



January 31, 2020

SENATE BILL No. 408

DIGEST OF SB 408 (Updated January 29, 2020 9:46 am - DI 120)

Citations Affected: IC 4-23; IC 4-38; IC 5-1.2; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-5.5; IC 6-6; IC 6-8.1; IC 8-2.1; noncode.

Synopsis: Various tax matters. Removes references to an out-of-state merchant's collection of the state use tax. (Under current law, an out-of-state merchant is required to collect the state gross retail tax (not the use tax) on retail transactions made in Indiana if certain threshold conditions are met.) Requires the state GIS officer, in coordination with the office of technology and the management performance hub, to establish a geographic information system with parcel level data for each county that may be used by the department of state revenue's tax system. Requires each county to periodically submit certain data to the GIS officer. Amends provisions in current law that require budget committee review of a proposed extension or amendment to certain agreements and related requirements when the state receives payment of a specified amount as a result of the agreement. Makes clarifying and technical changes to the definitions of "bundled transaction", "unitary transaction", and "gross retail income" in the state sales tax statute, and "adjusted gross receipts" in the sports wagering statute. Removes outdated references to the gross income tax and adjusted gross income tax. Makes a technical correction in the gasoline use tax statute. Clarifies the allowable state income tax deductions and credits for a married individual filing a separate return. Imposes a tax on the first payment of prize money related to a racing event at the Indianapolis Motor Speedway and requires the entity that makes payment of the prize money to withhold and remit the tax to the department of state revenue. Specifies the amount of the tax and
(Continued next page)

Effective: Upon passage; July 1, 2009 (retroactive); July 1, 2014 (retroactive); January 1, 2016 (retroactive); April 1, 2020; May 1, 2020; June 30, 2020; July 1, 2020; January 1, 2021.

Holdman

January 14, 2020, read first time and referred to Committee on Tax and Fiscal Policy.
January 30, 2020, amended, reported favorably — Do Pass.

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Digest Continued

provides related provisions that apply to the recipients of the prize money. Provides that a taxpayer is entitled to claim a historic rehabilitation tax credit granted for a year other than the year in which the preservation or rehabilitation of the historic property was performed and certification provided, notwithstanding the expiration of the historic rehabilitation tax credit chapter on January 1, 2019, and the cap on the amount of credits allowed in a state fiscal year beginning after June 30, 2016. Defines "loans arising in factoring" under the financial institutions tax. Specifies the duties of the department of state revenue's motor carrier service division. Removes obsolete provisions related to transporting gasoline or special fuel. Eliminates a redundant penalty provision for failure to file a quarterly motor carrier fuel tax report (this penalty is currently assessed and calculated under the penalty provisions of the International Fuel Tax Agreement as set forth in another section of the Indiana Code). Allows a taxpayer to request a secondary review of adjustments to tax attributes in certain circumstances. Makes clarifying changes to the statute of limitations for tax assessments and tax refunds. Extends the statute of limitations for assessments for certain partners and partnerships. Extends the statute of limitations to allow a refund of state and local income tax with regard to veterans' disability severance payments that were determined to qualify for a refund of federal income tax under the Combat-Injured Veterans Tax Fairness Act of 2016. Revises the penalty provisions related to returned or dishonored checks made to the department of state revenue. Expands the functions of the taxpayer rights advocate office within the department of state revenue. Repeals the state revenue pilot program fund. Provides that any money in the state revenue pilot program fund before its repeal is transferred to the motor carrier regulation fund. Makes conforming changes.

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January 31, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 408

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1 SECTION 1. IC 4-23-7.3-14, AS AMENDED BY P.L.3-2008,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 14. The state GIS officer shall do the following:
4 (1) Function as the chief officer for GIS matters for state agencies.
5 (2) Review and either veto or adopt both the:
6 (A) state's GIS data standards; and
7 (B) statewide data integration plan;
8 as recommended by the IGIC. If either of the recommendations is
9 vetoed, the state GIS officer shall return the recommendation to
10 the IGIC with a message announcing the veto and stating the
11 reasons for the veto. If the IGIC ceases to exist or refuses to make
12 the recommendations listed in this subdivision, the state GIS
13 officer may develop and adopt state GIS data standards and a
14 statewide data integration plan. The standards and the plan
15 adopted under this subdivision must promote interoperability and

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- 1 open use of data with various GIS software, applications,
2 computer hardware, and computer operating systems.
- 3 (3) Act as the administrator of:
- 4 (A) the state standards and policies concerning GIS data and
5 framework data; and
6 (B) the statewide data integration plan.
- 7 (4) Enforce the state GIS data standards and execute the statewide
8 data integration plan adopted under subdivision (2) through the
9 use of:
- 10 (A) GIS policies developed for state agencies; and
11 (B) data exchange agreements involving an entity other than
12 a state agency.
- 13 (5) Coordinate the state data center's duties under this chapter.
- 14 (6) Act as the state's representative for:
- 15 (A) requesting grants available for the acquisition or
16 enhancement of GIS resources; and
17 (B) preparing funding proposals for grants to enhance
18 coordination and implementation of GIS.
- 19 (7) Review and approve, in accordance with the statewide data
20 integration plan, the procurement of GIS goods and services
21 involving the state data center or a state agency.
- 22 (8) Cooperate with the United States Board on Geographic Names
23 established by P.L.80-242 by serving as the chair of a committee
24 formed with the IGIC as the state names authority for Indiana.
- 25 (9) Publish a biennial report. The report must include the status
26 and metrics on the progress of the statewide data integration plan.
- 27 (10) Represent the state's interest to federal agencies regarding
28 the National Spatial Data Infrastructure.
- 29 (11) Serve as the state's primary point of contact for
30 communications and discussions with federal agencies regarding
31 framework data, spatial data exchanges, cost leveraging
32 opportunities, spatial data standards, and other GIS related issues.
- 33 (12) Facilitate GIS data cooperation between units of the federal,
34 state, and local governments.
- 35 (13) Promote the development and maintenance of statewide GIS
36 data and framework data layers associated with a statewide base
37 map.
- 38 (14) Approve and maintain data exchange agreements to which
39 the state data center or a state agency is a party to increase the
40 amount and quality of GIS data and framework data available to
41 the state.
- 42 (15) Use personnel made available from state educational



1 institutions to provide technical support to the:

2 (A) state GIS officer in carrying out the officer's duties under
3 this chapter; and

4 (B) IGIC.

5 **(16) Establish, before December 31, 2021, and update, before**
6 **December 31 of every year thereafter, in coordination with**
7 **the office of technology and the management performance**
8 **hub, a GIS that contains a parcel level data base for each**
9 **county that may be used by the department of state revenue's**
10 **tax systems to identify each taxing unit within which each**
11 **taxpayer's residence is located. The state GIS officer shall**
12 **provide the department of state revenue with any information**
13 **necessary in order for the department of state revenue to use**
14 **the GIS codes.**

15 SECTION 2. IC 4-38-2-2, AS ADDED BY P.L.293-2019,
16 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2020]: Sec. 2. "Adjusted gross receipts" means:

18 (1) the total of all cash and property (including checks received
19 by a certificate holder, whether collected or not) received **from**
20 **authorized sports wagering offered** by a certificate holder; ~~from~~
21 ~~sports wagering~~; minus

22 (2) the total of:

23 (A) all cash paid out as winnings to sports wagering patrons,
24 including the cash equivalent of any merchandise or thing of
25 value awarded as a prize; and

26 (B) uncollectible gaming receivables, not to exceed the lesser
27 of:

28 (i) a reasonable provision for uncollectible patron checks
29 received from sports wagering; or

30 (ii) two percent (2%) of the total of all sums (including
31 checks, whether collected or not) less the amount paid out as
32 winnings to sports wagering patrons.

33 For purposes of this section, a counter or personal check that is invalid
34 or unenforceable under this article is considered cash received by the
35 certificate holder from sports wagering.

36 SECTION 3. IC 5-1.2-4.5-1, AS ADDED BY P.L.108-2019,
37 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 MAY 1, 2020]: Sec. 1. (a) This section applies to:

39 (1) a public-private agreement to which the authority is a party
40 under IC 8-15.5 and that was originally entered into before
41 January 1, 2013; **and**

42 (2) **any other agreement to which the authority or the state is**



1 **a party under any provision of the Indiana Code, other than**
 2 **IC 8-15.5, that would increase revenue as the result of the**
 3 **monetization of a state asset.**

4 (b) If an extension or an amendment to:

5 **(1) a public-private agreement described in subsection (a)(1),**
 6 **which is proposed to be entered into after May 1, 2019; or**

7 **(2) an agreement described in subsection (a)(2), which is**
 8 **proposed to be entered into after May 1, 2020;**

9 would require the approval of the authority at a meeting of the authority
 10 before taking effect, the authority shall submit the proposed extension
 11 or amendment to the ~~public-private~~ agreement to the budget committee
 12 established by IC 4-12-1-3 for its review. The budget committee may
 13 request that the authority, ~~or~~ the department of transportation, or both,
 14 **or the state, as applicable,** appear at a public meeting of the budget
 15 committee concerning the proposed extension or amendment to the
 16 ~~public-private~~ agreement. The authority **or the state** may not enter into
 17 any extension or amendment to ~~the public-private agreement~~ **an**
 18 **agreement described in this section** until after the budget committee
 19 has reviewed the proposed extension or amendment.

20 (c) If the authority or the state receives a lump sum payment or a
 21 series of payments totaling more than one million dollars (\$1,000,000)
 22 as a result of entering into any extension or amendment to the
 23 ~~public-private~~ agreement in accordance with subsection (b), any
 24 amount of that payment that is not obligated to cover any obligation
 25 incurred or amounts owed by the authority or the state before the date
 26 of the extension or amendment shall be deposited in a special payment
 27 reserve fund to be administered by the authority.

28 (d) The money in the special payment reserve fund at the end of any
 29 state fiscal year does not revert to any other fund.

30 (e) The authority shall invest or cause to be invested all the money
 31 in the special payment reserve fund in one (1) or more fiduciary
 32 accounts with a trustee that is a financial institution in accordance with
 33 the authority's investment policy.

34 (f) The special payment reserve fund may not be used for any
 35 purpose before May 1 of the year following the year in which the
 36 payment was received. Thereafter, unless the use of the fund is
 37 otherwise specified by law, the money in the fund shall be allocated
 38 and distributed to the fund into which the payment would have
 39 otherwise been deposited:

40 **(1) under IC 8-15.5, in the case of a public-private agreement**
 41 **described in subsection (a)(1); or**

42 **(2) based on the agreement, in the case of an agreement**



1 **described in subsection (a)(2).**

2 SECTION 4. IC 5-1.2-4.5-2, AS ADDED BY P.L.108-2019,
3 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 MAY 1, 2020]: Sec. 2. (a) This section applies to:

5 (1) a public-private agreement to which the authority is a party
6 under IC 8-15.5 and that is originally entered into after May 1,
7 2019; and

8 (2) any other agreement to which the authority or the state is
9 a party under any provision of the Indiana Code, other than
10 IC 8-15.5, that would increase revenue as the result of the
11 monetization of a state asset and that is entered into after
12 May 1, 2020.

13 (b) If an extension or an amendment to:

14 (1) a public-private agreement **described in subsection (a)(1)**
15 would increase the amount to be:

16 (1) (A) paid by the authority to the operator, another private
17 entity, or a governmental entity by at least one hundred million
18 dollars (\$100,000,000); or

19 (2) (B) received by the operator or a party related to the
20 operator by at least one hundred million dollars
21 (\$100,000,000); or

22 (2) **an agreement described in subsection (a)(2) would increase**
23 **revenue by at least one hundred million dollars (\$100,000,000)**
24 **as the result of the monetization of a state asset;**

25 the authority **or the state** shall submit the proposed extension or
26 amendment to the ~~public-private~~ agreement to the budget committee
27 established by IC 4-12-1-3 for its review.

28 (c) The budget committee may request that the authority, ~~or~~ the
29 department of transportation, or both, **or the state, as applicable,**
30 appear at a public meeting of the budget committee concerning the
31 proposed extension or amendment to ~~the public-private~~ **an agreement**
32 **described in this section.** The authority **or the state** may not enter into
33 any extension or amendment to ~~the public-private agreement~~ **an**
34 **agreement described in this section** until after the budget committee
35 has reviewed the proposed extension or amendment.

36 SECTION 5. IC 6-2.5-1-1 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Except as
38 provided in subsection (b) **or (c),** "unitary transaction" includes all
39 items of personal property and services which are furnished under a
40 single order or agreement and for which a total combined charge or
41 price is calculated.

42 (b) **"Unitary transaction" does not include a transaction that**



1 **meets one (1) of the exceptions in section 11.5(d) of this chapter.**

2 ~~(b)~~ (c) "Unitary transaction" as it applies to the furnishing of public
3 utility commodities or services means the public utility commodities
4 and services which are invoiced in a single bill or statement for
5 payment by the consumer.

6 SECTION 6. IC 6-2.5-1-5, AS AMENDED BY P.L.188-2018,
7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (b), "gross
9 retail income" means the total amount of consideration, including cash,
10 credit, property, and services, for which tangible personal property is
11 sold, leased, or rented, valued in money, whether received in money or
12 otherwise, without any deduction for:

- 13 (1) the seller's cost of the property sold;
14 (2) the cost of materials used, labor or service cost, interest,
15 losses, all costs of transportation to the seller, all taxes imposed
16 on the seller, and any other expense of the seller;
17 (3) charges by the seller for any services necessary to complete
18 the sale, other than delivery and installation charges;
19 (4) delivery charges; or
20 (5) consideration received by the seller from a third party if:
21 (A) the seller actually receives consideration from a party
22 other than the purchaser and the consideration is directly
23 related to a price reduction or discount on the sale;
24 (B) the seller has an obligation to pass the price reduction or
25 discount through to the purchaser;
26 (C) the amount of the consideration attributable to the sale is
27 fixed and determinable by the seller at the time of the sale of
28 the item to the purchaser; and
29 (D) the price reduction or discount is identified as a third party
30 price reduction or discount on the invoice received by the
31 purchaser or on a coupon, certificate, or other documentation
32 presented by the purchaser.

33 For purposes of subdivision (4), delivery charges are charges by the
34 seller for preparation and delivery of the property to a location
35 designated by the purchaser of property, including but not limited to
36 transportation, shipping, postage charges that are not separately stated
37 on the invoice, bill of sale, or similar document, handling, crating, and
38 packing. Delivery charges do not include postage charges that are
39 separately stated on the invoice, bill of sale, or similar document.

40 (b) "Gross retail income" does not include that part of the gross
41 receipts attributable to:

- 42 (1) the value of any tangible personal property received in a like



- 1 kind exchange in the retail transaction, if the value of the property
 2 given in exchange is separately stated on the invoice, bill of sale,
 3 or similar document given to the purchaser;
 4 (2) the receipts received in a retail transaction which constitute
 5 interest, finance charges, or insurance premiums on either a
 6 promissory note or an installment sales contract;
 7 (3) discounts, including cash, terms, or coupons that are not
 8 reimbursed by a third party that are allowed by a seller and taken
 9 by a purchaser on a sale;
 10 (4) interest, financing, and carrying charges from credit extended
 11 on the sale of personal property if the amount is separately stated
 12 on the invoice, bill of sale, or similar document given to the
 13 purchaser;
 14 (5) any taxes legally imposed directly on the consumer that are
 15 separately stated on the invoice, bill of sale, or similar document
 16 given to the purchaser, including an excise tax imposed under
 17 IC 6-6-15;
 18 (6) installation charges that are separately stated on the invoice,
 19 bill of sale, or similar document given to the purchaser;
 20 (7) telecommunications nonrecurring charges; ~~or~~
 21 (8) postage charges that are separately stated on the invoice, bill
 22 of sale, or similar document; **or**
 23 **(9) charges for serving or delivering food and food ingredients**
 24 **furnished, prepared, or served for consumption at a location,**
 25 **or on equipment, provided by the retail merchant, to the**
 26 **extent that the charges for the serving or delivery are stated**
 27 **separately from the price of the food and food ingredients**
 28 **when the purchaser pays the charges.**
 29 **(c) Notwithstanding subsection (b)(5):**
 30 **(1) in the case of retail sales of special fuel (as defined in**
 31 **IC 6-6-2.5-22), the gross retail income is the total sales price**
 32 **of the special fuel minus the part of that price attributable to**
 33 **tax imposed under IC 6-6-2.5 or Section 4041 or Section 4081**
 34 **of the Internal Revenue Code; and**
 35 **(2) in the case of retail sales of cigarettes (as defined in**
 36 **IC 6-7-1-2), the gross retail income is the total sales price of**
 37 **the cigarettes including the tax imposed under IC 6-7-1.**
 38 **(d) Gross retail income is only taxable under this article to the**
 39 **extent that the income represents:**
 40 **(1) the price of the property transferred, without the rendition**
 41 **of any services; and**
 42 **(2) except as provided in subsection (b), any bona fide changes**



1 **which are made for preparation, fabrication, alteration,**
 2 **modification, finishing, completion, delivery, or other service**
 3 **performed in respect to the property transferred before its**
 4 **transfer and which are separately stated on the transferor's**
 5 **records. For purposes of this subdivision, a transfer is**
 6 **considered to have occurred after the delivery of the property**
 7 **to the purchaser.**

8 ~~(e)~~ (e) A public utility's or a power subsidiary's gross retail income
 9 includes all gross retail income received by the public utility or power
 10 subsidiary, including any minimum charge, flat charge, membership
 11 fee, or any other form of charge or billing.

12 SECTION 7. IC 6-2.5-1-11.5, AS ADDED BY P.L.153-2006,
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2020]: Sec. 11.5. (a) This section applies to retail transactions
 15 occurring after December 31, 2007.

16 (b) "Bundled transaction" means a retail sale of two (2) or more
 17 products, except real property and services to real property, that are:

- 18 (1) distinct;
- 19 (2) identifiable; and
- 20 (3) sold for one (1) nonitemized price.

21 (c) The term does not include a retail sale in which the sales price
 22 of a product varies, or is negotiable, based on other products that the
 23 purchaser selects for inclusion in the transaction.

24 (d) The term does not include a retail sale that:

- 25 (1) is comprised of:
 - 26 (A) a service that is the true object of the transaction; and
 - 27 (B) tangible personal property that:
 - 28 (i) is essential to the use of the service; and
 - 29 (ii) is provided exclusively in connection with the service;
- 30 (2) includes both taxable and nontaxable products in which:
 - 31 (A) the seller's purchase price; or
 - 32 (B) the sales price;

33 of the taxable products does not exceed ten percent (10%) of the
 34 total purchase price or the total sales price of the bundled
 35 products; or

36 (3) includes both exempt tangible personal property and taxable
 37 tangible personal property:

- 38 (A) any of which is classified as:
 - 39 (i) food and food ingredients;
 - 40 (ii) drugs;
 - 41 (iii) durable medical equipment;
 - 42 (iv) mobility enhancing equipment;



- 1 (v) over-the-counter drugs;
 2 (vi) prosthetic devices; or
 3 (vii) medical supplies; and
 4 (B) for which:
 5 (i) the seller's purchase price; or
 6 (ii) the sales price;
 7 of the taxable tangible personal property is fifty percent (50%)
 8 or less of the total purchase price or the total sales price of the
 9 bundled tangible personal property.
 10 The determination under clause (B) must be made on the basis of
 11 either individual item purchase prices or individual item sale
 12 prices.
 13 **(e) A transaction that meets one (1) of the exceptions in**
 14 **subsection (d) shall be excluded from the definition of unitary**
 15 **transaction under section 1(a) of this chapter.**
 16 SECTION 8. IC 6-2.5-2-1, AS AMENDED BY P.L.108-2019,
 17 SECTION 108, IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) An excise tax, known as the
 19 state gross retail tax, is imposed on retail transactions made in Indiana.
 20 (b) The person who acquires property in a retail transaction is liable
 21 for the tax on the transaction and, except as otherwise provided in this
 22 chapter, shall pay the tax to the retail merchant as a separate added
 23 amount to the consideration in the transaction. ~~The A~~ retail merchant
 24 **that has either physical presence in Indiana as described in**
 25 **subsection (c) or that meets one (1) or both of the thresholds in**
 26 **subsection (d) shall collect the tax as agent for the state.**
 27 **(c) A retail merchant has physical presence in Indiana when the**
 28 **retail merchant:**
 29 **(1) maintains an office, place of distribution, sales location,**
 30 **sample location, warehouse, storage place, or other place of**
 31 **business which is located in Indiana and which the retail**
 32 **merchant maintains, occupies, or uses, either permanently or**
 33 **temporarily, either directly or indirectly, and either by the**
 34 **retail merchant or through a representative, agent, or**
 35 **subsidiary;**
 36 **(2) maintains a representative, agent, salesperson, canvasser,**
 37 **or solicitor who, while operating in Indiana under the**
 38 **authority of and on behalf of the retail merchant or a**
 39 **subsidiary of the retail merchant, sells, delivers, installs,**
 40 **repairs, assembles, sets up, accepts returns of, bills, invoices,**
 41 **or takes orders for sales of tangible personal property or**
 42 **services to be used, stored, or consumed in Indiana; or**



1 **(3) is otherwise required to register as a retail merchant**
2 **under IC 6-2.5-8-1.**

3 ~~(c)~~ **(d)** A retail merchant that does not have a physical presence in
4 Indiana shall, as an agent for the state, collect the gross retail tax on a
5 retail transaction made in Indiana, remit the gross retail tax as provided
6 in this article, and comply with all applicable procedures and
7 requirements of this article as if the retail merchant has a physical
8 presence in Indiana, if the retail merchant meets either of the following
9 conditions for the calendar year in which the retail transaction is made
10 or for the calendar year preceding the calendar year in which the retail
11 transaction is made:

- 12 (1) The retail merchant's gross revenue from any combination of:
 - 13 (A) the sale of tangible personal property that is delivered into
 - 14 Indiana;
 - 15 (B) a product transferred electronically into Indiana; or
 - 16 (C) a service delivered in Indiana;

17 exceeds one hundred thousand dollars (\$100,000).

