30) days after the adoption of the ordinance; and

(2) on the first day of a month.

(b) If a county fiscal body adopts an ordinance described in subsection (a), it must immediately send a certified copy of the ordinance to the commissioner of the department of state revenue. Notwithstanding subsection (a), if the department of state revenue collects the revenue from the county innkeeper's tax, the department of state revenue shall begin collecting the tax ~~at the rate~~ **as** provided in the ordinance **for periods beginning on or after** ~~on~~ the later of:

(1) the first day of the month that is not less than thirty (30) days after the ordinance is sent to the commissioner of the department of state revenue; or

(2) the effective date specified in the ordinance.

The department shall collect the tax at the rate in the ordinance unless the rate is not authorized under this article.

(c) If an ordinance does not specify an effective date, the ordinance shall be considered effective on the earliest date allowable under this section.

SECTION 92. IC 6-9-29.5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 4. (a) If an ordinance is adopted under this article, the adopting body must immediately send a certified copy of the ordinance to the commissioner of the department of state revenue. Notwithstanding any other provision in this article, if the department of state revenue collects the revenue from the food and beverage tax, the department of state revenue shall begin collecting**

the tax as provided in the ordinance for periods beginning on or after the later of:

(1) the first day of the month that is not less than thirty (30) days after the ordinance is sent to the commissioner of the department of state revenue; or

(2) the effective date specified in the ordinance.

(b) If an ordinance does not specify an effective date, the ordinance shall be considered effective on the earliest date allowable under this section.

SECTION 93. IC 6-9-44-1, AS ADDED BY P.L.157-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. This chapter applies to the ~~town~~ **city** of Fishers.

SECTION 94. IC 6-9-44-3, AS ADDED BY P.L.157-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) The fiscal body of the ~~town~~ **city** may adopt an ordinance on or before December 31, ~~2013,~~ **2023,** to impose an excise tax, known as the ~~town~~ **city** food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the ~~town~~ **city** may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the ~~town~~ **city** food and beverage tax is the only substantive issue on the agenda for that public hearing.

(b) If the ~~town~~ **city** fiscal body adopts an ordinance under subsection (a), the ~~town~~ **city** fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the ~~town~~ **city** fiscal body adopts an ordinance under subsection (a), the ~~town~~ **city** food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance is adopted.

SECTION 95. IC 6-9-44-4, AS ADDED BY P.L.157-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location or on equipment provided by a retail merchant;

(2) in the ~~town;~~ **city;** and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The ~~town~~ **city** food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 96. IC 6-9-44-5, AS ADDED BY P.L.157-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. The ~~town~~ **city** food and beverage tax rate may not exceed one percent (1%) of the gross retail income received by the merchant from the food or beverage transaction described in section 4 of this chapter. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

SECTION 97. IC 6-9-44-7, AS ADDED BY P.L.157-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the ~~town~~ **city** fiscal officer upon warrants issued by the auditor of state.

SECTION 98. IC 6-9-44-8, AS ADDED BY P.L.157-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) If a tax is imposed under section 3 of this chapter by a ~~town,~~ **city,** the ~~town~~ **city** fiscal officer shall establish a food and beverage tax receipts fund.

(b) The ~~town~~ **city** fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

SECTION 99. IC 6-9-44-9, AS ADDED BY P.L.157-2013,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 9. Money in the food and beverage tax receipts fund shall be used by the ~~town.~~ **city:**

(1) to reduce the ~~town's~~ **city's** property tax levy for a particular year at the discretion of the ~~town,~~ **city,** but this use does not reduce the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for the ~~town,~~ **city;** or

(2) for economic development purposes, including the pledge of money under IC 5-1-14-4 for bonds, leases, or other obligations for economic development purposes.

Revenue derived from the imposition of a tax under this chapter may be treated by the ~~town~~ **city** as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the ~~town.~~ **city.**

SECTION 100. IC 7.1-4-6-3.5, AS AMENDED BY P.L.166-2014, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3.5. **(a)** A person who is liable for the payment of an excise tax levied by this title shall file a monthly return with the department on or before the twentieth day of the month following the month in which the liability for the tax accrues by reason of the manufacture, sale, gift, or the withdrawal for sale or gift, of alcoholic beverages within this state.

(b) The department may require the reporting of any information reasonably necessary to determine the amount of excise tax due.

(c) The return **required by this section** must be filed in an electronic format as prescribed by the department. Payment of the excise tax due shall accompany the return, and shall be remitted electronically. Any other returns or forms required to be filed under this title must also be filed in an electronic format and on a date prescribed by the department.