- 18 (2) The retail merchant sells any combination of:
 - 19 (A) tangible personal property that is delivered into Indiana;
 - 20 (B) a product transferred electronically into Indiana; or
 - 21 (C) a service delivered in Indiana;
- 22 in two hundred (200) or more separate transactions.

23 ~~(d)~~ **(e)** A marketplace facilitator must include both transactions
24 made on its own behalf and transactions facilitated for sellers under
25 IC 6-2.5-4-18 for purposes of establishing the requirement to collect
26 gross retail ~~or use~~ tax without having a physical presence in Indiana for
27 purposes of subsection ~~(c)~~: **(d)**. In addition, except in instances where
28 the marketplace facilitator has not met the thresholds in subsection ~~(c)~~;
29 **(d)**, the transactions of the seller made through the marketplace are not
30 counted toward the seller for purposes of determining whether the
31 seller has met the thresholds in subsection ~~(c)~~: **(d)**.

32 SECTION 9. IC 6-2.5-2-2, AS AMENDED BY P.L.87-2014,
33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2020]: Sec. 2. (a) The state gross retail tax is measured by the
35 gross retail income received by a retail merchant in a retail unitary **or**
36 **bundled** transaction and is imposed at seven percent (7%) of that gross
37 retail income.

38 (b) If the tax computed under subsection (a) carried to the third
39 decimal place results in the numeral in the third decimal place being
40 greater than four (4), the amount of the tax shall be rounded to the next
41 additional cent.

42 (c) A seller may elect to round the tax under subsection (b) on a



1 transaction on an item basis or an invoice basis. However, a seller may
2 not round the tax under subsection (b) to circumvent the tax that would
3 otherwise be imposed on a transaction using an invoice basis.

4 SECTION 10. IC 6-2.5-3-1, AS AMENDED BY P.L.242-2015,
5 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2020]: Sec. 1. For purposes of this chapter:

7 (a) "Use" means the exercise of any right or power of ownership
8 over tangible personal property.

9 (b) "Storage" means the keeping or retention of tangible personal
10 property in Indiana for any purpose except temporary storage.

11 (c) "A retail merchant engaged in business in Indiana" includes any
12 retail merchant who makes retail transactions in which a person
13 acquires personal property or services for use, storage, or consumption
14 in Indiana and who:

15 (1) maintains an office, place of distribution, sales location,
16 sample location, warehouse, storage place, or other place of
17 business which is located in Indiana and which the retail
18 merchant maintains, occupies, or uses, either permanently or
19 temporarily, either directly or indirectly, and either by the retail
20 merchant or through a representative, agent, or subsidiary;

21 (2) maintains a representative, agent, salesman, canvasser, or
22 solicitor who, while operating in Indiana under the authority of
23 and on behalf of the retail merchant or a subsidiary of the retail
24 merchant, sells, delivers, installs, repairs, assembles, sets up,
25 accepts returns of, bills, invoices, or takes orders for sales of
26 tangible personal property or services to be used, stored, or
27 consumed in Indiana;

28 (3) is otherwise required to register as a retail merchant under
29 IC 6-2.5-8-1; or

30 (4) may be required by the state to collect tax under this article to
31 the extent allowed under the Constitution of the United States and
32 federal law.

33 (d) (c) "Temporary storage" means the keeping or retention of
34 tangible personal property in Indiana for a period of not more than one
35 hundred eighty (180) days and only for the purpose of the subsequent
36 use of that property solely outside Indiana.

37 (e) (d) Notwithstanding any other provision of this section, tangible
38 or intangible property that is:

39 (1) owned or leased by a person that has contracted with a
40 commercial printer for printing; and

41 (2) located at the premises of the commercial printer;
42 shall not be considered to be, or to create, an office, a place of



1 distribution, a sales location, a sample location, a warehouse, a storage
 2 place, or other place of business maintained, occupied, or used in any
 3 way by the person. A commercial printer with which a person has
 4 contracted for printing shall not be considered to be in any way a
 5 representative, an agent, a salesman, a canvasser, or a solicitor for the
 6 person.

7 SECTION 11. IC 6-2.5-3-3 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. The use tax is
 9 measured by the gross retail income received in a retail unitary **or**
 10 **bundled** transaction and is imposed at the same rates as the state gross
 11 retail tax under IC 6-2.5-2-2. For purposes of this chapter, transactions
 12 described in ~~IC 6-2.5-3-2(b) and (c)~~ **section 2(b) and 2(c) of this**
 13 **chapter** shall be treated as retail transactions within the meaning of
 14 IC 6-2.5-1-2.

15 SECTION 12. IC 6-2.5-3-4 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) The storage, use,
 17 and consumption of tangible personal property in Indiana is exempt
 18 from the use tax if:

- 19 (1) the property was acquired in a retail transaction ~~in Indiana~~ and
 20 the state gross retail tax has been paid on the acquisition of that
 21 property; or
 22 (2) the property was acquired in a transaction that is wholly or
 23 partially exempt from the state gross retail tax under any part of
 24 IC 6-2.5-5, except IC 6-2.5-5-24(b), and the property is being
 25 used, stored, or consumed for the purpose for which it was
 26 exempted.

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

31 SECTION 13. IC 6-2.5-3-6, AS AMENDED BY P.L.182-2009(ss),
 32 SECTION 175, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) For purposes of this section,
 34 "person" includes an individual who is personally liable for use tax
 35 under IC 6-2.5-9-3.

36 (b) The person who uses, stores, or consumes the tangible personal
 37 property acquired in a retail transaction is personally liable for the use
 38 tax.

39 (c) The person liable for the use tax shall pay ~~the tax to the retail~~
 40 ~~merchant from whom the person acquired the property, and the retail~~
 41 ~~merchant shall collect the tax as an agent for the state; if the retail~~
 42 ~~merchant is engaged in business in Indiana or if the retail merchant has~~



1 ~~departmental permission to collect the tax. In all other cases, the person~~
 2 ~~shall pay~~ the use tax to the department.

3 (d) Notwithstanding subsection (c), a person liable for the use tax
 4 imposed in respect to a vehicle, watercraft, or aircraft under section
 5 2(b) of this chapter shall pay the tax:

6 (1) to the titling agency when the person applies for a title for the
 7 vehicle or the watercraft;

8 (2) to the registering agency when the person registers the
 9 aircraft; or

10 (3) to the registering agency when the person registers the
 11 watercraft because it is a United States Coast Guard documented
 12 vessel;

13 unless the person presents proof to the agency that the use tax or state
 14 gross retail tax has already been paid with respect to the purchase of
 15 the vehicle, watercraft, or aircraft or proof that the taxes are
 16 inapplicable because of an exemption under this article.

17 (e) At the time a person pays the use tax for the purchase of a
 18 vehicle to a titling agency pursuant to subsection (d), the titling agency
 19 shall compute the tax due based on the presumption that the sale price
 20 was the average selling price for that vehicle, as determined under a
 21 used vehicle buying guide to be chosen by the titling agency. However,
 22 the titling agency shall compute the tax due based on the actual sale
 23 price of the vehicle if the buyer, at the time the buyer pays the tax to the
 24 titling agency, presents documentation to the titling agency sufficient
 25 to rebut the presumption set forth in this subsection and to establish the
 26 actual selling price of the vehicle.

27 SECTION 14. IC 6-2.5-3.5-26, AS ADDED BY P.L.227-2013,
 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2014 (RETROACTIVE)]: Sec. 26. (a) The gasoline use tax
 30 collected under this chapter is considered equivalent to the state gross
 31 retail tax that would be collected by a retail merchant in a retail sale
 32 and replaces the obligation of the retail merchant to collect the state
 33 gross retail tax on the sale of gasoline.

34 (b) **Except for the exemption under IC 6-2.5-5-8 for property**
 35 **acquired for resale in the ordinary course of business**, the
 36 exemptions set forth in IC 6-2.5-5 apply to the gasoline use tax
 37 imposed by this chapter.

38 SECTION 15. IC 6-2.5-4-1, AS AMENDED BY P.L.227-2013,
 39 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2020]: Sec. 1. (a) A person is a retail merchant making a retail
 41 transaction when the person engages in selling at retail.

42 (b) A person is engaged in selling at retail when, in the ordinary



1 course of the person's regularly conducted trade or business, the
2 person:

- 3 (1) acquires tangible personal property for the purpose of resale;
4 and
5 (2) transfers that property to another person for consideration.

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

- 8 (1) the property is transferred in the same form as when it was
9 acquired;
10 (2) the property is transferred alone or in conjunction with other
11 property or services; or
12 (3) the property is transferred conditionally or otherwise.

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

18 (e) The gross retail income received from selling at retail is only
19 taxable under this article to the extent that the income represents:

- 20 (1) the price of the property transferred, without the rendition of
21 any service; and
22 (2) except as provided in subsection (g), any bona fide charges
23 which are made for preparation, fabrication, alteration,
24 modification, finishing, completion, delivery, or other service
25 performed in respect to the property transferred before its transfer
26 and which are separately stated on the transferor's records.

27 For purposes of this subsection, a transfer is considered to have
28 occurred after delivery of the property to the purchaser:

29 (f) Notwithstanding subsection (e):

- 30 (1) in the case of retail sales of special fuel (as defined in
31 IC 6-6-2.5-22); the gross retail income received from selling at
32 retail is the total sales price of the special fuel minus the part of
33 that price attributable to tax imposed under IC 6-6-2.5 or Section
34 4041(a) or Section 4081 of the Internal Revenue Code; and
35 (2) in the case of retail sales of cigarettes (as defined in
36 IC 6-7-1-2); the gross retail income received from selling at retail
37 is the total sales price of the cigarettes including the tax imposed
38 under IC 6-7-1.

39 (g) Gross retail income does not include income that represents
40 charges for serving or delivering food and food ingredients furnished,
41 prepared, or served for consumption at a location, or on equipment,
42 provided by the retail merchant. However, the exclusion under this



1 subsection only applies if the charges for the serving or delivery are
 2 stated separately from the price of the food and food ingredients when
 3 the purchaser pays the charges.

4 SECTION 16. IC 6-2.5-4-18, AS ADDED BY P.L.108-2019,
 5 SECTION 112, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2020]: Sec. 18. (a) A marketplace facilitator
 7 shall be considered the retail merchant of each retail transaction
 8 (including a retail transaction under section 4 of this chapter) that is
 9 facilitated for sellers on its marketplace when it does any of the
 10 following on behalf of the seller:

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

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

15 (3) Charges, collects, or otherwise receives fees or other
 16 consideration for transactions made on its electronic marketplace.

17 (b) Regardless of whether a transaction under subsection (a) was
 18 made by the marketplace facilitator on its own behalf or facilitated on
 19 behalf of a seller, a marketplace facilitator is required to do the
 20 following with each retail transaction made on its marketplace:

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

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

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

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

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

37 SECTION 17. IC 6-2.5-6-6 IS REPEALED [EFFECTIVE JULY 1,
 38 2020]. Sec. 6: ~~When possible, the department shall coordinate the~~
 39 ~~reporting and payment of the state gross retail and use taxes with the~~
 40 ~~reporting and payment of the gross income tax.~~

41 SECTION 18. IC 6-2.5-6-14.1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14.1. ~~Notwithstanding~~



1 the refund provisions of this article as incorporated from the gross
 2 income tax law (~~IC 6-2.1, repealed~~); A retail merchant is not entitled
 3 to a refund of state gross retail or use taxes unless the retail merchant
 4 refunds those taxes to the person from whom they were collected.

5 SECTION 19. IC 6-2.5-8-1, AS AMENDED BY P.L.234-2019,
 6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2020]: Sec. 1. (a) A retail merchant may not make a retail
 8 transaction in Indiana, unless the retail merchant has applied for a
 9 registered retail merchant's certificate.

10 (b) A retail merchant may obtain a registered retail merchant's
 11 certificate by filing an application with the department and paying a
 12 registration fee of twenty-five dollars (\$25) for each place of business
 13 listed on the application. The retail merchant shall also provide such
 14 security for payment of the tax as the department may require under
 15 IC 6-2.5-6-12.

16 (c) The retail merchant shall list on the application the location
 17 (including the township) of each place of business where the retail
 18 merchant makes retail transactions. However, if the retail merchant
 19 does not have a fixed place of business, the retail merchant shall list the
 20 retail merchant's residence as the retail merchant's place of business. In
 21 addition, a public utility may list only its principal Indiana office as its
 22 place of business for sales of public utility commodities or service, but
 23 the utility must also list on the application the places of business where
 24 it makes retail transactions other than sales of public utility
 25 commodities or service.

26 (d) Upon receiving a proper application, the correct fee, and the
 27 security for payment, if required, the department shall issue to the retail
 28 merchant a separate registered retail merchant's certificate for each
 29 place of business listed on the application. Each certificate shall bear
 30 a serial number and the location of the place of business for which it is
 31 issued.

32 (e) The department may deny an application for a registered retail
 33 merchant's certificate if the applicant's business is operated, managed,
 34 or otherwise controlled by or affiliated with a person, including a
 35 relative, family member, responsible officer, or owner, who the
 36 department has determined:

37 (1) failed to:

38 (A) file all tax returns or information reports with the
 39 department for listed taxes; or

40 (B) pay all taxes, penalties, and interest to the department for
 41 listed taxes; and

42 (2) the business of the person who has failed to file all tax returns



1 or information reports under subdivision (1)(A) or who has failed
 2 to pay all taxes, penalties, and interest under subdivision (1)(B)
 3 is substantially similar to the business of the applicant.

4 (f) If a retail merchant intends to make retail transactions during a
 5 calendar year at a new Indiana place of business, the retail merchant
 6 must file a supplemental application and pay the fee for that place of
 7 business.

8 (g) Except as provided in subsection (i), a registered retail
 9 merchant's certificate is valid for two (2) years after the date the
 10 registered retail merchant's certificate is originally issued or renewed.
 11 If the retail merchant has filed all returns and remitted all taxes the
 12 retail merchant is currently obligated to file or remit, the department
 13 shall renew the registered retail merchant's certificate within thirty (30)
 14 days after the expiration date, at no cost to the retail merchant. Before
 15 issuing or renewing the registered retail merchant certification, the
 16 department may require the following to be provided:

17 (1) The names and addresses of the retail merchant's principal
 18 employees, agents, or representatives who engage in Indiana in
 19 the solicitation or negotiation of the retail transaction.

20 (2) The location of all of the retail merchant's places of business
 21 in Indiana, including offices and distribution houses.

22 (3) Any other information that the department requests.

23 (h) The department may not renew a registered retail merchant
 24 certificate of a retail merchant who is delinquent in remitting
 25 withholding taxes required to be remitted under IC 6-3-4 or sales or use
 26 tax. The department, at least sixty (60) days before the date on which
 27 a retail merchant's registered retail merchant's certificate expires, shall
 28 notify a retail merchant who is delinquent in remitting withholding
 29 taxes required to be remitted under IC 6-3-4 or sales or use tax that the
 30 department will not renew the retail merchant's registered retail
 31 merchant's certificate.

32 (i) If:

33 (1) a retail merchant has been notified by the department that the
 34 retail merchant is delinquent in remitting withholding taxes or
 35 sales or use tax in accordance with subsection (h); and

36 (2) the retail merchant pays the outstanding liability before the
 37 expiration of the retail merchant's registered retail merchant's
 38 certificate;

39 the department shall renew the retail merchant's registered retail
 40 merchant's certificate for one (1) year.

41 (j) ~~A retail merchant engaged in business in Indiana as defined in~~
 42 ~~IC 6-2.5-3-1(c) who makes retail transactions that are only subject to~~



1 the use tax must obtain a registered retail merchant's certificate before
 2 making those transactions. The retail merchant may obtain the
 3 certificate by following the same procedure as a retail merchant under
 4 subsections (b) and (c); except that the retail merchant must also
 5 include on the application:

6 (1) the names and addresses of the retail merchant's principal
 7 employees, agents, or representatives who engage in Indiana in
 8 the solicitation or negotiation of the retail transactions;

9 (2) the location of all of the retail merchant's places of business in
 10 Indiana, including offices and distribution houses; and

11 (3) any other information that the department requests.

12 The department may also require that this information be updated
 13 before renewal of a registered retail merchant's certificate.

14 ~~(k)~~ (j) The department may permit an out-of-state retail merchant to
 15 collect the use gross retail tax in instances where the retail
 16 merchant has not met the thresholds in IC 6-2.5-2-1(d). However,
 17 before the out-of-state retail merchant may collect the tax, the
 18 out-of-state retail merchant must obtain a registered retail merchant's
 19 certificate in the manner provided by this section. Upon receiving the
 20 certificate, the out-of-state retail merchant becomes subject to the same
 21 conditions and duties as an Indiana retail merchant and must then
 22 collect the use gross retail tax due on all sales of tangible personal
 23 property retail transactions that the out-of-state retail merchant knows
 24 is intended for use in are sourced to Indiana pursuant to
 25 IC 6-2.5-13-1.

26 ~~(m)~~ (k) Except as provided in subsection ~~(m)~~, (l), the department
 27 shall submit to the township assessor, or the county assessor if there is
 28 no township assessor for the township, before March 15 of each year:

29 (1) the name of each retail merchant that has newly obtained a
 30 registered retail merchant's certificate during the preceding year
 31 for a place of business located in the township or county; and

32 (2) the address of each place of business of the taxpayer in the
 33 township or county.

34 ~~(m)~~ (l) If the duties of the township assessor have been transferred
 35 to the county assessor as described in IC 6-1.1-1-24, the department
 36 shall submit the information listed in subsection ~~(m)~~ (k) to the county
 37 assessor.

38 SECTION 20. IC 6-2.5-9-9, AS ADDED BY P.L.247-2017,
 39 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2020]: Sec. 9. (a) Notwithstanding any other law and
 41 regardless of whether the department initiates an audit or any other
 42 collection or enforcement procedure, the department may bring a



1 declaratory judgment action under IC 34-14-1 in any circuit court or
 2 superior court against a person that the department believes meets the
 3 criteria of ~~IC 6-2.5-2-1(e)~~ **IC 6-2.5-2-1(d)** in order to establish that:

4 (1) the person has an obligation to collect state gross retail tax as
 5 provided in ~~IC 6-2.5-2-1(e)~~; **IC 6-2.5-2-1(d)**; and

6 (2) the person's obligation to collect state gross retail tax as
 7 provided in ~~IC 6-2.5-2-1(e)~~ **IC 6-2.5-2-1(d)** is valid under state
 8 and federal law.

9 (b) A court in which an action for a declaratory judgment is brought
 10 under subsection (a) shall act on the declaratory judgment action as
 11 expeditiously as possible.

12 (c) IC 34-52-1-1(b) and all other provisions authorizing attorney's
 13 fees do not apply to a declaratory judgment action brought under
 14 subsection (a) or to any appeal from a judgment in a declaratory
 15 judgment action brought under subsection (a).

16 (d) The following apply if the department files a declaratory
 17 judgment action under this section:

18 (1) The department and other state agencies and state entities may
 19 not, during the pendency of the declaratory judgment action
 20 (including any appeals from a judgment in the declaratory
 21 judgment action), enforce the obligation to collect state gross
 22 retail tax as provided in ~~IC 6-2.5-2-1(e)~~ **IC 6-2.5-2-1(d)** against
 23 any person that does not affirmatively consent or otherwise remit
 24 the gross retail tax on a voluntary basis. However, this subdivision
 25 does not apply to a person if there is a previous judgment from a
 26 court establishing the validity of the obligation to collect state
 27 gross retail tax with respect to that person.

28 (2) The prohibition under subdivision (1) on the enforcement of
 29 the obligation to collect state gross retail tax as provided in
 30 ~~IC 6-2.5-2-1(e)~~ **IC 6-2.5-2-1(d)** does not apply if:

31 (A) a court enters a final judgment on the merits declaring that
 32 the obligation to collect state gross retail tax as provided in
 33 ~~IC 6-2.5-2-1(e)~~ **IC 6-2.5-2-1(d)** is valid; and

34 (B) the final judgment of the court is no longer subject to
 35 appeal.

36 (e) An obligation to remit the gross retail tax as required by
 37 ~~IC 6-2.5-2-1(e)~~ **IC 6-2.5-2-1(d)** may not be applied retroactively before
 38 the effective date of that subsection on July 1, 2017.

39 SECTION 21. IC 6-2.5-9-10, AS ADDED BY P.L.247-2017,
 40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2020]: Sec. 10. (a) A taxpayer complying with
 42 ~~IC 6-2.5-2-1(e)~~; **IC 6-2.5-2-1(d)**, voluntarily or otherwise, may seek



1 only a refund under IC 6-8.1-9 of taxes, interest, and penalties that have
 2 been paid to and collected by the department. However, a refund may
 3 not be granted on the basis that the taxpayer lacked a physical presence
 4 in Indiana and complied with ~~IC 6-2.5-2-1(c)~~ **IC 6-2.5-2-1(d)**
 5 voluntarily.

6 (b) ~~IC 6-2.5-2-1(c)~~, **IC 6-2.5-2-1(d)**, section 9 of this chapter, and
 7 this section do not limit the ability of any taxpayer to obtain a refund
 8 for any other reason, including a mistake of fact or mathematical
 9 miscalculation of the applicable tax.

10 (c) A retail merchant that remits gross retail tax voluntarily or
 11 otherwise under ~~IC 6-2.5-2-1(c)~~ **IC 6-2.5-2-1(d)** is not liable to a
 12 purchaser who claims that the sales tax has been overcollected if
 13 ~~IC 6-2.5-2-1(c)~~ **IC 6-2.5-2-1(d)** is later found unlawful.

14 (d) ~~IC 6-2.5-2-1(c)~~ **IC 6-2.5-2-1(d)** does not affect the obligation of
 15 any purchaser to remit use tax as required under IC 6-2.5-3.

16 SECTION 22. IC 6-2.5-9-11, AS ADDED BY P.L.247-2017,
 17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 11. The general assembly finds the following:

19 (1) The inability to effectively collect the gross retail tax or use
 20 tax from remote sellers that deliver tangible personal property,
 21 products transferred electronically, or services directly into
 22 Indiana is seriously eroding the tax base of Indiana and causing
 23 revenue losses and imminent harm to Indiana through the loss of
 24 critical funding for state and local services.

25 (2) Gross retail tax and use tax revenues are essential in funding
 26 state and local services.

27 (3) Despite the fact that a use tax is imposed on the storage, use,
 28 or consumption of tangible personal property in Indiana if the
 29 property was acquired in a retail transaction, many remote sellers
 30 actively market sales as "tax free" or as "no sales tax"
 31 transactions.

32 (4) The structural advantages of remote sellers, including the
 33 absence of point-of-sale tax collection, and the general growth of
 34 the online retail industry make clear that further erosion of
 35 Indiana's gross retail tax base is likely in the near future.

36 (5) Remote sellers that make a substantial number of deliveries
 37 into Indiana or have large gross revenues from Indiana benefit
 38 extensively from Indiana's market (including the economy
 39 generally) and from the infrastructure in Indiana.

40 (6) In contrast with the expanding harms caused to Indiana from
 41 this exemption of gross retail tax collection obligations for remote
 42 sellers, the costs of that collection have fallen. Given modern



1 computing and software options, it is neither unusually difficult
 2 nor burdensome for remote sellers to collect and remit gross retail
 3 taxes associated with sales into Indiana.
 4 (7) The Supreme Court of the United States should reconsider its
 5 doctrine that prevents, under certain circumstances, states from
 6 requiring remote sellers to collect gross retail tax, and as the
 7 findings of this section make clear, this argument has grown
 8 stronger, and the cause more urgent, with time.
 9 (8) Given the urgent need for the Supreme Court of the United
 10 States to reconsider this doctrine, it is necessary for the general
 11 assembly to enact ~~IC 6-2.5-2-1(c)~~; **IC 6-2.5-2-1(d)**, clarifying the
 12 state's immediate intent to require collection of gross retail taxes
 13 by remote sellers.
 14 (9) Expeditious review is necessary and appropriate because,
 15 while it may be reasonable notwithstanding this law for remote
 16 sellers to continue to refuse to collect the gross retail tax in light
 17 of existing federal constitutional doctrine, such a refusal causes
 18 imminent harm to Indiana.
 19 (10) It is the intent of the general assembly to apply Indiana's
 20 gross retail tax and use tax obligations to the limit of federal and
 21 state constitutional doctrines and to specify that Indiana law
 22 permits the state to immediately argue in any litigation that such
 23 a constitutional doctrine should be changed to permit the
 24 obligation to collect state gross retail tax as provided in
 25 ~~IC 6-2.5-2-1(c)~~; **IC 6-2.5-2-1(d)**.
 26 SECTION 23. IC 6-2.5-10-2 IS REPEALED [EFFECTIVE JULY
 27 1, 2020]. Sec. 2. The provisions of the adjusted gross income tax law
 28 (~~IC 6-3~~); which do not conflict with the provisions of this article and
 29 which deal with any of the following subjects; apply for the purposes
 30 of imposing, collecting, and administering the state gross retail and use
 31 taxes under this article:
 32 (1) Filing of returns.
 33 (2) Auditing of returns.
 34 (3) Investigation of tax liability.
 35 (4) Determination of tax liability.
 36 (5) Notification of tax liability.
 37 (6) Assessment of tax liability.
 38 (7) Collection of tax liability.
 39 (8) Examination of taxpayer's books and records.
 40 (9) Legal proceedings.
 41 (10) Court actions.
 42 (11) Remedies.



- 1 (12) Privileges.
- 2 (13) Taxpayer and departmental relief.
- 3 (14) Statutes of limitations.
- 4 (15) Hearings.
- 5 (16) Refunds.
- 6 (17) Remittances.
- 7 (18) Imposition of penalties and interest.
- 8 (19) Maintenance of departmental records.
- 9 (20) Confidentiality of taxpayer's returns.
- 10 (21) Duties of the secretary of state and the treasurer of state.
- 11 (22) Administration.

12 SECTION 24. IC 6-3-1-3.5, AS AMENDED BY THE TECHNICAL
 13 CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS
 14 AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1,
 15 2021]: Sec. 3.5. When used in this article, the term "adjusted gross
 16 income" shall mean the following:

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

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

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

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

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

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

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

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

39 (5) Subtract:

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



- 1 (B) one thousand five hundred dollars (\$1,500) for each
 2 exemption allowed under Section 151(c) of the Internal
 3 Revenue Code (as effective January 1, 2017) for an individual:
 4 (i) who is less than nineteen (19) years of age or is a
 5 full-time student who is less than twenty-four (24) years of
 6 age;
 7 (ii) for whom the taxpayer is the legal guardian; and
 8 (iii) for whom the taxpayer does not claim an exemption
 9 under clause (A); and
 10 (C) five hundred dollars (\$500) for each additional amount
 11 allowable under Section 63(f)(1) of the Internal Revenue Code
 12 if the **federal** adjusted gross income of the taxpayer, or the
 13 taxpayer and the taxpayer's spouse in the case of a joint return,
 14 is less than forty thousand dollars (\$40,000). **In the case of a**
 15 **married individual filing a separate return, the qualifying**
 16 **dollar amount in this clause shall be reduced by fifty**
 17 **percent (50%).**
 18 This amount is in addition to the amount subtracted under
 19 subdivision (4).
 20 (6) Subtract any amounts included in federal adjusted gross
 21 income under Section 111 of the Internal Revenue Code as a
 22 recovery of items previously deducted as an itemized deduction
 23 from adjusted gross income.
 24 (7) Subtract any amounts included in federal adjusted gross
 25 income under the Internal Revenue Code which amounts were
 26 received by the individual as supplemental railroad retirement
 27 annuities under 45 U.S.C. 231 and which are not deductible under
 28 subdivision (1).
 29 (8) Subtract an amount equal to the amount of federal Social
 30 Security and Railroad Retirement benefits included in a taxpayer's
 31 federal gross income by Section 86 of the Internal Revenue Code.
 32 (9) In the case of a nonresident taxpayer or a resident taxpayer
 33 residing in Indiana for a period of less than the taxpayer's entire
 34 taxable year, the total amount of the deductions allowed pursuant
 35 to subdivisions (3), (4), and (5) shall be reduced to an amount
 36 which bears the same ratio to the total as the taxpayer's income
 37 taxable in Indiana bears to the taxpayer's total income.
 38 (10) In the case of an individual who is a recipient of assistance
 39 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
 40 subtract an amount equal to that portion of the individual's
 41 adjusted gross income with respect to which the individual is not
 42 allowed under federal law to retain an amount to pay state and



- 1 local income taxes.
- 2 (11) In the case of an eligible individual, subtract the amount of
- 3 a Holocaust victim's settlement payment included in the
- 4 individual's federal adjusted gross income.
- 5 (12) Subtract an amount equal to the portion of any premiums
- 6 paid during the taxable year by the taxpayer for a qualified long
- 7 term care policy (as defined in IC 12-15-39.6-5) for the taxpayer
- 8 or the taxpayer's spouse ~~or both~~ **if the taxpayer and the**
- 9 **taxpayer's spouse file a joint income tax return or the**
- 10 **taxpayer is otherwise entitled to a deduction under this**
- 11 **subdivision for the taxpayer's spouse, or both.**
- 12 (13) Subtract an amount equal to the lesser of:
- 13 (A) two thousand five hundred dollars (\$2,500), or **one**
- 14 **thousand two hundred fifty dollars (\$1,250) in the case of**
- 15 **a married individual filing a separate return; or**
- 16 (B) the amount of property taxes that are paid during the
- 17 taxable year in Indiana by the individual on the individual's
- 18 principal place of residence.
- 19 (14) Subtract an amount equal to the amount of a September 11
- 20 terrorist attack settlement payment included in the individual's
- 21 federal adjusted gross income.
- 22 (15) Add or subtract the amount necessary to make the adjusted
- 23 gross income of any taxpayer that owns property for which bonus
- 24 depreciation was allowed in the current taxable year or in an
- 25 earlier taxable year equal to the amount of adjusted gross income
- 26 that would have been computed had an election not been made
- 27 under Section 168(k) of the Internal Revenue Code to apply bonus
- 28 depreciation to the property in the year that it was placed in
- 29 service.
- 30 (16) Add an amount equal to any deduction allowed under
- 31 Section 172 of the Internal Revenue Code (concerning net
- 32 operating losses).
- 33 (17) Add or subtract the amount necessary to make the adjusted
- 34 gross income of any taxpayer that placed Section 179 property (as
- 35 defined in Section 179 of the Internal Revenue Code) in service
- 36 in the current taxable year or in an earlier taxable year equal to
- 37 the amount of adjusted gross income that would have been
- 38 computed had an election for federal income tax purposes not
- 39 been made for the year in which the property was placed in
- 40 service to take deductions under Section 179 of the Internal
- 41 Revenue Code in a total amount exceeding the sum of:
- 42 (A) twenty-five thousand dollars (\$25,000) to the extent



- 1 deductions under Section 179 of the Internal Revenue Code
 2 were not elected as provided in clause (B); and
 3 (B) for taxable years beginning after December 31, 2017, the
 4 deductions elected under Section 179 of the Internal Revenue
 5 Code on property acquired in an exchange if:
 6 (i) the exchange would have been eligible for
 7 nonrecognition of gain or loss under Section 1031 of the
 8 Internal Revenue Code in effect on January 1, 2017;
 9 (ii) the exchange is not eligible for nonrecognition of gain or
 10 loss under Section 1031 of the Internal Revenue Code; and
 11 (iii) the taxpayer made an election to take deductions under
 12 Section 179 of the Internal Revenue Code with regard to the
 13 acquired property in the year that the property was placed
 14 into service.
- 15 The amount of deductions allowable for an item of property
 16 under this clause may not exceed the amount of adjusted gross
 17 income realized on the property that would have been deferred
 18 under the Internal Revenue Code in effect on January 1, 2017.
- 19 (18) Subtract an amount equal to the amount of the taxpayer's
 20 qualified military income that was not excluded from the
 21 taxpayer's gross income for federal income tax purposes under
 22 Section 112 of the Internal Revenue Code.
- 23 (19) Subtract income that is:
 24 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
 25 derived from patents); and
 26 (B) included in the individual's federal adjusted gross income
 27 under the Internal Revenue Code.
- 28 (20) Add an amount equal to any income not included in gross
 29 income as a result of the deferral of income arising from business
 30 indebtedness discharged in connection with the reacquisition after
 31 December 31, 2008, and before January 1, 2011, of an applicable
 32 debt instrument, as provided in Section 108(i) of the Internal
 33 Revenue Code. Subtract the amount necessary from the adjusted
 34 gross income of any taxpayer that added an amount to adjusted
 35 gross income in a previous year to offset the amount included in
 36 federal gross income as a result of the deferral of income arising
 37 from business indebtedness discharged in connection with the
 38 reacquisition after December 31, 2008, and before January 1,
 39 2011, of an applicable debt instrument, as provided in Section
 40 108(i) of the Internal Revenue Code.
- 41 (21) Add the amount excluded from federal gross income under
 42 Section 103 of the Internal Revenue Code for interest received on



- 1 an obligation of a state other than Indiana, or a political
 2 subdivision of such a state, that is acquired by the taxpayer after
 3 December 31, 2011.
- 4 (22) Subtract an amount as described in Section 1341(a)(2) of the
 5 Internal Revenue Code to the extent, if any, that the amount was
 6 previously included in the taxpayer's adjusted gross income for a
 7 prior taxable year.
- 8 (23) For taxable years beginning after December 25, 2016, add an
 9 amount equal to the deduction for deferred foreign income that
 10 was claimed by the taxpayer for the taxable year under Section
 11 965(c) of the Internal Revenue Code.
- 12 (24) Subtract any interest expense paid or accrued in the current
 13 taxable year but not deducted as a result of the limitation imposed
 14 under Section 163(j)(1) of the Internal Revenue Code. Add any
 15 interest expense paid or accrued in a previous taxable year but
 16 allowed as a deduction under Section 163 of the Internal Revenue
 17 Code in the current taxable year. For purposes of this subdivision,
 18 an interest expense is considered paid or accrued only in the first
 19 taxable year the deduction would have been allowable under
 20 Section 163 of the Internal Revenue Code if the limitation under
 21 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 22 (25) Subtract the amount that would have been excluded from
 23 gross income but for the enactment of Section 118(b)(2) of the
 24 Internal Revenue Code for taxable years ending after December
 25 22, 2017.
- 26 **(26) If a taxpayer receives prize money on which tax was**
 27 **imposed under IC 6-3-9, subtract the amount of the prize**
 28 **money received during the taxable year.**
- 29 ~~(26)~~ (27) Subtract any other amounts the taxpayer is entitled to
 30 deduct under IC 6-3-2.
- 31 (b) In the case of corporations, the same as "taxable income" (as
 32 defined in Section 63 of the Internal Revenue Code) adjusted as
 33 follows:
- 34 (1) Subtract income that is exempt from taxation under this article
 35 by the Constitution and statutes of the United States.
- 36 (2) Add an amount equal to any deduction or deductions allowed
 37 or allowable pursuant to Section 170 of the Internal Revenue
 38 Code (concerning charitable contributions).
- 39 (3) Except as provided in subsection (c), add an amount equal to
 40 any deduction or deductions allowed or allowable pursuant to
 41 Section 63 of the Internal Revenue Code for taxes based on or
 42 measured by income and levied at the state level by any state of



- 1 the United States.
- 2 (4) Subtract an amount equal to the amount included in the
- 3 corporation's taxable income under Section 78 of the Internal
- 4 Revenue Code (concerning foreign tax credits).
- 5 (5) Add or subtract the amount necessary to make the adjusted
- 6 gross income of any taxpayer that owns property for which bonus
- 7 depreciation was allowed in the current taxable year or in an
- 8 earlier taxable year equal to the amount of adjusted gross income
- 9 that would have been computed had an election not been made
- 10 under Section 168(k) of the Internal Revenue Code to apply bonus
- 11 depreciation to the property in the year that it was placed in
- 12 service.
- 13 (6) Add an amount equal to any deduction allowed under Section
- 14 172 of the Internal Revenue Code (concerning net operating
- 15 losses).
- 16 (7) Add or subtract the amount necessary to make the adjusted
- 17 gross income of any taxpayer that placed Section 179 property (as
- 18 defined in Section 179 of the Internal Revenue Code) in service
- 19 in the current taxable year or in an earlier taxable year equal to
- 20 the amount of adjusted gross income that would have been
- 21 computed had an election for federal income tax purposes not
- 22 been made for the year in which the property was placed in
- 23 service to take deductions under Section 179 of the Internal
- 24 Revenue Code in a total amount exceeding the sum of:
- 25 (A) twenty-five thousand dollars (\$25,000) to the extent
- 26 deductions under Section 179 of the Internal Revenue Code
- 27 were not elected as provided in clause (B); and
- 28 (B) for taxable years beginning after December 31, 2017, the
- 29 deductions elected under Section 179 of the Internal Revenue
- 30 Code on property acquired in an exchange if:
- 31 (i) the exchange would have been eligible for
- 32 nonrecognition of gain or loss under Section 1031 of the
- 33 Internal Revenue Code in effect on January 1, 2017;
- 34 (ii) the exchange is not eligible for nonrecognition of gain or
- 35 loss under Section 1031 of the Internal Revenue Code; and
- 36 (iii) the taxpayer made an election to take deductions under
- 37 Section 179 of the Internal Revenue Code with regard to the
- 38 acquired property in the year that the property was placed
- 39 into service.
- 40 The amount of deductions allowable for an item of property
- 41 under this clause may not exceed the amount of adjusted gross
- 42 income realized on the property that would have been deferred



- 1 under the Internal Revenue Code in effect on January 1, 2017.
- 2 (8) Add to the extent required by IC 6-3-2-20:
- 3 (A) the amount of intangible expenses (as defined in
- 4 IC 6-3-2-20) for the taxable year that reduced the corporation's
- 5 taxable income (as defined in Section 63 of the Internal
- 6 Revenue Code) for federal income tax purposes; and
- 7 (B) any directly related interest expenses (as defined in
- 8 IC 6-3-2-20) that reduced the corporation's adjusted gross
- 9 income (determined without regard to this subdivision).
- 10 For purposes of this ~~subdivision~~, **clause**, any directly related
- 11 interest expense that constitutes business interest within the
- 12 meaning of Section 163(j) of the Internal Revenue Code shall
- 13 be considered to have reduced the taxpayer's federal taxable
- 14 income only in the first taxable year in which the deduction
- 15 otherwise would have been allowable under Section 163 of the
- 16 Internal Revenue Code if the limitation under Section
- 17 163(j)(1) of the Internal Revenue Code did not exist.
- 18 (9) Add an amount equal to any deduction for dividends paid (as
- 19 defined in Section 561 of the Internal Revenue Code) to
- 20 shareholders of a captive real estate investment trust (as defined
- 21 in section 34.5 of this chapter).
- 22 (10) Subtract income that is:
- 23 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
- 24 derived from patents); and
- 25 (B) included in the corporation's taxable income under the
- 26 Internal Revenue Code.
- 27 (11) Add an amount equal to any income not included in gross
- 28 income as a result of the deferral of income arising from business
- 29 indebtedness discharged in connection with the reacquisition after
- 30 December 31, 2008, and before January 1, 2011, of an applicable
- 31 debt instrument, as provided in Section 108(i) of the Internal
- 32 Revenue Code. Subtract from the adjusted gross income of any
- 33 taxpayer that added an amount to adjusted gross income in a
- 34 previous year the amount necessary to offset the amount included
- 35 in federal gross income as a result of the deferral of income
- 36 arising from business indebtedness discharged in connection with
- 37 the reacquisition after December 31, 2008, and before January 1,
- 38 2011, of an applicable debt instrument, as provided in Section
- 39 108(i) of the Internal Revenue Code.
- 40 (12) Add the amount excluded from federal gross income under
- 41 Section 103 of the Internal Revenue Code for interest received on
- 42 an obligation of a state other than Indiana, or a political



- 1 subdivision of such a state, that is acquired by the taxpayer after
 2 December 31, 2011.
- 3 (13) For taxable years beginning after December 25, 2016:
- 4 (A) for a corporation other than a real estate investment trust,
 5 add:
- 6 (i) an amount equal to the amount reported by the taxpayer
 7 on IRC 965 Transition Tax Statement, line 1; or
 8 (ii) if the taxpayer deducted an amount under Section 965(c)
 9 of the Internal Revenue Code in determining the taxpayer's
 10 taxable income for purposes of the federal income tax, the
 11 amount deducted under Section 965(c) of the Internal
 12 Revenue Code; and
- 13 (B) for a real estate investment trust, add an amount equal to
 14 the deduction for deferred foreign income that was claimed by
 15 the taxpayer for the taxable year under Section 965(c) of the
 16 Internal Revenue Code, but only to the extent that the taxpayer
 17 included income pursuant to Section 965 of the Internal
 18 Revenue Code in its taxable income for federal income tax
 19 purposes or is required to add back dividends paid under
 20 subdivision (9).
- 21 (14) Add an amount equal to the deduction that was claimed by
 22 the taxpayer for the taxable year under Section 250(a)(1)(B) of the
 23 Internal Revenue Code (attributable to global intangible
 24 low-taxed income). The taxpayer shall separately specify the
 25 amount of the reduction under Section 250(a)(1)(B)(i) of the
 26 Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the
 27 Internal Revenue Code.
- 28 (15) Subtract any interest expense paid or accrued in the current
 29 taxable year but not deducted as a result of the limitation imposed
 30 under Section 163(j)(1) of the Internal Revenue Code. Add any
 31 interest expense paid or accrued in a previous taxable year but
 32 allowed as a deduction under Section 163 of the Internal Revenue
 33 Code in the current taxable year. For purposes of this subdivision,
 34 an interest expense is considered paid or accrued only in the first
 35 taxable year the deduction would have been allowable under
 36 Section 163 of the Internal Revenue Code if the limitation under
 37 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 38 (16) Subtract the amount that would have been excluded from
 39 gross income but for the enactment of Section 118(b)(2) of the
 40 Internal Revenue Code for taxable years ending after December
 41 22, 2017.
- 42 **(17) If a taxpayer receives prize money on which tax was**