SECTION 101. IC 7.1-4-7-9, AS AMENDED BY P.L.86-2018, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The auditor of state shall, on **or before** the ~~first~~ **tenth** day of April of each year and quarterly **on or before the tenth day of the month** thereafter, distribute the funds set aside in accordance with the provisions of section 7 of this chapter or the portion of them as reported to the auditor of state, to the general fund of the treasury of the city or town on the basis provided for in this chapter.

SECTION 102. IC 10-13-3-38.5, AS AMENDED BY P.L.212-2018(ss), SECTION 31, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat. 1115), the department may use an individual's fingerprints submitted by the individual for the following purposes:

(1) Determining the individual's suitability for employment with the state, or as an employee of a contractor of the state, in a position:

(A) that has a job description that includes contact with, care of, or supervision over a person less than eighteen (18) years of age;

(B) that has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for harmed or threatened with harm set forth in IC 12-10-3-2(a)(3);

(C) at a state institution managed by the office of the secretary of family and social services or state department of health;

(D) at the Indiana School for the Deaf established by IC 20-22-2-1;

(E) at the Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1;

(F) at a juvenile detention facility;

(G) with the Indiana gaming commission under IC 4-33-3-16;

(H) with the department of financial institutions under IC 28-11-2-3; or

(I) that has a job description that includes access to or supervision over state financial or personnel data, including state warrants, banking codes, or payroll information pertaining to state employees.

(2) Determining the individual's suitability for employment with state or local government, or as an employee of a contractor of state or local government, in a position in which the individual's duties include access to confidential tax information obtained from the United States Internal Revenue Service under Section 6103(d) of the Internal Revenue Code or from an authorized secondary source.

(3) Identification in a request related to an application for a teacher's license submitted to the department of education established by IC 20-19-3-1.

(4) Use by the gaming commission established under IC 4-33-3-1 for licensure of a promoter (as defined in IC 4-33-22-6) under IC 4-33-22.

(5) Use by the Indiana board of pharmacy in determining the individual's suitability for a position or employment with a wholesale drug distributor, as specified in IC 25-26-14-16(b), IC 25-26-14-16.5(b), IC 25-26-14-17.8(c), and IC 25-26-14-20.

(6) Identification in a request related to an individual applying for or renewing a license or certificate described in IC 25-1-1.1-4 and a conviction described in IC 25-1-1.1-2 or IC 25-1-1.1-3.

An applicant shall submit the fingerprints in an appropriate format or on forms provided for the employment, license, or certificate application. The department shall charge each applicant the fee established under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department, the Indiana professional licensing agency, or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state.

(d) Each current or new state or local government employee whose duties include access to confidential tax information described in subsection (a)(2) must submit to a fingerprint based criminal history background check of both national and state records data bases before being granted access to the confidential tax information. In addition to the initial criminal history background checks, each state or local government employee whose duties include access to confidential tax information described in subsection (a)(2) must submit to such criminal history background checks at least once every ~~ten (10)~~ **five (5)** years thereafter. The appointing authority of such a state or local government employee may pay any fee charged for the cost of fingerprinting or conducting the criminal history background checks for the state or local government employee. Only the state or local government agency in its capacity as the individual's employer or to which the applicant is applying for employment is entitled to receive the results of all fingerprint investigations.

(e) Each current or new contractor or subcontractor whose contract or subcontract grants access to confidential tax information described in subsection (a)(2) must submit to a fingerprint based criminal history

background check of both national and state records data bases at least once every ~~ten (10)~~ **five (5)** years before being granted access to the confidential tax information. Only the state or local government agency is entitled to receive the results of all fingerprint investigations conducted under this subsection.

(f) Each contract entered into by the state in which access to confidential tax information described in subsection (a)(2) is granted to a contractor or a subcontractor shall include:

(1) terms regarding which party is responsible for payment of any fee charged for the cost of the fingerprinting or the criminal history background checks; and

(2) terms regarding the consequences if one (1) or more disqualifying records are discovered through the criminal history background checks.

(g) The department:

(1) may permanently retain an applicant's fingerprints submitted under this section; and

(2) shall retain the applicant's fingerprints separately from fingerprints collected under section 24 of this chapter.

SECTION 103. [EFFECTIVE UPON PASSAGE] **(a) The administrative rule concerning a property tax exemption for public airports that is set forth in 50 IAC 1-3-2 is void. The publisher of the Indiana Administrative Code shall remove 50 IAC 1-3-2 from the Indiana Administrative Code.**

(b) This SECTION expires July 1, 2023.

SECTION 104. [EFFECTIVE JULY 1, 2022] **(a) IC 6-3-2-1.7, as added by this act, is effective for taxable years beginning after June 30, 2022.**

(b) This SECTION expires July 1, 2025.

SECTION 105. **An emergency is declared for this act.**

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____