1 **imposed under IC 6-3-9, subtract the amount of the prize**
2 **money received during the taxable year.**
3 ~~(+7)~~ **(18)** Add or subtract any other amounts the taxpayer is:
4 (A) required to add or subtract; or
5 (B) entitled to deduct;
6 under IC 6-3-2.
7 (c) The following apply to taxable years beginning after December
8 31, 2018, for purposes of the add back of any deduction allowed on the
9 taxpayer's federal income tax return for wagering taxes, as provided in
10 subsection (a)(2) if the taxpayer is an individual or subsection (b)(3) if
11 the taxpayer is a corporation:
12 (1) For taxable years beginning after December 31, 2018, and
13 before January 1, 2020, a taxpayer is required to add back under
14 this section eighty-seven and five-tenths percent (87.5%) of any
15 deduction allowed on the taxpayer's federal income tax return for
16 wagering taxes.
17 (2) For taxable years beginning after December 31, 2019, and
18 before January 1, 2021, a taxpayer is required to add back under
19 this section seventy-five percent (75%) of any deduction allowed
20 on the taxpayer's federal income tax return for wagering taxes.
21 (3) For taxable years beginning after December 31, 2020, and
22 before January 1, 2022, a taxpayer is required to add back under
23 this section sixty-two and five-tenths percent (62.5%) of any
24 deduction allowed on the taxpayer's federal income tax return for
25 wagering taxes.
26 (4) For taxable years beginning after December 31, 2021, and
27 before January 1, 2023, a taxpayer is required to add back under
28 this section fifty percent (50%) of any deduction allowed on the
29 taxpayer's federal income tax return for wagering taxes.
30 (5) For taxable years beginning after December 31, 2022, and
31 before January 1, 2024, a taxpayer is required to add back under
32 this section thirty-seven and five-tenths percent (37.5%) of any
33 deduction allowed on the taxpayer's federal income tax return for
34 wagering taxes.
35 (6) For taxable years beginning after December 31, 2023, and
36 before January 1, 2025, a taxpayer is required to add back under
37 this section twenty-five percent (25%) of any deduction allowed
38 on the taxpayer's federal income tax return for wagering taxes.
39 (7) For taxable years beginning after December 31, 2024, and
40 before January 1, 2026, a taxpayer is required to add back under
41 this section twelve and five-tenths percent (12.5%) of any
42 deduction allowed on the taxpayer's federal income tax return for



- 1 wagering taxes.
- 2 (8) For taxable years beginning after December 31, 2025, a
- 3 taxpayer is not required to add back under this section any amount
- 4 of a deduction allowed on the taxpayer's federal income tax return
- 5 for wagering taxes.
- 6 (d) In the case of life insurance companies (as defined in Section
- 7 816(a) of the Internal Revenue Code) that are organized under Indiana
- 8 law, the same as "life insurance company taxable income" (as defined
- 9 in Section 801 of the Internal Revenue Code), adjusted as follows:
- 10 (1) Subtract income that is exempt from taxation under this article
- 11 by the Constitution and statutes of the United States.
- 12 (2) Add an amount equal to any deduction allowed or allowable
- 13 under Section 170 of the Internal Revenue Code (concerning
- 14 charitable contributions).
- 15 (3) Add an amount equal to a deduction allowed or allowable
- 16 under Section 805 or Section 832(c) of the Internal Revenue Code
- 17 for taxes based on or measured by income and levied at the state
- 18 level by any state.
- 19 (4) Subtract an amount equal to the amount included in the
- 20 company's taxable income under Section 78 of the Internal
- 21 Revenue Code (concerning foreign tax credits).
- 22 (5) Add or subtract the amount necessary to make the adjusted
- 23 gross income of any taxpayer that owns property for which bonus
- 24 depreciation was allowed in the current taxable year or in an
- 25 earlier taxable year equal to the amount of adjusted gross income
- 26 that would have been computed had an election not been made
- 27 under Section 168(k) of the Internal Revenue Code to apply bonus
- 28 depreciation to the property in the year that it was placed in
- 29 service.
- 30 (6) Add an amount equal to any deduction allowed under Section
- 31 172 of the Internal Revenue Code (concerning net operating
- 32 losses).
- 33 (7) Add or subtract the amount necessary to make the adjusted
- 34 gross income of any taxpayer that placed Section 179 property (as
- 35 defined in Section 179 of the Internal Revenue Code) in service
- 36 in the current taxable year or in an earlier taxable year equal to
- 37 the amount of adjusted gross income that would have been
- 38 computed had an election for federal income tax purposes not
- 39 been made for the year in which the property was placed in
- 40 service to take deductions under Section 179 of the Internal
- 41 Revenue Code in a total amount exceeding the sum of:
- 42 (A) twenty-five thousand dollars (\$25,000) to the extent



- 1 deductions under Section 179 of the Internal Revenue Code
 2 were not elected as provided in clause (B); and
 3 (B) for taxable years beginning after December 31, 2017, the
 4 deductions elected under Section 179 of the Internal Revenue
 5 Code on property acquired in an exchange if:
 6 (i) the exchange would have been eligible for
 7 nonrecognition of gain or loss under Section 1031 of the
 8 Internal Revenue Code in effect on January 1, 2017;
 9 (ii) the exchange is not eligible for nonrecognition of gain or
 10 loss under Section 1031 of the Internal Revenue Code; and
 11 (iii) the taxpayer made an election to take deductions under
 12 Section 179 of the Internal Revenue Code with regard to the
 13 acquired property in the year that the property was placed
 14 into service.
- 15 The amount of deductions allowable for an item of property
 16 under this clause may not exceed the amount of adjusted gross
 17 income realized on the property that would have been deferred
 18 under the Internal Revenue Code in effect on January 1, 2017.
- 19 (8) Subtract income that is:
 20 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
 21 derived from patents); and
 22 (B) included in the insurance company's taxable income under
 23 the Internal Revenue Code.
- 24 (9) Add an amount equal to any income not included in gross
 25 income as a result of the deferral of income arising from business
 26 indebtedness discharged in connection with the reacquisition after
 27 December 31, 2008, and before January 1, 2011, of an applicable
 28 debt instrument, as provided in Section 108(i) of the Internal
 29 Revenue Code. Subtract from the adjusted gross income of any
 30 taxpayer that added an amount to adjusted gross income in a
 31 previous year the amount necessary to offset the amount included
 32 in federal gross income as a result of the deferral of income
 33 arising from business indebtedness discharged in connection with
 34 the reacquisition after December 31, 2008, and before January 1,
 35 2011, of an applicable debt instrument, as provided in Section
 36 108(i) of the Internal Revenue Code.
- 37 (10) Add an amount equal to any exempt insurance income under
 38 Section 953(e) of the Internal Revenue Code that is active
 39 financing income under Subpart F of Subtitle A, Chapter 1,
 40 Subchapter N of the Internal Revenue Code.
- 41 (11) Add the amount excluded from federal gross income under
 42 Section 103 of the Internal Revenue Code for interest received on



1 an obligation of a state other than Indiana, or a political
 2 subdivision of such a state, that is acquired by the taxpayer after
 3 December 31, 2011.

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

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

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

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

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

29 (15) Subtract the amount that would have been excluded from
 30 gross income but for the enactment of Section 118(b)(2) of the
 31 Internal Revenue Code for taxable years ending after December
 32 22, 2017.

33 (16) Add or subtract any other amounts the taxpayer is:

34 (A) required to add or subtract; or

35 (B) entitled to deduct;

36 under IC 6-3-2.

37 (e) In the case of insurance companies subject to tax under Section
 38 831 of the Internal Revenue Code and organized under Indiana law, the
 39 same as "taxable income" (as defined in Section 832 of the Internal
 40 Revenue Code), adjusted as follows:

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



- 1 (2) Add an amount equal to any deduction allowed or allowable
 2 under Section 170 of the Internal Revenue Code (concerning
 3 charitable contributions).
- 4 (3) Add an amount equal to a deduction allowed or allowable
 5 under Section 805 or Section 832(c) of the Internal Revenue Code
 6 for taxes based on or measured by income and levied at the state
 7 level by any state.
- 8 (4) Subtract an amount equal to the amount included in the
 9 company's taxable income under Section 78 of the Internal
 10 Revenue Code (concerning foreign tax credits).
- 11 (5) Add or subtract the amount necessary to make the adjusted
 12 gross income of any taxpayer that owns property for which bonus
 13 depreciation was allowed in the current taxable year or in an
 14 earlier taxable year equal to the amount of adjusted gross income
 15 that would have been computed had an election not been made
 16 under Section 168(k) of the Internal Revenue Code to apply bonus
 17 depreciation to the property in the year that it was placed in
 18 service.
- 19 (6) Add an amount equal to any deduction allowed under Section
 20 172 of the Internal Revenue Code (concerning net operating
 21 losses).
- 22 (7) Add or subtract the amount necessary to make the adjusted
 23 gross income of any taxpayer that placed Section 179 property (as
 24 defined in Section 179 of the Internal Revenue Code) in service
 25 in the current taxable year or in an earlier taxable year equal to
 26 the amount of adjusted gross income that would have been
 27 computed had an election for federal income tax purposes not
 28 been made for the year in which the property was placed in
 29 service to take deductions under Section 179 of the Internal
 30 Revenue Code in a total amount exceeding the sum of:
- 31 (A) twenty-five thousand dollars (\$25,000) to the extent
 32 deductions under Section 179 of the Internal Revenue Code
 33 were not elected as provided in clause (B); and
- 34 (B) for taxable years beginning after December 31, 2017, the
 35 deductions elected under Section 179 of the Internal Revenue
 36 Code on property acquired in an exchange if:
- 37 (i) the exchange would have been eligible for
 38 nonrecognition of gain or loss under Section 1031 of the
 39 Internal Revenue Code in effect on January 1, 2017;
- 40 (ii) the exchange is not eligible for nonrecognition of gain or
 41 loss under Section 1031 of the Internal Revenue Code; and
- 42 (iii) the taxpayer made an election to take deductions under



- 1 Section 179 of the Internal Revenue Code with regard to the
2 acquired property in the year that the property was placed
3 into service.
- 4 The amount of deductions allowable for an item of property
5 under this clause may not exceed the amount of adjusted gross
6 income realized on the property that would have been deferred
7 under the Internal Revenue Code in effect on January 1, 2017.
- 8 (8) Subtract income that is:
- 9 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
10 derived from patents); and
- 11 (B) included in the insurance company's taxable income under
12 the Internal Revenue Code.
- 13 (9) Add an amount equal to any income not included in gross
14 income as a result of the deferral of income arising from business
15 indebtedness discharged in connection with the reacquisition after
16 December 31, 2008, and before January 1, 2011, of an applicable
17 debt instrument, as provided in Section 108(i) of the Internal
18 Revenue Code. Subtract from the adjusted gross income of any
19 taxpayer that added an amount to adjusted gross income in a
20 previous year the amount necessary to offset the amount included
21 in federal gross income as a result of the deferral of income
22 arising from business indebtedness discharged in connection with
23 the reacquisition after December 31, 2008, and before January 1,
24 2011, of an applicable debt instrument, as provided in Section
25 108(i) of the Internal Revenue Code.
- 26 (10) Add an amount equal to any exempt insurance income under
27 Section 953(e) of the Internal Revenue Code that is active
28 financing income under Subpart F of Subtitle A, Chapter 1,
29 Subchapter N of the Internal Revenue Code.
- 30 (11) Add the amount excluded from federal gross income under
31 Section 103 of the Internal Revenue Code for interest received on
32 an obligation of a state other than Indiana, or a political
33 subdivision of such a state, that is acquired by the taxpayer after
34 December 31, 2011.
- 35 (12) For taxable years beginning after December 25, 2016, add:
- 36 (A) an amount equal to the amount reported by the taxpayer on
37 IRC 965 Transition Tax Statement, line 1; or
- 38 (B) if the taxpayer deducted an amount under Section 965(c)
39 of the Internal Revenue Code in determining the taxpayer's
40 taxable income for purposes of the federal income tax, the
41 amount deducted under Section 965(c) of the Internal Revenue
42 Code.



- 1 (13) Add an amount equal to the deduction that was claimed by
 2 the taxpayer for the taxable year under Section 250(a)(1)(B) of the
 3 Internal Revenue Code (attributable to global intangible
 4 low-taxed income). The taxpayer shall separately specify the
 5 amount of the reduction under Section 250(a)(1)(B)(i) of the
 6 Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the
 7 Internal Revenue Code.
- 8 (14) Subtract any interest expense paid or accrued in the current
 9 taxable year but not deducted as a result of the limitation imposed
 10 under Section 163(j)(1) of the Internal Revenue Code. Add any
 11 interest expense paid or accrued in a previous taxable year but
 12 allowed as a deduction under Section 163 of the Internal Revenue
 13 Code in the current taxable year. For purposes of this subdivision,
 14 an interest expense is considered paid or accrued only in the first
 15 taxable year the deduction would have been allowable under
 16 Section 163 of the Internal Revenue Code if the limitation under
 17 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 18 (15) Subtract the amount that would have been excluded from
 19 gross income but for the enactment of Section 118(b)(2) of the
 20 Internal Revenue Code for taxable years ending after December
 21 22, 2017.
- 22 (16) Add or subtract any other amounts the taxpayer is:
 23 (A) required to add or subtract; or
 24 (B) entitled to deduct;
 25 under IC 6-3-2.
- 26 (f) In the case of trusts and estates, "taxable income" (as defined for
 27 trusts and estates in Section 641(b) of the Internal Revenue Code)
 28 adjusted as follows:
 29 (1) Subtract income that is exempt from taxation under this article
 30 by the Constitution and statutes of the United States.
 31 (2) Subtract an amount equal to the amount of a September 11
 32 terrorist attack settlement payment included in the federal
 33 adjusted gross income of the estate of a victim of the September
 34 11 terrorist attack or a trust to the extent the trust benefits a victim
 35 of the September 11 terrorist attack.
 36 (3) Add or subtract the amount necessary to make the adjusted
 37 gross income of any taxpayer that owns property for which bonus
 38 depreciation was allowed in the current taxable year or in an
 39 earlier taxable year equal to the amount of adjusted gross income
 40 that would have been computed had an election not been made
 41 under Section 168(k) of the Internal Revenue Code to apply bonus
 42 depreciation to the property in the year that it was placed in



- 1 service.
- 2 (4) Add an amount equal to any deduction allowed under Section
- 3 172 of the Internal Revenue Code (concerning net operating
- 4 losses).
- 5 (5) Add or subtract the amount necessary to make the adjusted
- 6 gross income of any taxpayer that placed Section 179 property (as
- 7 defined in Section 179 of the Internal Revenue Code) in service
- 8 in the current taxable year or in an earlier taxable year equal to
- 9 the amount of adjusted gross income that would have been
- 10 computed had an election for federal income tax purposes not
- 11 been made for the year in which the property was placed in
- 12 service to take deductions under Section 179 of the Internal
- 13 Revenue Code in a total amount exceeding the sum of:
- 14 (A) twenty-five thousand dollars (\$25,000) to the extent
- 15 deductions under Section 179 of the Internal Revenue Code
- 16 were not elected as provided in clause (B); and
- 17 (B) for taxable years beginning after December 31, 2017, the
- 18 deductions elected under Section 179 of the Internal Revenue
- 19 Code on property acquired in an exchange if:
- 20 (i) the exchange would have been eligible for
- 21 nonrecognition of gain or loss under Section 1031 of the
- 22 Internal Revenue Code in effect on January 1, 2017;
- 23 (ii) the exchange is not eligible for nonrecognition of gain or
- 24 loss under Section 1031 of the Internal Revenue Code; and
- 25 (iii) the taxpayer made an election to take deductions under
- 26 Section 179 of the Internal Revenue Code with regard to the
- 27 acquired property in the year that the property was placed
- 28 into service.
- 29 The amount of deductions allowable for an item of property
- 30 under this clause may not exceed the amount of adjusted gross
- 31 income realized on the property that would have been deferred
- 32 under the Internal Revenue Code in effect on January 1, 2017.
- 33 (6) Subtract income that is:
- 34 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
- 35 derived from patents); and
- 36 (B) included in the taxpayer's taxable income under the
- 37 Internal Revenue Code.
- 38 (7) Add an amount equal to any income not included in gross
- 39 income as a result of the deferral of income arising from business
- 40 indebtedness discharged in connection with the reacquisition after
- 41 December 31, 2008, and before January 1, 2011, of an applicable
- 42 debt instrument, as provided in Section 108(i) of the Internal



1 Revenue Code. Subtract from the adjusted gross income of any
 2 taxpayer that added an amount to adjusted gross income in a
 3 previous year the amount necessary to offset the amount included
 4 in federal gross income as a result of the deferral of income
 5 arising from business indebtedness discharged in connection with
 6 the reacquisition after December 31, 2008, and before January 1,
 7 2011, of an applicable debt instrument, as provided in Section
 8 108(i) of the Internal Revenue Code.

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

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

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

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

23 (C) with regard to any amounts of income under Section 965
 24 of the Internal Revenue Code distributed by the taxpayer, the
 25 deduction under Section 965(c) of the Internal Revenue Code
 26 attributable to such distributed amounts and not reported to the
 27 beneficiary.

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

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

42 (11) Add an amount equal to the deduction for qualified business



1 income that was claimed by the taxpayer for the taxable year
2 under Section 199A of the Internal Revenue Code.

3 (12) Subtract the amount that would have been excluded from
4 gross income but for the enactment of Section 118(b)(2) of the
5 Internal Revenue Code for taxable years ending after December
6 22, 2017.

7 **(13) If a taxpayer receives prize money on which tax was**
8 **imposed under IC 6-3-9, subtract the amount of the prize**
9 **money received during the taxable year.**

10 ~~(13)~~ **(14)** Add or subtract any other amounts the taxpayer is:

11 (A) required to add or subtract; or

12 (B) entitled to deduct;

13 under IC 6-3-2.

14 (g) Subsections ~~(a)(26)~~; **(a)(27)**, ~~(b)(17)~~; **(b)(18)**, (d)(16), (e)(16),
15 or ~~(f)(13)~~ **(f)(14)** may not be construed to require an add back or allow
16 a deduction or exemption more than once for a particular add back,
17 deduction, or exemption.

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

19 (1) a taxpayer is a shareholder, either directly or indirectly, in a
20 corporation that is an E&P deficit foreign corporation as defined
21 in Section 965(b)(3)(B) of the Internal Revenue Code, and the
22 earnings and profit deficit, or a portion of the earnings and profit
23 deficit, of the E&P deficit foreign corporation is permitted to
24 reduce the federal adjusted gross income or federal taxable
25 income of the taxpayer, the deficit, or the portion of the deficit,
26 shall also reduce the amount taxable under this section to the
27 extent permitted under the Internal Revenue Code, however, in no
28 case shall this permit a reduction in the amount taxable under
29 Section 965 of the Internal Revenue Code for purposes of this
30 section to be less than zero (0); and

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

37 SECTION 25. IC 6-3-2-2.5, AS AMENDED BY P.L.234-2019,
38 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JANUARY 1, 2021]: Sec. 2.5. (a) This section applies to a resident
40 person.

41 (b) Resident persons are entitled to a net operating loss deduction.
42 The amount of the deduction taken in a taxable year may not exceed



1 the taxpayer's unused Indiana net operating losses carried over to that
 2 year. A taxpayer is not entitled to carryback any net operating losses
 3 after December 31, 2011.

4 (c) An Indiana net operating loss equals:

5 (1) the taxpayer's federal net operating loss for a taxable year as
 6 calculated under Section 172 of the Internal Revenue Code,
 7 adjusted for certain modifications required by IC 6-3-1-3.5 as set
 8 forth in subsection (d)(1); plus

9 (2) for taxable years beginning after December 31, 2017, a loss
 10 for a taxable year disallowed because of Section 461(l) of the
 11 Internal Revenue Code, without any modifications under
 12 subsection (d).

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

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

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

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

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

21 (D) ~~IC 6-3-1-3.5(a)(26)~~; **IC 6-3-1-3.5(a)(27)**;

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

23 (F) ~~IC 6-3-1-3.5(f)(13)~~; **IC 6-3-1-3.5(f)(14)**.

24 (2) An Indiana net operating loss includes a net operating loss that
 25 arises when the applicable modifications required by IC 6-3-1-3.5
 26 as set forth in subdivision (1) exceed the taxpayer's federal
 27 adjusted gross income (as defined in Section 62 of the Internal
 28 Revenue Code) for the taxable year in which the Indiana net
 29 operating loss is determined.

30 (e) Subject to the limitations contained in subsection (g), an Indiana
 31 net operating loss carryover shall be available as a deduction from the
 32 taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the
 33 carryover year provided in subsection (f).

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

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

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

41 (g) The entire amount of the Indiana net operating loss for any
 42 taxable year shall be carried to the earliest of the taxable years to which



1 (as determined under subsection (f)) the loss may be carried. The
 2 amount of the Indiana net operating loss remaining after the deduction
 3 is taken under this section in a taxable year may be carried over as
 4 provided in subsection (f). The amount of the Indiana net operating loss
 5 carried over from year to year shall be reduced to the extent that the
 6 Indiana net operating loss carryover is used by the taxpayer to obtain
 7 a deduction in a taxable year until the occurrence of the earlier of the
 8 following:

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

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

13 SECTION 26. IC 6-3-2-2.6, AS AMENDED BY P.L.234-2019,
 14 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JANUARY 1, 2021]: Sec. 2.6. (a) This section applies to a corporation
 16 or a nonresident person.

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

22 (c) An Indiana net operating loss equals:

23 (1) the taxpayer's federal net operating loss for a taxable year as
 24 calculated under Section 172 of the Internal Revenue Code,
 25 derived from sources within Indiana and adjusted for certain
 26 modifications required by IC 6-3-1-3.5 as set forth in subsection
 27 (d)(1); plus

28 (2) for taxable years beginning after December 31, 2017, the
 29 portion of the loss for a taxable year disallowed because of
 30 Section 461(l) of the Internal Revenue Code and incurred from
 31 Indiana sources, without any modifications under subsection (d).
 32 Any net operating loss under this subdivision shall be computed
 33 in a manner consistent with the computation of adjusted gross
 34 income under IC 6-3.

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

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

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

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

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



- 1 (D) ~~IC 6-3-1-3.5(a)(26)~~; **IC 6-3-1-3.5(a)(27)**;
 2 (E) IC 6-3-1-3.5(b)(14);
 3 (F) ~~IC 6-3-1-3.5(b)(17)~~; **IC 6-3-1-3.5(b)(18)**;
 4 (G) IC 6-3-1-3.5(d)(13);
 5 (H) IC 6-3-1-3.5(d)(16);
 6 (I) IC 6-3-1-3.5(e)(13);
 7 (J) IC 6-3-1-3.5(e)(16);
 8 (K) IC 6-3-1-3.5(f)(11); and
 9 (L) ~~IC 6-3-1-3.5(f)(13)~~; **IC 6-3-1-3.5(f)(14)**.
- 10 (2) The amount of the taxpayer's net operating loss that is derived
 11 from sources within Indiana shall be determined in the same
 12 manner that the amount of the taxpayer's adjusted gross income
 13 derived from sources within Indiana is determined under section
 14 2 of this chapter for the same taxable year during which each loss
 15 was incurred.
- 16 (3) An Indiana net operating loss includes a net operating loss that
 17 arises when the applicable modifications required by IC 6-3-1-3.5
 18 as set forth in subdivision (1) exceed the taxpayer's federal
 19 taxable income (as defined in Section 63 of the Internal Revenue
 20 Code), if the taxpayer is a corporation, or when the applicable
 21 modifications required by IC 6-3-1-3.5 as set forth in subdivision
 22 (1) exceed the taxpayer's federal adjusted gross income (as
 23 defined by Section 62 of the Internal Revenue Code), if the
 24 taxpayer is a nonresident person, for the taxable year in which the
 25 Indiana net operating loss is determined.
- 26 (e) Subject to the limitations contained in subsection (g), an Indiana
 27 net operating loss carryover shall be available as a deduction from the
 28 taxpayer's adjusted gross income derived from sources within Indiana
 29 (as defined in section 2 of this chapter) in the carryover year provided
 30 in subsection (f).
- 31 (f) Carryovers shall be determined under this subsection as follows:
 32 (1) An Indiana net operating loss shall be an Indiana net operating
 33 loss carryover to each of the carryover years following the taxable
 34 year of the loss.
 35 (2) An Indiana net operating loss may not be carried over for
 36 more than twenty (20) taxable years after the taxable year of the
 37 loss.
- 38 (g) The entire amount of the Indiana net operating loss for any
 39 taxable year shall be carried to the earliest of the taxable years to which
 40 (as determined under subsection (f)) the loss may be carried. The
 41 amount of the Indiana net operating loss remaining after the deduction
 42 is taken under this section in a taxable year may be carried over as



1 provided in subsection (f). The amount of the Indiana net operating loss
 2 carried over from year to year shall be reduced to the extent that the
 3 Indiana net operating loss carryover is used by the taxpayer to obtain
 4 a deduction in a taxable year until the occurrence of the earlier of the
 5 following:

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

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

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

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

17 (2) an insurance company subject to tax under Section 831 of the
 18 Internal Revenue Code.

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

24 SECTION 27. IC 6-3-2-3.2, AS AMENDED BY P.L.210-2016,
 25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JANUARY 1, 2021]: Sec. 3.2. (a) The following definitions apply to
 27 this section:

28 (1) "Bonus for services rendered as a race team member"
 29 includes:

30 (A) a bonus earned as a result of participation in a racing
 31 event, such as a performance bonus or any other bonus; and

32 (B) a bonus paid for signing a contract, unless all of the
 33 following conditions are met:

34 (i) The payment of the signing bonus is not conditional upon
 35 the signee participating in a racing event for the team or
 36 performing any subsequent services for the team.

37 (ii) The signing bonus is payable separately from the salary
 38 and any other compensation.

39 (iii) The signing bonus is nonrefundable.

40 (2) "Indiana duty days" means the number of total duty days spent
 41 by a race team member within Indiana rendering a service for the
 42 race team in any manner during the taxable year, except travel



- 1 days spent in Indiana that do not involve either a race, practice,
 2 qualification, training, testing, team meeting, promotional
 3 caravan, or other similar race team event.
- 4 (3) "Race team" includes a professional motorsports racing team
 5 that has services rendered by a race team member in Indiana or
 6 participated in a racing event at a qualified motorsports facility
 7 (as defined in IC 5-1-17.5-14).
- 8 (4) "Race team member" includes employees or independent
 9 contractors who render services on behalf of the race team. The
 10 term includes but is not limited to drivers, pit crew members,
 11 mechanics, technicians, spotters, and crew chiefs.
- 12 (5) "Total duty days" means all days during the taxable year that
 13 a race team member renders a service for the race team. The term
 14 includes:
- 15 (A) race days, practice days, qualification days, training days,
 16 testing days, days spent at team meetings, days spent with a
 17 promotional caravan, and days served with the team in which
 18 the team competes or is scheduled to compete;
 - 19 (B) days spent conducting training and rehabilitation activities,
 20 but only if the service is conducted at the facilities of the race
 21 team; and
 - 22 (C) travel days that do not involve either a race, practice,
 23 qualification, training, testing, team meeting, promotional
 24 caravan, or other similar team event.
- 25 Total duty days for an individual who joins a race team during the
 26 season begin on the day the individual joins the team, and, for an
 27 individual who leaves a team, end on the day the individual leaves
 28 the team. When an individual changes teams during a taxable
 29 year, a separate duty day calculation must be made for the period
 30 the individual was with each team. Total duty days do not include
 31 those days for which a team member is not compensated and is
 32 not rendering a service for the team in any manner, including days
 33 when the team member has been suspended without pay and
 34 prohibited from performing any services for the team.
- 35 (6) "Total income" means the total compensation received during
 36 the taxable year for services rendered. The term includes salaries,
 37 wages, bonuses, and any other type of compensation paid during
 38 the taxable year to a race team member for services rendered in
 39 that year. The term does not include strike benefits, severance
 40 pay, termination pay, contract or option year buy-out payments,
 41 expansion or relocation payments, or any other payments not
 42 related to services rendered to the race team.



1 (b) For purposes of IC 6-3, Indiana income is the individual's total
2 income during the taxable year multiplied by the following fraction:

3 (1) The numerator of the fraction is the individual's Indiana duty
4 days for the taxable year.

5 (2) The denominator of the fraction is the individual's total duty
6 days for the taxable year.

7 (c) It is presumed that this section results in a fair and equitable
8 apportionment of the race team member's compensation. However, if
9 the department demonstrates that the method provided under this
10 section does not fairly and equitably apportion a team member's
11 compensation, the department may require the team member to
12 apportion the team member's compensation under another method that
13 the department prescribes. The prescribed method must result in a fair
14 and equitable apportionment. A team member may submit a proposal
15 for an alternative method to apportion the team member's compensation
16 if the team member demonstrates that the method provided under this
17 section does not fairly and equitably apportion the team member's
18 compensation. If approved by the department, the proposed method
19 must be fully explained in the team member's nonresident personal
20 income tax return.

21 (d) The department shall adopt rules, guidelines, or other
22 instructions applicable for taxable years beginning after December 31,
23 2013, to establish alternative methods:

24 (1) of simplifying return filing for race team members, if the team
25 is not based in Indiana; and

26 (2) for a race team not based in Indiana to file a composite return
27 on behalf of and covering more than one (1) race team member if
28 the same amount of tax is remitted as if individual filings had
29 occurred. Filing a composite return under this subdivision
30 exempts:

31 (A) a race team member covered by the return from having an
32 individual income tax return filing requirement with respect to
33 the income reported on the composite return; and

34 (B) a race team that is not based in Indiana from a filing
35 requirement only with respect to team members included on
36 the composite return.

37 (e) Notwithstanding any other provision under IC 6-3-4 **and subject**
38 **to IC 6-3-9**, the department may adopt rules, guidelines, or other
39 instructions related to withholding requirements under this chapter.

40 (f) This section, as enacted in 2013, is intended to be a clarification
41 of the law and not a substantive change in the law.

42 SECTION 28. IC 6-3-2-6, AS AMENDED BY P.L.146-2008,



1 SECTION 318, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JANUARY 1, 2021]: Sec. 6. (a) Each taxable year, an
 3 individual who rents a dwelling for use as the individual's principal
 4 place of residence may deduct from the individual's adjusted gross
 5 income (as defined in IC 6-3-1-3.5(a)), the lesser of:

- 6 (1) the amount of rent paid by the individual with respect to the
 7 dwelling during the taxable year; or
 8 (2) three thousand dollars (\$3,000).

9 (b) Notwithstanding subsection (a):

- 10 (1) ~~a husband and wife~~ **a married couple** filing a joint ~~adjusted~~
 11 ~~gross income tax~~ return for a particular taxable year may not
 12 claim a deduction under this section of more than three thousand
 13 dollars (\$3,000); **and**
 14 (2) **a married individual filing a separate return for a**
 15 **particular taxable year may not claim a deduction under this**
 16 **section of more than one thousand five hundred dollars**
 17 **(\$1,500).**

18 (c) The deduction provided by this section does not apply to an
 19 individual who rents a dwelling that is exempt from Indiana property
 20 tax.

21 (d) For purposes of this section, a "dwelling" includes a single
 22 family dwelling and unit of a multi-family dwelling.

23 SECTION 29. IC 6-3-2-9, AS AMENDED BY P.L.99-2007,
 24 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JANUARY 1, 2021]: Sec. 9. (a) An individual who:

- 26 (1) retired on disability before the end of the taxable year; and
 27 (2) had a permanent and total disability, as determined under
 28 subsection (c), at the time of retirement;

29 is entitled to a deduction from the individual's adjusted gross income
 30 for that taxable year in the amount determined under subsection (b).

31 (b) The deduction provided by subsection (a) is the amount
 32 determined using the following STEPS:

33 STEP ONE: Determine the amount received by the individual
 34 during the taxable year through an accident and health plan for
 35 personal injuries or sickness to the extent that:

- 36 (A) these amounts are attributable to contributions by the
 37 individual's employer that were not includable in the
 38 individual's gross income or are paid by the employer; and
 39 (B) these amounts constitute wages or payments in lieu of
 40 wages for a period during which the employee is absent from
 41 work because of permanent and total disability.

42 STEP TWO: Determine for each week of the taxable year the



1 amount by which each weekly payment referred to in STEP ONE
2 exceeds one hundred dollars (\$100), then add these amounts.

3 STEP THREE: Determine the amount by which the individual's
4 federal adjusted gross income for the taxable year, as defined by
5 Section 62 of the Internal Revenue Code, exceeds fifteen
6 thousand dollars (\$15,000), **or seven thousand five hundred**
7 **dollars (\$7,500) in the case of a married individual filing a**
8 **separate return.**

9 STEP FOUR: Subtract from the amount determined in STEP
10 ONE the amount determined in STEP TWO and the amount
11 determined in STEP THREE.

12 (c) For purposes of this section, an individual has a permanent and
13 total disability if the individual is unable to engage in any substantial
14 gainful activity by reason of any medically determinable physical or
15 mental impairment that can be expected to result in death or that has
16 lasted or can be expected to last for a continuous period of not less than
17 twelve (12) months. An individual may not be considered to have a
18 permanent and total disability unless the individual furnishes proof of
19 the existence of the disability as the department of revenue may
20 require.

21 SECTION 30. IC 6-3-4-16.7, AS ADDED BY P.L.234-2019,
22 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 UPON PASSAGE]: Sec. 16.7. (a) For taxable years ending after
24 December 31, 2019, a partnership that is required to provide
25 twenty-five (25) or more ~~reports~~ **schedules K-1 of form IT-65** to
26 partners ~~under section 12(b) of this chapter~~ or a corporation that is
27 required to provide twenty-five (25) or more ~~reports~~ **schedules K-1 of**
28 **form IT-20S** to shareholders ~~under section 13(b) of this chapter~~ must
29 file all such ~~reports~~ **schedules** in an electronic format specified by the
30 department.

31 (b) For taxable years ending after December 31, 2021, an estate or
32 trust required to provide ten (10) or more reports to beneficiaries under
33 section 15(b) of this chapter must file all such reports in an electronic
34 format specified by the department.

35 (c) **If the department receives a form IT-65, form IT-20S, or**
36 **form IT-41 with more than fifty (50) schedules K-1 in a format**
37 **other than the electronic format specified by the department, the**
38 **department may provide written notification to the partnership,**
39 **estate, or trust that the department will consider the schedules to**
40 **not be filed until the schedules have been filed in the specified**
41 **electronic format.**

42 SECTION 31. IC 6-3-9 IS ADDED TO THE INDIANA CODE AS



1 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL
2 1, 2020]:

3 **Chapter 9. Tax on Prize Money Awarded at the Indianapolis**
4 **Motor Speedway**

5 **Sec. 1. As used in this chapter, "prize money" means any**
6 **amount paid as a result of a qualification, placement, or**
7 **performance related to a racing event at a qualified motorsports**
8 **facility. However, the term does not include any amounts paid by**
9 **reference to a qualification, placement, or performance in multiple**
10 **races unless all such races are conducted at a qualified motorsports**
11 **facility.**

12 **Sec. 2. As used in this chapter, "qualified motorsports facility"**
13 **has the meaning set forth in IC 5-1-17.5-14.**

14 **Sec. 3. (a) A tax is imposed on the first payment of prize money**
15 **made to an individual or entity recipient.**

16 **(b) The tax shall be imposed at a rate equal to the total amount**
17 **of the prize money multiplied by:**

18 **(1) the applicable tax rate under IC 6-3-2-1(a) (individual**
19 **adjusted gross income tax rate); plus**

20 **(2) the applicable tax rate under IC 6-3.6 (local income tax**
21 **rate), imposed on Marion County residents, if any.**

22 **(c) The tax imposed under this section shall be withheld by the**
23 **entity making first payment of the prize money to the individual or**
24 **entity recipient, even if federal withholding is not required.**

25 **Sec. 4. An entity that is subject to the tax imposed under this**
26 **chapter shall:**

27 **(1) hold the same in trust for the state of Indiana and for**
28 **payment thereof to the department; and**

29 **(2) remit the amounts so withheld to the department not later**
30 **than thirty (30) days after the end of the calendar year during**
31 **which the tax was withheld.**

32 **Sec. 5. The following apply to prize money paid to an individual**
33 **or entity recipient for which tax is withheld and remitted as**
34 **required under this chapter:**

35 **(1) The withholding requirements under IC 6-3-4-8,**
36 **IC 6-3-4-12, IC 6-3-4-13, and IC 6-3-4-15 do not apply to any**
37 **amount of prize money that is paid or distributed by the**
38 **recipient of the prize money to an employee, partner,**
39 **shareholder, or beneficiary of that recipient. However, this**
40 **subdivision shall not be construed to relieve the recipient of**
41 **the prize money from any other tax withholding**
42 **requirements, duties, or penalties under IC 6-3.**



1 (2) The prize money is excludable in determining a recipient's
 2 state adjusted gross income under IC 6-3-1-3.5(a)(26),
 3 IC 6-3-1-3.5(b)(17), and IC 6-3-1-3.5(f)(13), as applicable.

4 (3) A recipient of the prize money may not claim a credit or
 5 deduction based on tax withheld under this chapter, except
 6 against the tax imposed under this chapter.

7 **Sec. 6.** An individual or entity receiving prize money subject to
 8 tax under this chapter shall file an annual return reporting the
 9 total amount of the prize money received by the individual or
 10 entity. Such return shall be due on the fifteenth day of the fourth
 11 month after the end of the calendar year in which the payment of
 12 prize money was made to the individual or entity recipient.
 13 However, if the entity receiving the prize money during a taxable
 14 year is a pass through entity, any partners, shareholders,
 15 beneficiaries, or members of the pass through entity that receive
 16 such prize money shall not be required to file a return described in
 17 this section.

18 SECTION 32. IC 6-3.1-16.1 IS ADDED TO THE INDIANA CODE
 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 20 JANUARY 1, 2016 (RETROACTIVE)]:

21 **Chapter 16.1. Historic Rehabilitation Tax Credit**

22 **Sec. 1. (a)** For purposes of this section, "department" refers to:

23 (1) the department of natural resources; or

24 (2) the office of community and rural affairs.

25 **(b)** This section applies notwithstanding:

26 (1) the cap of zero dollars (\$0) on the amount of historic
 27 rehabilitation tax credits allowed in a state fiscal year
 28 beginning after June 30, 2016, as set forth in IC 6-3.1-16-14
 29 (before its expiration); and

30 (2) the expiration of the historic rehabilitation tax credit
 31 chapter (IC 6-3.1-16) on January 1, 2019.

32 **(c)** If a taxpayer was granted a historic rehabilitation tax credit
 33 by the department before January 1, 2016, for a qualified
 34 expenditure made before June 30, 2016, under IC 6-3.1-16 (before
 35 its expiration) for use in a taxable year other than the year in
 36 which the preservation or rehabilitation of the historic property
 37 was performed and the certification of the credit was provided by
 38 the department, the credit described in this subsection may
 39 nevertheless be claimed in the subsequent year for which the credit
 40 was granted by the department and may be carried forward as set
 41 forth in this section.

42 **(d)** If the credit provided by this section exceeds a taxpayer's



1 state tax liability for the taxable year for which the credit is first
 2 claimed, the excess may be carried over to succeeding taxable years
 3 and used as a credit against the tax otherwise due and payable by
 4 the taxpayer under IC 6-3 during those taxable years. Each time
 5 that the credit is carried over to a succeeding taxable year, the
 6 credit is to be reduced by the amount that was used as a credit
 7 during the immediately preceding taxable year. The credit
 8 provided by this chapter may be carried forward and applied to
 9 succeeding taxable years for fifteen (15) taxable years following the
 10 taxable year in which the taxpayer is first entitled to claim the
 11 credit under this chapter.

12 (e) A credit earned by a taxpayer in a particular taxable year
 13 shall be applied against the taxpayer's tax liability for that taxable
 14 year before any credit carryover is applied against that liability
 15 under subsection (d).

16 (f) A taxpayer is not entitled to any carryback or refund of any
 17 unused credit.

18 (g) All of the provisions under IC 6-3.1-16 (before its expiration)
 19 shall be considered to be in effect for credits claimed under this
 20 chapter, except to the extent expressly inconsistent with this
 21 chapter.

22 SECTION 33. IC 6-3.1-20-4, AS AMENDED BY P.L.250-2015,
 23 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JANUARY 1, 2021]: Sec. 4. (a) Except as provided in ~~subsection~~
 25 **subsections (b) and (c)**, an individual is entitled to a credit under this
 26 chapter if:

27 (1) the individual's Indiana income for the taxable year is less than
 28 eighteen thousand six hundred dollars (\$18,600); and

29 (2) the individual pays property taxes in the taxable year on a
 30 homestead that:

31 (A) the individual:

32 (i) owns; or

33 (ii) is buying under a contract that requires the individual to
 34 pay property taxes on the homestead, if the contract or a
 35 memorandum of the contract is recorded in the county
 36 recorder's office; and

37 (B) is located in a county having a population of more than
 38 four hundred thousand (400,000) but less than seven hundred
 39 thousand (700,000).

40 (b) An individual is not entitled to a credit under this chapter for a
 41 taxable year for property taxes paid on the individual's homestead if the
 42 individual claims the deduction under IC 6-3-1-3.5(a)(13) for the



1 homestead for that same taxable year.

2 **(c) In the case of a married individual filing a separate return,**
 3 **the income amount in subsection (a) shall be fifty percent (50%) of**
 4 **the amount listed in that subsection.**

5 SECTION 34. IC 6-3.1-20-5, AS AMENDED BY P.L.166-2014,
 6 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JANUARY 1, 2021]: Sec. 5. (a) Each year, an individual described in
 8 section 4 of this chapter is entitled to a refundable credit against the
 9 individual's state income tax liability in the amount determined under
 10 this section.

11 (b) In the case of an individual with Indiana income of less than
 12 eighteen thousand dollars (\$18,000) for the taxable year, the amount of
 13 the credit is equal to the lesser of:

14 (1) three hundred dollars (\$300); or

15 (2) the amount of property taxes described in section 4(a)(2) of
 16 this chapter paid by the individual in the taxable year.

17 (c) In the case of an individual with Indiana income that is at least
 18 eighteen thousand dollars (\$18,000) but less than eighteen thousand six
 19 hundred dollars (\$18,600) for the taxable year, the amount of the credit
 20 is equal to the lesser of the following:

21 (1) An amount determined under the following STEPS:

22 STEP ONE: Determine the result of:

23 (i) eighteen thousand six hundred dollars (\$18,600); minus

24 (ii) the individual's Indiana income for the taxable year.

25 STEP TWO: Determine the result of:

26 (i) the STEP ONE amount; multiplied by

27 (ii) five-tenths (0.5).

28 (2) The amount of property taxes described in section 4(a)(2) of
 29 this chapter paid by the individual in the taxable year.

30 (d) If the amount of the credit under this chapter exceeds the
 31 individual's state tax liability for the taxable year, the excess shall be
 32 refunded to the taxpayer.

33 **(e) In the case of a married individual filing a separate return,**
 34 **the income and dollar amounts in subsections (b) and (c) shall be**
 35 **fifty percent (50%) of the amounts listed in those subsections.**

36 SECTION 35. IC 6-5.5-1-21 IS ADDED TO THE INDIANA CODE
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 38 JANUARY 1, 2021]: Sec. 21. (a) "Loans arising in factoring"
 39 means:

40 (1) a loan or extension of credit secured by one (1) or more
 41 accounts receivable; or

42 (2) a sale of one (1) or more accounts receivable in which the



- 1 **purchaser has recourse against the seller for an uncollected**
 2 **accounts receivable.**
 3 **(b) The term does not refer to:**
 4 **(1) a sale of one (1) or more accounts receivable without**
 5 **recourse; or**
 6 **(2) an assignment of an account receivable.**
 7 SECTION 36. IC 6-6-1.1-606.5 IS REPEALED [EFFECTIVE JULY
 8 1, 2020]. Sec. 606.5. (a) Every person included within the terms of
 9 section 606(a) and 606(c) of this chapter shall register with the
 10 administrator before engaging in those activities. The administrator
 11 shall issue a transportation license to a person who registers with the
 12 administrator under this section.
 13 (b) Every person included within the terms of section 606(a) of this
 14 chapter who transports gasoline in a vehicle on the highways in Indiana
 15 for purposes other than use and consumption by that person may not
 16 make a delivery of that gasoline to any person in Indiana other than a
 17 licensed distributor except:
 18 (1) when the tax imposed by this chapter on the receipt of the
 19 transported gasoline was charged and collected by the parties; and
 20 (2) under the circumstances described in section 205 of this
 21 chapter.
 22 (c) Every person included within the terms of section 606(c) of this
 23 chapter who transports gasoline in a vehicle upon the highways of
 24 Indiana for purposes other than use and consumption by that person
 25 may not, on the journey carrying that gasoline to points outside Indiana,
 26 make delivery of that fuel to any person in Indiana.
 27 (d) Every transporter of gasoline included within the terms of
 28 section 606(a) and 606(c) of this chapter who transports gasoline upon
 29 the highways of Indiana for purposes other than use and consumption
 30 by that person shall at the time of registration and on an annual basis
 31 list with the administrator a description of all vehicles, including the
 32 vehicles' license numbers, to be used on the highways of Indiana in
 33 transporting gasoline from:
 34 (1) points outside Indiana to points inside Indiana; and
 35 (2) points inside Indiana to points outside Indiana.
 36 (e) The description that subsection (d) requires shall contain the
 37 information that is reasonably required by the administrator including
 38 the carrying capacity of the vehicle. When the vehicle is a
 39 tractor-trailer type, the trailer is the vehicle to be described. When
 40 additional vehicles are placed in service or when a vehicle previously
 41 listed is retired from service during the year, the administrator shall be
 42 notified within ten (10) days of the change so that the listing of the



- 1 vehicles may be kept accurate.
- 2 ~~(f)~~ (d) A distributor's or an Indiana transportation license is required
- 3 for a person or the person's agent acting in the person's behalf to
- 4 operate a vehicle for the purpose of delivering gasoline within the
- 5 boundaries of Indiana when the vehicle has a total tank capacity of at
- 6 least eight hundred fifty (850) gallons.
- 7 ~~(g)~~ (e) The operator of a vehicle to which this section applies shall
- 8 at all times when engaged in the transporting of gasoline on the
- 9 highways have with the vehicle an invoice or manifest showing the
- 10 origin, quantity, nature, and destination of the gasoline that is being
- 11 transported.
- 12 ~~(h)~~ (f) The department shall provide for relief if a shipment of
- 13 gasoline is legitimately diverted from the represented destination state
- 14 after the shipping paper has been issued by a terminal operator or if a
- 15 terminal operator failed to cause proper information to be printed on
- 16 the shipping paper. Provisions for relief under this subsection:
- 17 (1) must require that the shipper or its agent obtain a diversion
- 18 number within twenty-four (24) hours of the diversion and report
- 19 the number on the shipper's or agent's monthly return to the
- 20 department; and
- 21 (2) must be consistent with the refund provisions of this chapter.
- 22 SECTION 37. IC 6-6-2.5-42 IS AMENDED TO READ AS
- 23 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 42. (a) Each application
- 24 for a license under section 41 of this chapter shall be made upon a form
- 25 prepared and furnished by the department. It shall be subscribed to by
- 26 the applicant and shall contain the information as the department may
- 27 reasonably require for the administration of this chapter, including the
- 28 applicant's federal identification number and, with respect to the
- 29 applicant for an exporter's license, a copy of the applicant's license to
- 30 purchase or handle special fuel tax free in the specified destination
- 31 state or states for which the export license is to be issued.
- 32 (b) The department shall investigate each applicant for a license
- 33 under this section. No license shall be issued if the department
- 34 determines that any one (1) of the following exists:
- 35 (1) The application is not filed in good faith.
- 36 (2) The applicant is not the real party in interest.
- 37 (3) The license of the real party in interest has been revoked for
- 38 cause.
- 39 (4) Other reasonable cause for non-issuance exists.
- 40 ~~(c) Applicants, including corporate officers, partners, and~~
- 41 ~~individuals, for a license issued by the commissioner may be required~~
- 42 ~~to submit their fingerprints to the commissioner at the time of applying.~~



1 Officers of publicly held corporations and their subsidiaries shall be
 2 exempt from this fingerprinting provision. Fingerprints required by this
 3 section must be submitted on forms prescribed by the commissioner.
 4 The commissioner may forward to the Federal Bureau of Investigation
 5 or any other agency for processing all fingerprints submitted by license
 6 applicants. The receiving agency shall issue its findings to the
 7 commissioner. The license application fee shall be used to pay the costs
 8 of the investigation. The commissioner may maintain a file of
 9 fingerprints.

10 SECTION 38. IC 6-6-2.5-43 IS REPEALED [EFFECTIVE JULY
 11 1, 2020]. Sec. 43: (a) Each licensed transporter shall at the time of
 12 licensing and on an annual basis, list with the commissioner a
 13 description of all vehicles, including license numbers, to be used on the
 14 highways of Indiana in transporting special fuel from points outside
 15 Indiana to points inside Indiana and from points inside Indiana to
 16 points outside Indiana.

17 (b) The description required in subsection (a) must comply with
 18 what is reasonably required by the commissioner, including the
 19 carrying capacity of the vehicle. If the vehicle is a tractor-trailer type
 20 vehicle, the trailer is the vehicle that must be described. When
 21 additional vehicles are placed in service or when a vehicle previously
 22 listed is retired from service during the year, the commissioner shall be
 23 notified not more than ten (10) days after the change so that the listing
 24 of the vehicles may be kept accurate.

25 SECTION 39. IC 6-6-4.1-21 IS REPEALED [EFFECTIVE JULY
 26 1, 2020]. Sec. 21: A carrier subject to the taxes imposed under section
 27 4 of this chapter, section 4.3 of this chapter (before its repeal), and
 28 section 4.5 of this chapter (before its repeal) who fails to file a
 29 quarterly report as required by section 10 of this chapter shall pay a
 30 civil penalty of three hundred dollars (\$300) for each report that is not
 31 filed.

32 SECTION 40. IC 6-8.1-1-1, AS AMENDED BY P.L.285-2019,
 33 SECTION 1, AND AS AMENDED BY P.L.108-2019, SECTION 132,
 34 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL
 35 OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND
 36 AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1,
 37 2021]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel
 38 taxes (IC 4-31-9-3 through IC 4-31-9-5); the supplemental wagering
 39 tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot
 40 machine wagering tax (IC 4-35-8); the type II gambling game excise
 41 tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the utility
 42 receipts and utility services use taxes (IC 6-2.3); the state gross retail



1 and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the
 2 supplemental net income tax (IC 6-3-8) (repealed); **the tax on prize**
 3 **money awarded at the Indianapolis Motor Speedway (IC 6-3-9)**;
 4 the county adjusted gross income tax (IC 6-3.5-1.1) (repealed); the
 5 county option income tax (IC 6-3.5-6) (repealed); the county economic
 6 development income tax (IC 6-3.5-7) (repealed); the local income tax
 7 (IC 6-3.6); the auto rental excise tax (IC 6-6-9); the financial
 8 institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the special fuel
 9 tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
 10 collected under a reciprocal agreement under IC 6-8.1-3; the vehicle
 11 excise tax (IC 6-6-5); the aviation fuel excise tax (IC 6-6-13); the
 12 commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed on
 13 recreational vehicles and truck campers (IC 6-6-5.1); the hazardous
 14 waste disposal tax (IC 6-6-6.6) (repealed); the heavy equipment rental
 15 excise tax (IC 6-6-15); *the vehicle sharing excise tax (IC 6-6-16)*; the
 16 cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor
 17 excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider
 18 excise tax (IC 7.1-4-4.5); *the malt excise tax (IC 7.1-4-5)*; the
 19 petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
 20 (IC 6-9); the various food and beverage taxes (IC 6-9); the county
 21 admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
 22 (IC 16-44-2); the penalties assessed for oversize vehicles
 23 (IC 9-20-3 and IC 9-20-18); the fees and penalties assessed for
 24 overweight vehicles (IC 9-20-4 and IC 9-20-18); and any other tax or
 25 fee that the department is required to collect or administer.

26 SECTION 41. IC 6-8.1-3-17, AS AMENDED BY P.L.214-2018(ss),
 27 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2020]: Sec. 17. (a) Before an original tax appeal is filed with
 29 the tax court under IC 33-26, the commissioner, **or the taxpayer rights**
 30 **advocate office to the extent granted the authority by the**
 31 **commissioner**, may settle any tax liability dispute if a substantial doubt
 32 exists as to:

- 33 (1) the constitutionality of the tax under the Constitution of the
- 34 State of Indiana;
- 35 (2) the right to impose the tax;
- 36 (3) the correct amount of tax due;
- 37 (4) the collectability of the tax; or
- 38 (5) whether the taxpayer is a resident or nonresident of Indiana.

39 (b) After an original tax appeal is filed with the tax court under
 40 IC 33-26, and notwithstanding IC 4-6-2-11, the commissioner may
 41 settle a tax liability dispute with an amount in contention of twenty-five
 42 thousand dollars (\$25,000) or less. Notwithstanding IC 6-8.1-7-1(a),



1 the terms of a settlement under this subsection are available for public
2 inspection.

3 (c) The department shall establish an amnesty program for taxpayers
4 having an unpaid tax liability for a listed tax that was due and payable
5 for a tax period ending before January 1, 2013. A taxpayer is not
6 eligible for the amnesty program:

7 (1) for any tax liability resulting from the taxpayer's failure to
8 comply with IC 6-3-1-3.5(b)(3) with regard to the tax imposed by
9 IC 4-33-13 or IC 4-35-8; or

10 (2) if the taxpayer participated in any previous amnesty program
11 under:

12 (A) this section (as in effect on December 31, 2014); or

13 (B) IC 6-2.5-14.

14 The time in which a voluntary payment of tax liability may be made (or
15 the taxpayer may enter into a payment program acceptable to the
16 department for the payment of the unpaid listed taxes in full in the
17 manner and time established in a written payment program agreement
18 between the department and the taxpayer) under the amnesty program
19 is limited to the period determined by the department, not to exceed
20 eight (8) regular business weeks ending before the earlier of the date
21 set by the department or January 1, 2017. The amnesty program must
22 provide that, upon payment by a taxpayer to the department of all listed
23 taxes due from the taxpayer for a tax period (or payment of the unpaid
24 listed taxes in full in the manner and time established in a written
25 payment program agreement between the department and the taxpayer),
26 entry into an agreement that the taxpayer is not eligible for any other
27 amnesty program that may be established and waives any part of
28 interest and penalties on the same type of listed tax that is being
29 granted amnesty in the current amnesty program, and compliance with
30 all other amnesty conditions adopted under a rule of the department in
31 effect on the date the voluntary payment is made, the department:

32 (1) shall abate and not seek to collect any interest, penalties,
33 collection fees, or costs that would otherwise be applicable;

34 (2) shall release any liens imposed;

35 (3) shall not seek civil or criminal prosecution against any
36 individual or entity; and

37 (4) shall not issue, or, if issued, shall withdraw, an assessment, a
38 demand notice, or a warrant for payment under IC 6-8.1-5-1,
39 IC 6-8.1-5-3, IC 6-8.1-8-2, or another law against any individual
40 or entity;

41 for listed taxes due from the taxpayer for the tax period for which
42 amnesty has been granted to the taxpayer. Amnesty granted under this



1 subsection is binding on the state and its agents. However, failure to
 2 pay to the department all listed taxes due for a tax period invalidates
 3 any amnesty granted under this subsection for that tax period. The
 4 department shall conduct an assessment of the impact of the tax
 5 amnesty program on tax collections and an analysis of the costs of
 6 administering the tax amnesty program. As soon as practicable after the
 7 end of the tax amnesty period, the department shall submit a copy of
 8 the assessment and analysis to the legislative council in an electronic
 9 format under IC 5-14-6. The department shall enforce an agreement
 10 with a taxpayer that prohibits the taxpayer from receiving amnesty in
 11 another amnesty program.

12 (d) For purposes of subsection (c), a liability for a listed tax is due
 13 and payable if:

14 (1) the department has issued:

15 (A) an assessment of the listed tax under IC 6-8.1-5-1;

16 (B) a demand for payment under IC 6-8.1-5-3; or

17 (C) a demand notice for payment of the listed tax under
 18 IC 6-8.1-8-2;

19 (2) the taxpayer has filed a return or an amended return in which
 20 the taxpayer has reported a liability for the listed tax; or

21 (3) the taxpayer has filed a written statement of liability for the
 22 listed tax in a form that is satisfactory to the department.

23 (e) The department may waive interest and penalties if the general
 24 assembly enacts a change in a listed tax for a tax period that increases
 25 a taxpayer's tax liability for that listed tax after the due date for that
 26 listed tax and tax period. However, such a waiver shall apply only to
 27 the extent of the increase in tax liability and only for a period not
 28 exceeding sixty (60) days after the change is enacted. The department
 29 may adopt rules, including emergency rules, or issue guidelines to carry
 30 out this subsection.

31 SECTION 42. IC 6-8.1-3-27 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2020]: **Sec. 27. (a) The appropriate county officer, as designated
 34 by the county executive, in each county shall, before December 1,
 35 2021, and before December 1 of every year thereafter, submit
 36 parcel level data to the state GIS officer to be used in establishing
 37 and updating the geographic information system described in
 38 IC 4-23-7.3-14(16).**

39 **(b) Beginning January 1, 2022, the department shall integrate
 40 the geographic information system codes developed and updated
 41 by the state GIS officer under IC 4-23-7.3-14(16).**

42 **(c) Before July 1, 2021, and before every July 1 thereafter, the**



1 **department and state GIS officer shall submit a report to the**
 2 **general assembly in an electronic format under IC 5-14-6**
 3 **concerning the implementation and use of geographic information**
 4 **systems under this section.**

5 SECTION 43. IC 6-8.1-4-4, AS AMENDED BY P.L.257-2017,
 6 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2020]: Sec. 4. (a) The department shall establish a registration
 8 center to service ~~owners of motor carriers or entities that otherwise~~
 9 **own or operate** commercial motor vehicles.

10 (b) The registration center is under the supervision of the
 11 department through the motor carrier services division.

12 (c) **A motor carrier or an entity that is otherwise** an owner or
 13 operator of a commercial motor vehicle may apply to the registration
 14 center for the following:

- 15 (1) Vehicle registration (IC 9-18.1).
- 16 (2) Motor carrier fuel tax annual permit.
- 17 (3) Proportional use credit certificate (IC 6-6-4.1-4.7).
- 18 (4) Certificate of operating authority.
- 19 (5) Oversize vehicle permit (IC 9-20-3).
- 20 (6) Overweight vehicle permit (IC 9-20-4).
- 21 (7) Payment of the commercial vehicle excise tax imposed under
 22 IC 6-6-5.5.

23 (d) The commissioner may deny an application described in
 24 subsection (c) if the applicant fails to do any of the following with
 25 respect to a listed tax:

- 26 (1) File all tax returns or information reports.
- 27 (2) Pay all taxes, penalties, and interest.

28 (e) The commissioner may:

- 29 (1) deny an application for an oversize vehicle permit, an
 30 overweight vehicle permit, or a single oversize-overweight
 31 permit; or
- 32 (2) suspend any permit issued to a person;

33 if the applicant or permit holder is delinquent in paying escort fees to
 34 the state police department.

35 (f) The commissioner may suspend or revoke any registration,
 36 permit, certificate, or authority if the person to whom the registration,
 37 permit, certificate, or authority is issued fails to do any of the following
 38 with respect to a listed tax:

- 39 (1) File all tax returns or information reports.
- 40 (2) Pay all taxes, penalties, and interest.

41 (g) Funding for the development and operation of the registration
 42 center shall be taken from the motor carrier regulation fund



1 (IC 8-2.1-23-1).

2 (h) The department shall recommend to the general assembly other
3 functions that the registration center may perform.

4 SECTION 44. IC 6-8.1-5-1.5 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2020]: **Sec. 1.5. (a) This section applies to:**

7 **(1) department audits, investigations, or reviews; and**

8 **(2) amended returns filed by a taxpayer;**

9 **that result in an adjustment to a net operating loss, capital loss,**
10 **credit, or other tax attribute that does not result in an assessment**
11 **or refund denial for any taxable year at the time of the adjustment.**

12 **(b) A taxpayer may request a secondary review of any**
13 **adjustments made by the department or by the taxpayer within**
14 **sixty (60) days from the date of notice of the adjustments based on:**

15 **(1) the department's audit, investigation, or review; or**

16 **(2) the amended return filed by the taxpayer;**

17 **whichever is applicable.**

18 **(c) If a taxpayer requests a secondary review under this section,**
19 **the department shall review the taxpayer's request and may, upon**
20 **the request of the taxpayer, conduct a conference regarding the**
21 **adjustment.**

22 **(d) Upon completion of the department's secondary review, the**
23 **department shall either:**

24 **(1) determine that the previous adjustments were correct; or**

25 **(2) issue revised adjustments of relevant tax attributes.**

26 **(e) A taxpayer and the department may enter into a binding**
27 **agreement to resolve, in whole or in part, any issues relating to one**
28 **(1) or more adjustments.**

29 **(f) A taxpayer may not file an original tax appeal of a secondary**
30 **review.**

31 SECTION 45. IC 6-8.1-5-2, AS AMENDED BY P.L.256-2017,
32 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 APRIL 1, 2020]: **Sec. 2. (a) Except as otherwise provided in this**
34 **section and section 2.5 of this chapter,** the department may not issue
35 a proposed assessment under section 1 of this chapter more than three
36 (3) years after the latest of the date the return is filed, or ~~either~~ of the
37 following:

38 (1) The due date of the return.

39 (2) In the case of a return filed for the state gross retail or use tax,
40 **the gasoline use tax,** the gasoline tax **(including the inventory**
41 **tax),** the special fuel tax **(including the inventory tax),** the motor
42 carrier fuel tax **(including the inventory tax),** the oil inspection



1 fee, the cigarette tax, the tobacco products tax, any county
 2 innkeeper's taxes imposed under IC 6-9, any food and
 3 beverage taxes imposed under IC 6-9, any county or local
 4 admissions taxes imposed under IC 6-9, or the petroleum
 5 severance tax, the end of the calendar year which contains the
 6 taxable period for which the return is filed.

7 **(3) In the case of the use tax, three (3) years from the end of**
 8 **the calendar year in which the first taxable use, other than an**
 9 **incidental nonexempt use, of the property occurred.**

10 (b) If a person files a return for the utility receipts tax (IC 6-2.3),
 11 adjusted gross income tax (IC 6-3), supplemental net income tax
 12 (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1)
 13 (repealed), county option income tax (IC 6-3.5-6) (repealed), local
 14 income tax (IC 6-3.6), or financial institutions tax (IC 6-5.5) that
 15 understates the person's income, as that term is defined in the particular
 16 income tax law, by at least twenty-five percent (25%), the proposed
 17 assessment limitation is six (6) years instead of the three (3) years
 18 provided in subsection (a).

19 (c) In the case of the vehicle excise tax (IC 6-6-5), the tax shall be
 20 assessed as provided in IC 6-6-5 and shall include the penalties and
 21 interest due on all listed taxes not paid by the due date. A person that
 22 fails to properly register a vehicle as required by IC 9-18 (before its
 23 expiration) or IC 9-18.1 and pay the tax due under IC 6-6-5 is
 24 considered to have failed to file a return for purposes of this article.

25 (d) In the case of the commercial vehicle excise tax imposed under
 26 IC 6-6-5.5, the tax shall be assessed as provided in IC 6-6-5.5 and shall
 27 include the penalties and interest due on all listed taxes not paid by the
 28 due date. A person that fails to properly register a commercial vehicle
 29 as required by IC 9-18 (before its expiration) or IC 9-18.1 and pay the
 30 tax due under IC 6-6-5.5 is considered to have failed to file a return for
 31 purposes of this article.

32 (e) In the case of the excise tax imposed on recreational vehicles
 33 and truck campers under IC 6-6-5.1, the tax shall be assessed as
 34 provided in IC 6-6-5.1 and must include the penalties and interest due
 35 on all listed taxes not paid by the due date. A person that fails to
 36 properly register a recreational vehicle as required by IC 9-18 (before
 37 its expiration) or IC 9-18.1 and pay the tax due under IC 6-6-5.1 is
 38 considered to have failed to file a return for purposes of this article. A
 39 person that fails to pay the tax due under IC 6-6-5.1 on a truck camper
 40 is considered to have failed to file a return for purposes of this article.

41 (f) If a person files a fraudulent, unsigned, or substantially blank
 42 return, or if a person does not file a return, there is no time limit within



1 which the department must issue its proposed assessment.

2 (g) If any part of a listed tax has been erroneously refunded by the
3 department, the erroneous refund may be recovered through the
4 assessment procedures established in this chapter. An assessment
5 issued for an erroneous refund must be issued **within the later of:**

6 **(1) the period for which an assessment could otherwise be**
7 **issued under this section; or**

8 **(2) whichever is applicable:**

9 ~~(1)~~ **(A)** within two (2) years after making the refund; or

10 ~~(2)~~ **(B)** within five (5) years after making the refund if the
11 refund was induced by fraud or misrepresentation.

12 (h) If, before the end of the time within which the department may
13 make an assessment, the department and the person agree to extend
14 that assessment period, the period may be extended according to the
15 terms of a written agreement signed by both the department and the
16 person. The agreement must contain:

17 (1) the date to which the extension is made; and

18 (2) a statement that the person agrees to preserve the person's
19 records until the extension terminates.

20 The department and a person may agree to more than one (1) extension
21 under this subsection.

22 (i) **Except as otherwise provided in subsection (j)**, if a taxpayer's
23 federal taxable income, federal adjusted gross income, or federal
24 income tax liability for a taxable year is modified due to a modification
25 as provided under IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted
26 gross income tax), or a modification or alteration as provided under
27 IC 6-5.5-6-6(c) and IC 6-5.5-6-6(e) (for the financial institutions tax),
28 then the date by which the department must issue a proposed
29 assessment under section 1 of this chapter for tax imposed under IC 6-3
30 is extended to six (6) months after the date on which the notice of
31 modification is filed with the department by the taxpayer.

32 **(j) The following apply:**

33 **(1) This subsection applies to partnerships whose taxable**
34 **year:**

35 **(A) begins after December 31, 2017;**

36 **(B) ends after August 12, 2018; or**

37 **(C) begins after November 2, 2015, and before January 1,**
38 **2018, and for which a valid election under United States**
39 **Treasury Regulation 301.9100-22 is in effect;**

40 **and to the partners of such partnerships, including any**
41 **partners, shareholders, or beneficiaries of a pass through**
42 **entity that is a partner in such partnership.**



1 **(2) Notwithstanding any other provision of this article, if a**
 2 **partnership is subject to federal income tax liability or a**
 3 **federal tax adjustment at the partnership level as the result of**
 4 **a modification under Sections 6221 through 6241 of the**
 5 **Internal Revenue Code, the date on which the department**
 6 **must issue a proposed assessment to either the partners or the**
 7 **partnership shall be the later of:**

8 **(A) the date on which a proposed assessment must**
 9 **otherwise be issued to the partner or the partnership under**
 10 **this section with regard to the taxable year of the**
 11 **partnership to which the modification is taxed at the**
 12 **partnership level; or**

13 **(B) December 31, 2021.**

14 **(3) For purposes of this section and IC 6-8.1-9-1, a**
 15 **modification under this subsection shall be considered a**
 16 **modification to the federal taxable income, federal adjusted**
 17 **gross income, or federal income tax liability of both the**
 18 **partners and the partnership within the meaning of IC 6-3-4-6**
 19 **and IC 6-5.5-6-6, and shall be considered to be included in the**
 20 **federal taxable income or federal adjusted gross income of**
 21 **both the partners and partnerships for purposes of this article**
 22 **and IC 6-5.5.**

23 **(4) If a modification made to a partnership for federal income**
 24 **tax purposes is reported to the partners to determine the**
 25 **partners' respective federal taxable income, federal adjusted**
 26 **gross income, or federal income tax liability, including**
 27 **reporting to partners as the result of an election made under**
 28 **Section 6226 of the Internal Revenue Code, subdivision (2)**
 29 **shall not apply, and those modifications shall be treated as**
 30 **modifications to the partner's federal taxable income, federal**
 31 **adjusted gross income, or federal income tax liability for**
 32 **purposes of the following:**

33 **(A) This section.**

34 **(B) IC 6-3-4-6.**

35 **(C) IC 6-5.5-6-6.**

36 **(D) IC 6-8.1-9-1.**

37 SECTION 46. IC 6-8.1-7-1, AS AMENDED BY P.L.234-2019,
 38 SECTION 32, AND AS AMENDED BY P.L.285-2019, SECTION 2,
 39 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL
 40 OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND
 41 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:
 42 Sec. 1. (a) This subsection does not apply to the disclosure of



1 information concerning a conviction on a tax evasion charge. Unless in
2 accordance with a judicial order or as otherwise provided in this
3 chapter, the department, its employees, former employees, counsel,
4 agents, or any other person may not divulge the amount of tax paid by
5 any taxpayer, terms of a settlement agreement executed between a
6 taxpayer and the department, investigation records, investigation
7 reports, or any other information disclosed by the reports filed under
8 the provisions of the law relating to any of the listed taxes, including
9 required information derived from a federal return, except to any of the
10 following when it is agreed that the information is to be confidential
11 and to be used solely for official purposes:

12 (1) Members and employees of the department.

13 (2) The governor.

14 (3) A member of the general assembly or an employee of the
15 house of representatives or the senate when acting on behalf of a
16 taxpayer located in the member's legislative district who has
17 provided sufficient information to the member or employee for
18 the department to determine that the member or employee is
19 acting on behalf of the taxpayer.

20 (4) An employee of the legislative services agency to carry out the
21 responsibilities of the legislative services agency under
22 IC 2-5-1.1-7 or another law.

23 (5) The attorney general or any other legal representative of the
24 state in any action in respect to the amount of tax due under the
25 provisions of the law relating to any of the listed taxes.

26 (6) Any authorized officers of the United States.

27 (b) The information described in subsection (a) may be revealed
28 upon the receipt of a certified request of any designated officer of the
29 state tax department of any other state, district, territory, or possession
30 of the United States when:

31 (1) the state, district, territory, or possession permits the exchange
32 of like information with the taxing officials of the state; and

33 (2) it is agreed that the information is to be confidential and to be
34 used solely for tax collection purposes.

35 (c) The information described in subsection (a) relating to a person
36 on public welfare or a person who has made application for public
37 welfare may be revealed to the director of the division of family
38 resources, and to any director of a county office of the division of
39 family resources located in Indiana, upon receipt of a written request
40 from either director for the information. The information shall be
41 treated as confidential by the directors. In addition, the information
42 described in subsection (a) relating to a person who has been



1 designated as an absent parent by the state Title IV-D agency shall be
 2 made available to the state Title IV-D agency upon request. The
 3 information shall be subject to the information safeguarding provisions
 4 of the state and federal Title IV-D programs.

5 (d) The name, address, Social Security number, and place of
 6 employment relating to any individual who is delinquent in paying
 7 educational loans owed to a postsecondary educational institution may
 8 be revealed to that institution if it provides proof to the department that
 9 the individual is delinquent in paying for educational loans. This
 10 information shall be provided free of charge to approved postsecondary
 11 educational institutions (as defined by IC 21-7-13-6(a)). The
 12 department shall establish fees that all other institutions must pay to the
 13 department to obtain information under this subsection. However, these
 14 fees may not exceed the department's administrative costs in providing
 15 the information to the institution.

16 (e) The information described in subsection (a) relating to reports
 17 submitted under IC 6-6-1.1-502 concerning the number of gallons of
 18 gasoline sold by a distributor and IC 6-6-2.5 concerning the number of
 19 gallons of special fuel sold by a supplier and the number of gallons of
 20 special fuel exported by a licensed exporter or imported by a licensed
 21 transporter may be released by the commissioner upon receipt of a
 22 written request for the information.

23 (f) The information described in subsection (a) may be revealed
 24 upon the receipt of a written request from the administrative head of a
 25 state agency of Indiana when:

- 26 (1) the state agency shows an official need for the information;
 27 and
 28 (2) the administrative head of the state agency agrees that any
 29 information released will be kept confidential and will be used
 30 solely for official purposes.

31 (g) The information described in subsection (a) may be revealed
 32 upon the receipt of a written request from the chief law enforcement
 33 officer of a state or local law enforcement agency in Indiana when it is
 34 agreed that the information is to be confidential and to be used solely
 35 for official purposes.

36 (h) The name and address of retail merchants, including township,
 37 as specified in ~~IC 6-2.5-8-1(k)~~ ~~IC 6-2.5-8-1(l)~~ **IC 6-2.5-8-1(k)** may be
 38 released solely for tax collection purposes to township assessors and
 39 county assessors.

40 (i) The department shall notify the appropriate innkeeper's tax
 41 board, bureau, or commission that a taxpayer is delinquent in remitting
 42 innkeepers' taxes under IC 6-9.



1 (j) All information relating to the delinquency or evasion of the
 2 vehicle excise tax may be disclosed to the bureau of motor vehicles in
 3 Indiana and may be disclosed to another state, if the information is
 4 disclosed for the purpose of the enforcement and collection of the taxes
 5 imposed by IC 6-6-5.

6 (k) All information relating to the delinquency or evasion of
 7 commercial vehicle excise taxes payable to the bureau of motor
 8 vehicles in Indiana may be disclosed to the bureau and may be
 9 disclosed to another state, if the information is disclosed for the
 10 purpose of the enforcement and collection of the taxes imposed by
 11 IC 6-6-5.5.

12 (l) All information relating to the delinquency or evasion of
 13 commercial vehicle excise taxes payable under the International
 14 Registration Plan may be disclosed to another state, if the information
 15 is disclosed for the purpose of the enforcement and collection of the
 16 taxes imposed by IC 6-6-5.5.

17 (m) All information relating to the delinquency or evasion of the
 18 excise taxes imposed on recreational vehicles and truck campers that
 19 are payable to the bureau of motor vehicles in Indiana may be disclosed
 20 to the bureau and may be disclosed to another state if the information
 21 is disclosed for the purpose of the enforcement and collection of the
 22 taxes imposed by IC 6-6-5.1.

23 (n) This section does not apply to:

- 24 (1) the beer excise tax, including brand and packaged type
 25 (IC 7.1-4-2);
 26 (2) the liquor excise tax (IC 7.1-4-3);
 27 (3) the wine excise tax (IC 7.1-4-4);
 28 (4) the hard cider excise tax (IC 7.1-4-4.5);
 29 ~~(5) the malt excise tax (IC 7.1-4-5);~~
 30 ~~(6) (5) the vehicle excise tax (IC 6-6-5);~~
 31 ~~(7) (6) the commercial vehicle excise tax (IC 6-6-5.5); and~~
 32 ~~(8) (7) the fees under IC 13-23.~~

33 (o) The name and business address of retail merchants within each
 34 county that sell tobacco products may be released to the division of
 35 mental health and addiction and the alcohol and tobacco commission
 36 solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

37 (p) The name and business address of a person licensed by the
 38 department under IC 6-6 or IC 6-7 may be released for the purpose of
 39 reporting the status of the person's license.

40 (q) The department may release information concerning total
 41 incremental tax amounts under:

- 42 (1) IC 5-28-26;



1 (2) IC 36-7-13;
 2 (3) IC 36-7-26;
 3 (4) IC 36-7-27;
 4 (5) IC 36-7-31;
 5 (6) IC 36-7-31.3; or
 6 (7) any other statute providing for the calculation of incremental
 7 state taxes that will be distributed to or retained by a political
 8 subdivision or other entity;
 9 to the fiscal officer of the political subdivision or other entity that
 10 established the district or area from which the incremental taxes were
 11 received if that fiscal officer enters into an agreement with the
 12 department specifying that the political subdivision or other entity will
 13 use the information solely for official purposes.

14 (r) The department may release the information as required in
 15 IC 6-8.1-3-7.1 concerning:

16 (1) an innkeeper's tax, a food and beverage tax, or an admissions
 17 tax under IC 6-9;
 18 (2) the supplemental auto rental excise tax under IC 6-6-9.7; and
 19 (3) the covered taxes allocated to a professional sports
 20 development area fund, sports and convention facilities operating
 21 fund, or other fund under IC 36-7-31 and IC 36-7-31.3.

22 (s) Information concerning state gross retail tax exemption
 23 certificates that relate to a person who is exempt from the state gross
 24 retail tax under IC 6-2.5-4-5 may be disclosed to a power subsidiary (as
 25 defined in IC 6-2.5-4-5) or a person selling the services or commodities
 26 listed in IC 6-2.5-4-5(b) for the purpose of enforcing and collecting the
 27 state gross retail and use taxes under IC 6-2.5.

28 (t) *The department may release a statement of tax withholding or*
 29 *other tax information statement provided on behalf of a taxpayer to the*
 30 *department to:*

31 (1) *the taxpayer on whose behalf the tax withholding or other tax*
 32 *information statement was provided to the department;*

33 (2) *the taxpayer's spouse, if:*

34 (A) *the taxpayer is deceased or incapacitated; and*

35 (B) *the taxpayer's spouse is filing a joint income tax return*
 36 *with the taxpayer; or*

37 (3) *an administrator, executor, trustee, or other fiduciary acting*
 38 *on behalf of the taxpayer if the taxpayer is deceased.*

39 SECTION 47. IC 6-8.1-9-1, AS AMENDED BY P.L.86-2018,
 40 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 APRIL 1, 2020]: Sec. 1. (a) If a person has paid more tax than the
 42 person determines is legally due for a particular taxable period, the



1 person may file a claim for a refund with the department. Except as
 2 provided in subsections (j), ~~and~~ (k), **and (l)**, in order to obtain the
 3 refund, the person must file the claim with the department within three
 4 (3) years after the later of the following:

- 5 (1) The due date of the return.
- 6 (2) The date of payment.

7 For purposes of this section, the due date for a return filed for the state
 8 gross retail or use tax, **the gasoline use tax**, the gasoline tax (**including**
 9 **the inventory tax**), the special fuel tax (**including the inventory tax**),
 10 the motor carrier fuel tax (**including the inventory tax**), the oil
 11 inspection fee, **the cigarette tax**, **the tobacco products tax**, **any**
 12 **county innkeeper's taxes imposed under IC 6-9**, **any food and**
 13 **beverage taxes imposed under IC 6-9**, **any county or local**
 14 **admissions taxes imposed under IC 6-9**, or the petroleum severance
 15 tax is the end of the calendar year which contains the taxable period for
 16 which the return is filed. The claim must set forth the amount of the
 17 refund to which the person is entitled and the reasons that the person
 18 is entitled to the refund.

19 (b) After considering the claim and all evidence relevant to the
 20 claim, the department shall issue a decision on the claim, stating the
 21 part, if any, of the refund allowed and containing a statement of the
 22 reasons for any part of the refund that is denied. The department shall
 23 mail a copy of the decision to the person that filed the claim. If the
 24 person disagrees with a part of the decision on the claim, the person
 25 may file a protest and request a hearing with the department. If the
 26 department allows the full amount of the refund claim, a warrant for the
 27 payment of the claim is sufficient notice of the decision.

28 (c) The tax court shall hear the appeal de novo and without a jury,
 29 and after the hearing may order or deny any part of the appealed
 30 refund. The court may assess the court costs in any manner that it feels
 31 is equitable. The court may enjoin the collection of any of the listed
 32 taxes under IC 33-26-6-2. The court may also allow a refund of taxes,
 33 interest, and penalties that have been paid to and collected by the
 34 department.

35 (d) The decision on the claim must state that the person has sixty
 36 (60) days from the date the decision is mailed to file a written protest.
 37 If the person files a protest and requests a hearing on the protest, the
 38 department shall:

- 39 (1) set the hearing at the department's earliest convenient time;
- 40 and
- 41 (2) notify the person by United States mail of the time, date, and
- 42 location of the hearing.



1 (e) The department may hold the hearing at the location of its choice
2 within Indiana if that location complies with IC 6-8.1-3-8.5.

3 (f) After conducting a hearing on a protest, or after making a
4 decision on a protest when no hearing is requested, the department
5 shall issue a memorandum of decision or order denying a refund and
6 shall send a copy of the decision through the United States mail to the
7 person that filed the protest. If the department allows the full amount
8 of the refund claim, a warrant for the payment of the claim is sufficient
9 notice of the decision. The department may continue the hearing until
10 a later date if the taxpayer presents additional information at the
11 hearing or the taxpayer requests an opportunity to present additional
12 information after the hearing.

13 (g) A person that disagrees with any part of the department's
14 ~~decision~~ **determination** in a memorandum of decision or order denying
15 a refund may request a rehearing not more than thirty (30) days after
16 the date on which the memorandum of decision or order denying a
17 refund is issued by the department. The department shall consider the
18 request and may grant the rehearing if the department reasonably
19 believes that a rehearing would be in the best interests of the taxpayer
20 and the state. **If the department grants the rehearing, the**
21 **department shall issue a supplemental order denying a refund or**
22 **a supplemental memorandum of decision based on the rehearing,**
23 **whichever is applicable.**

24 (h) If the person disagrees with any part of the department's
25 ~~decision~~, **determination**, the person may appeal the ~~decision~~;
26 **determination**, regardless of whether or not the person protested the
27 tax payment or whether or not the person has accepted a refund. The
28 person must file the appeal with the tax court. The tax court does not
29 have jurisdiction to hear a refund appeal if:

30 (1) the appeal is filed more than ninety (90) days after the ~~later~~
31 **latest** of the dates on which:

32 (A) the memorandum of decision or order denying a refund is
33 issued by the department, if the person does not make a timely
34 request for a rehearing under subsection (g) on the ~~letter of~~
35 ~~findings~~; **or memorandum of decision or order denying a**
36 **refund;**

37 (B) the department issues a denial of the person's timely
38 request for a rehearing under subsection (g) on the
39 memorandum of decision or order denying a refund; or

40 **(C) the department issues a supplemental memorandum of**
41 **decision or supplemental order denying a refund following**
42 **a rehearing granted under subsection (g); or**



1 (2) the appeal is filed both before the decision is issued and
 2 before the one hundred eighty-first day after the date the person
 3 files the claim for a refund with the department.
 4 The ninety (90) day period may be extended according to the terms of
 5 a written agreement signed by both the department and the person. The
 6 agreement must specify a date upon which the extension will terminate
 7 and include a statement that the person agrees to preserve the person's
 8 records until that specified termination date. The specified termination
 9 date agreed upon under this subsection may not be more than ninety
 10 (90) days after the expiration of the period otherwise specified by this
 11 subsection.

12 (i) With respect to the vehicle excise tax, this section applies only
 13 to penalties and interest paid on assessments of the vehicle excise tax.
 14 Any other overpayment of the vehicle excise tax is subject to IC 6-6-5.

15 (j) If a taxpayer's federal taxable income, federal adjusted gross
 16 income, or federal income tax liability for a taxable year is modified by
 17 the Internal Revenue Service, and the modification would result in a
 18 reduction of the tax legally due, the due date by which the taxpayer
 19 must file a claim for refund with the department is the ~~later~~ **latest** of:
 20 (1) the date determined under subsection (a); ~~or~~
 21 (2) the date that is one hundred eighty (180) days after the date of
 22 the modification by the Internal Revenue Service as provided
 23 under:
 24 (A) IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted gross
 25 income tax); or
 26 (B) IC 6-5.5-6-6(c) and IC 6-5.5-6-6(d) (for the financial
 27 institutions tax); ~~or~~
 28 **(3) in the case of a modification described in IC 6-8.1-5-2(j)(1)**
 29 **through IC 6-8.1-5-2(j)(3), December 31, 2021.**

30 **(k) Notwithstanding any other provision of this section, if an**
 31 **individual received a severance payment described in Section**
 32 **3(a)(1)(A) of the Combat-Injured Veterans Tax Fairness Act of**
 33 **2016 (P.L. 114-292) and upon which the United States Secretary of**
 34 **Defense withheld tax under IC 6-3, IC 6-3.5-1.1 (before its repeal),**
 35 **IC 6-3.5-6 (before its repeal), IC 6-3.5-7 (before its repeal), or**
 36 **IC 6-3.6, the individual must file a claim for refund for taxes that**
 37 **were overpaid and attributable to the severance payment not later**
 38 **than December 31, 2020. Any refund under this subsection shall be**
 39 **computed without regard to subsection (a)(2). The department may**
 40 **establish procedures to provide standard refund amounts if a**
 41 **standard refund amount is requested from the Internal Revenue**
 42 **Service.**



1 ~~(*)~~ (I) If an agreement to extend the assessment time period is
 2 entered into under IC 6-8.1-5-2(h), the period during which a person
 3 may file a claim for a refund under subsection (a) is extended to the
 4 same date to which the assessment time period is extended.

5 SECTION 48. IC 6-8.1-9-2, AS AMENDED BY P.L.242-2015,
 6 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 APRIL 1, 2020]: Sec. 2. (a) If the department finds that a person has
 8 paid more tax for a taxable year than is legally due, the department
 9 shall apply the amount of the excess against any amount of that same
 10 tax that is assessed and is currently due. The department may then
 11 apply any remaining excess against any of the listed taxes that have
 12 been assessed against the person and that are currently due. Subject to
 13 subsection (c), if any excess remains after the department has applied
 14 the overpayment against the person's tax liabilities, the department
 15 shall either refund the amount to the person or, at the person's request,
 16 credit the amount to the person's future tax liabilities.

17 (b) Subject to subsection (c), if a court determines that a person has
 18 paid more tax for a taxable year than is legally due, the department
 19 shall refund the excess amount to the person.

20 (c) As used in this subsection, "pass through entity" means a
 21 corporation that is exempt from the adjusted gross income tax under
 22 IC 6-3-2-2.8(2), a partnership, a limited liability company, or a limited
 23 liability partnership and "pass through income" means a person's
 24 distributive share of adjusted gross income for a taxable year
 25 attributable to the person's interest in a pass through entity. This
 26 subsection applies to a person's overpayment of adjusted gross income
 27 tax for a taxable year if:

28 (1) the person has filed a timely claim for refund with respect to
 29 the overpayment under IC 6-8.1-9-1;

30 (2) the overpayment:

31 (A) is with respect to a taxable year beginning before January
 32 1, 2009;

33 (B) is attributable to amounts paid to the department by:

34 (i) a nonresident shareholder, partner, or member of a pass
 35 through entity;

36 (ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13
 37 on behalf of a nonresident shareholder, partner, or member
 38 of the pass through entity; or

39 (iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13
 40 on behalf of a nonresident shareholder, partner, or member
 41 of another pass through entity; and

42 (3) the overpayment arises from a determination by the



1 department or a court that the person's pass through income is not
 2 includible in the person's adjusted gross income derived from
 3 sources within Indiana as a result of the application of
 4 IC 6-3-2-2(a)(5) and IC 6-3-2-2.2(g).

5 The department shall apply the overpayment to the person's liability for
 6 taxes that have been assessed and are currently due as provided in
 7 subsection (a) and apply any remaining overpayment as a credit or
 8 credits in satisfaction of the person's liability for listed taxes in taxable
 9 years beginning after December 31, 2008. If the person, including any
 10 successor to the person's interest in the overpayment, does not have
 11 sufficient liability for listed taxes against which to credit all the
 12 remaining overpayment in a taxable year beginning after December 31,
 13 2008, and ending before January 1, 2019, the taxpayer is not entitled
 14 for any taxable year ending after December 31, 2018, to have any part
 15 of the remaining overpayment applied, refunded, or credited to the
 16 person's liability for listed taxes. If an overpayment or part of an
 17 overpayment is required to be applied as a credit under this subsection
 18 to the person's liability for listed taxes for a taxable year beginning after
 19 December 31, 2008, and has not been determined by the department or
 20 a court to meet the conditions of subdivision (3) by the due date of the
 21 person's return for a listed tax for a taxable year beginning after
 22 December 31, 2008, the department shall refund to the person that part
 23 of the overpayment that should have been applied as a credit for such
 24 taxable year within ninety (90) days of the date that the department or
 25 a court makes the determination that the overpayment meets the
 26 conditions of subdivision (3). However, the department may establish
 27 a program to refund small overpayment amounts that do not exceed the
 28 threshold dollar value established by the department rather than
 29 crediting the amounts against tax liability accruing for a taxable year
 30 after December 31, 2008. A person that receives a refund or credit
 31 under this subsection shall file a report with the department in the form
 32 and in the schedule specified by the department that identifies under
 33 penalties of perjury the home state or other jurisdiction where the
 34 income subject to the refund or credit was reported as income
 35 attributable to that state or jurisdiction.

36 (d) An excess tax payment that is not refunded or credited against
 37 a current or future tax liability within ninety (90) days after the date the
 38 refund claim is filed, the date the tax payment was due, or the date the
 39 tax was paid, whichever is latest, accrues interest from:

- 40 (1) the date the refund claim is filed, if the refund claim is filed
 41 before July 1, 2015; or
 42 (2) for a refund claim filed after June 30, 2015, the latest of:



- 1 (A) the date the tax payment was due;
 2 (B) the date the tax was paid; or
 3 (C) July 1, 2015;
 4 at the rate established under IC 6-8.1-10-1 until a date, determined by
 5 the department, that does not precede by more than thirty (30) days, the
 6 date on which the refund or credit is made. As used in this subsection,
 7 "refund claim" includes a return and an amended return that indicates
 8 an overpayment of tax. For purposes of this subsection only, the due
 9 date for the payment of the state gross retail or use tax, the oil
 10 inspection fee, and the petroleum severance tax is December 31 of the
 11 calendar year that contains the taxable period for which the payment is
 12 remitted. Notwithstanding any other provision, no interest is due for
 13 any time before the filing of a tax return for the period and tax type for
 14 which a taxpayer files a refund claim.
- 15 (e) A person who is liable for the payment of excise taxes under
 16 IC 7.1-4-3 or IC 7.1-4-4 is entitled to claim a credit against the person's
 17 excise tax liability in the amount of the excise taxes paid in duplicate
 18 by the person, or the person's assignors or predecessors, upon both:
 19 (1) the receipt of the goods subject to the excise taxes, as reported
 20 by the person, or the person's assignors or predecessors, on excise
 21 tax returns filed with the department; and
 22 (2) the withdrawal of the same goods from a storage facility
 23 operated under 19 U.S.C. 1555(a).
- 24 (f) The amount of the credit under subsection (e) is equal to fifty
 25 percent (50%) of the amount of excise taxes:
 26 (1) that were paid by the person as described in subsection (e)(2);
 27 (2) that are duplicative of excise taxes paid by the person as
 28 described in subsection (e)(1); and
 29 (3) for which the person has not previously claimed a credit.
- 30 The credit may be claimed by subtracting the amount of the credit from
 31 the amount of the person's excise taxes reported on the person's
 32 monthly excise tax returns filed under IC 7.1-4-6 with the department
 33 for taxes imposed under IC 7.1-4-3 or IC 7.1-4-4. The amount of the
 34 credit that may be taken monthly by the person on each monthly excise
 35 tax return may not exceed ten percent (10%) of the excise tax liability
 36 reported by the person on the monthly excise tax return. The credit may
 37 be claimed on not more than thirty-six (36) consecutive monthly excise
 38 tax returns beginning with the month in which credit is first claimed.
- 39 (g) The amount of the credit calculated under subsection (f) must be
 40 used for capital expenditures to:
 41 (1) expand employment; or
 42 (2) assist in retaining employment within Indiana.



1 The department shall annually verify whether the capital expenditures
2 made by the person comply with this subsection.

3 **(h) An excess tax payment under section 1(k) of this chapter that**
4 **is not refunded or credited against a current or future tax liability**
5 **within ninety (90) days after the date the refund claim is filed, the**
6 **date the tax payment was due, or the date the tax was paid,**
7 **whichever is latest, accrues interest from April 1, 2020. For**
8 **purposes of this subsection, a refund claim filed prior to April 1,**
9 **2020, shall be treated as filed on April 1, 2020.**

10 SECTION 49. IC 6-8.1-10-5, AS AMENDED BY P.L.293-2013(ts),
11 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JANUARY 1, 2021]: Sec. 5. (a) If a person makes a tax payment with
13 a check, credit card, debit card, or electronic funds transfer, and the
14 department is unable to obtain payment on the check, credit card, debit
15 card, or electronic funds transfer for its full face amount when the
16 check, credit card, debit card, or electronic funds transfer is presented
17 for payment through normal banking channels, a penalty of ten percent
18 (10%) of the unpaid tax or the value of the check, credit card, debit
19 card, or electronic funds transfer, whichever is smaller, is imposed.

20 (b) When a penalty is imposed under subsection (a), the department
21 shall notify the person by mail that the check, credit card, debit card,
22 or electronic funds transfer was not honored and that the person has ten
23 (10) days after the date the notice is mailed to pay the tax and the
24 penalty either in cash, by certified check, or other guaranteed payment.
25 If the person fails to make the payment within the ten (10) day period,
26 the penalty is increased to thirty percent (30%) multiplied by the value
27 of the check, credit card, debit card, or electronic funds transfer, or the
28 unpaid tax, whichever is smaller.

29 (c) If a person has been assessed a penalty under subsection (a)
30 more than one (1) time, the department may require all future payments
31 for all listed taxes to be remitted with guaranteed funds.

32 (d) If the person subject to the penalty under this section can show
33 that there is reasonable cause for the check, credit card, debit card, or
34 electronic funds transfer not being honored, the department may waive
35 the penalty imposed under this section.

36 **(a) For purposes of this section, "payment instrument" shall**
37 **mean:**

- 38 (1) a check;
39 (2) a credit card;
40 (3) a debit card;
41 (4) an electronic funds transfer; or
42 (5) any other instrument in payment by any commercially



- 1 allowable means.
- 2 **(b) If a person makes a payment to the department for an**
3 **amount due to the department with a payment instrument and the**
4 **department is unable to obtain payment on the payment**
5 **instrument for the full amount of the attempted payment when the**
6 **payment instrument is presented for payment through the normal**
7 **banking channels, the department shall:**
- 8 **(1) notify the person that the department was unable to obtain**
9 **payment on the full amount of the payment instrument; and**
10 **(2) assess a penalty of thirty-five dollars (\$35) not more than**
11 **thirty (30) days after the department was unable to obtain**
12 **payment.**
- 13 **(c) If the department determines that the person makes a**
14 **payment described in subsection (b) fraudulently or otherwise**
15 **knowing that the department would be unable to obtain payment**
16 **on the payment instrument for the full amount of the attempted**
17 **payment when the payment instrument is presented for payment**
18 **through normal banking channels, the penalty shall be one**
19 **hundred percent (100%) of the amount on which the department**
20 **was unable to obtain payment, but not less than thirty-five dollars**
21 **(\$35). The following apply:**
- 22 **(1) A penalty assessment under this subsection shall be made**
23 **not more than three (3) years after the department was**
24 **unable to obtain payment.**
- 25 **(2) The penalty under this subsection shall not be made in**
26 **addition to the penalty under subsection (b)(2). However,**
27 **nothing shall prohibit the department from issuing a penalty**
28 **under this subsection with regard to a payment after a**
29 **penalty under subsection (b)(2) was issued.**
- 30 **(d) If the department is unable to obtain payment on a payment**
31 **instrument, the amount on which the department was unable to**
32 **obtain payment shall not be considered to be a payment of that**
33 **amount.**
- 34 **(e) The following apply:**
- 35 **(1) Any penalty under subsection (b)(2) shall be due not less**
36 **than twenty (20) days after the department issues the**
37 **assessment under subsection (b)(2) or (c).**
- 38 **(2) If the person fails to pay the penalty provided under this**
39 **section in full within the time specified by the department, the**
40 **department may file a tax warrant for the unpaid portion of**
41 **the penalty in the manner provided under IC 6-8.1-8-2.**
- 42 **(3) For purposes of this article, a penalty under subsection**



- 1 (b)(2) shall not be considered to be a proposed assessment
2 under IC 6-8.1-5-1.
- 3 (f) If a person receives a penalty under subsection (c), the
4 penalty shall be treated as a proposed assessment as provided in
5 IC 6-8.1-5-1. However, if the person pays the penalty under
6 subsection (c) and files a claim for refund of the penalty,
7 notwithstanding IC 6-8.1-9-1, the payment of the penalty shall not
8 be refunded unless the person protested the penalty pursuant to
9 IC 6-8.1-5-1 in a timely manner.
- 10 (g) The following apply:
- 11 (1) If the penalty under subsection (b)(2) relates to an
12 attempted payment of a liability for which the department has
13 filed a tax warrant under IC 6-8.1-8-2 or for which the
14 department files a tax warrant under IC 6-8.1-8-2 prior to the
15 expiration of the period specified in subsection (e), the tax
16 warrant may include the amount of the penalty provided in
17 this section prior to the expiration of the period specified in
18 subsection (e).
- 19 (2) If a penalty under this section is included as part of a
20 proposed assessment under IC 6-8.1-5-1, the filing of a tax
21 warrant for the penalty under this section shall be timely if
22 the tax warrant for the penalty:
- 23 (A) was filed on or before the day as a timely filed tax
24 warrant for the proposed assessment;
- 25 (B) was filed as part of the tax warrant for the proposed
26 assessment; or
- 27 (C) was otherwise filed within the period allowable under
28 IC 6-8.1-8-2.
- 29 (h) The following apply:
- 30 (1) The department may waive the penalty under this section
31 if the person establishes that the person acted with reasonable
32 cause in its attempted payment.
- 33 (2) If the department determines that the penalty under
34 subsection (b)(2) shall not be waived, including a reduction
35 granted under subdivision (3), such determination shall not be
36 subject to administrative or judicial review.
- 37 (3) If the department determines that the penalty under this
38 section should be waived, but the liability for the penalty has
39 advanced to a tax warrant:
- 40 (A) the amount due under the tax warrant shall be reduced
41 by the amount of any penalty under this section included
42 in the tax warrant but not paid; or



- 1 **(B) if the person has paid the penalty under this section,**
 2 **the department shall refund the penalty under this section**
 3 **paid by the person.**
- 4 **(4) Nothing shall prohibit judicial review of a penalty under**
 5 **this section if the penalty was imposed on a payment**
 6 **instrument upon which the department was able to collect the**
 7 **full amount of the payment instrument upon presentation of**
 8 **the payment through the normal banking channels.**
- 9 **(i) If a person has been subject to a penalty under this section**
 10 **more than one (1) time during a twenty-four (24) month period, or**
 11 **has been subject to a penalty under subsection (c) that has not been**
 12 **reduced or waived, the department may require the person to**
 13 **remit all future payments for all listed taxes with guaranteed**
 14 **funds.**
- 15 SECTION 50. IC 6-8.1-11-3 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. **(a) The department**
 17 **shall appoint an employee to serve as a taxpayer rights advocate who**
 18 **whose office shall act as an intermediary between taxpayers and**
 19 **the department to facilitate the resolution of taxpayer complaints and**
 20 **problems including unsatisfactory treatment of taxpayers by**
 21 **department employees: not resolved through the normal**
 22 **administrative channels or operational procedures within the**
 23 **department.**
- 24 **(b) The taxpayer rights advocate office shall perform the**
 25 **following duties:**
- 26 **(1) Receive and evaluate complaints and make appropriate**
 27 **recommendations to the commissioner.**
- 28 **(2) Identify statutes and regulations as well as policies and**
 29 **practices of the department that might inhibit the equitable**
 30 **treatment of taxpayers, and recommend alternatives to the**
 31 **commissioner.**
- 32 **(3) Provide expeditious service to taxpayers whose problems**
 33 **are not resolved through normal channels, including but not**
 34 **limited to:**
- 35 **(A) assisting taxpayers with matters that have been**
 36 **pending for an unreasonable length of time;**
- 37 **(B) assisting with matters where the taxpayer has been**
 38 **unable to communicate with the department; and**
- 39 **(C) working with department personnel to resolve the most**
 40 **complex and sensitive taxpayer problems.**
- 41 SECTION 51. IC 6-8.1-16.3-5 IS REPEALED [EFFECTIVE JULY
 42 1, 2020]. Sec. 5: **(a) As used in this section, "fund" means the**



1 department of state revenue pilot program fund established by
2 subsection (b):

3 (b) The department of state revenue pilot program fund is
4 established:

5 (c) The fund shall be used to assist implementation and
6 administration of the pilot program:

7 (d) The fund may consist of one (1) or more of the following:

8 (1) Appropriations made by the general assembly:

9 (2) Donations made or gifts donated to the fund:

10 (3) Any proceeds derived from agreements or contracts made with
11 third parties:

12 (e) The fund shall be administered by the department:

13 (f) The expenses of administering the pilot program and the fund
14 shall be paid for by the fund:

15 (g) Unless otherwise provided by state or federal law, expenses
16 associated with the pilot program shall be paid for by fund proceeds:

17 (h) Any money in the fund at the end of a state fiscal year does not
18 revert to the state general fund:

19 (i) Money in the fund is continuously appropriated to the department
20 of state revenue to carry out the purposes of the fund:

21 SECTION 52. IC 6-8.1-16.3-5.5 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JUNE 30, 2020]: **Sec. 5.5. (a) Any balance remaining**
24 **on June 30, 2020, in the state revenue pilot program fund**
25 **established by section 5 of this chapter (before its repeal) is**
26 **transferred to the motor carrier regulation fund established by**
27 **IC 8-2.1-23-1.**

28 (b) Notwithstanding any other law, any proceeds derived from
29 agreements or a contract made with third parties under this
30 chapter, and any other revenue received under this chapter, that
31 would have been deposited in the state revenue pilot program fund
32 established by section 5 of this chapter (before its repeal) shall be
33 deposited in the motor carrier regulation fund established by
34 IC 8-2.1-23-1.

35 SECTION 53. IC 8-2.1-23-4 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. Money in the motor
37 carrier regulation fund does not revert to the state general fund.
38 However, if the amount of money in the fund at the end of a fiscal year
39 exceeds five hundred thousand dollars (\$500,000), the treasurer of state
40 shall transfer the excess from the fund to the motor vehicle highway
41 account established in IC 8-14-1.

42 SECTION 54. [EFFECTIVE JANUARY 1, 2021] (a) **IC 6-8.1-10-5,**



1 as amended by this act, shall be effective for attempted payments
2 made after December 31, 2020.
3 (b) This SECTION expires January 1, 2024.
4 SECTION 55. [EFFECTIVE APRIL 1, 2020] (a) IC 6-8.1-9-1(k),
5 as added by this act, shall apply to extend the statute of limitations
6 for refund claims described in IC 6-8.1-9-1(k):
7 (1) that have expired before April 1, 2020, under
8 IC 6-8.1-9-1(a); or
9 (2) that would otherwise expire after March 31, 2020, under
10 IC 6-8.1-9-1(a);
11 to December 31, 2020.
12 (b) This SECTION expires July 1, 2021.
13 SECTION 56. [EFFECTIVE JULY 1, 2009 (RETROACTIVE)]
14 IC 6-8.1-5-2(g), as amended by this act, is intended to be a
15 clarification of the law and not a substantive change in the law and
16 as such shall be applied for purposes of erroneous refunds issued
17 after June 30, 2009.
18 SECTION 57. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 408, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-23-7.3-14, AS AMENDED BY P.L.3-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. The state GIS officer shall do the following:

- (1) Function as the chief officer for GIS matters for state agencies.
- (2) Review and either veto or adopt both the:

- (A) state's GIS data standards; and
- (B) statewide data integration plan;

as recommended by the IGIC. If either of the recommendations is vetoed, the state GIS officer shall return the recommendation to the IGIC with a message announcing the veto and stating the reasons for the veto. If the IGIC ceases to exist or refuses to make the recommendations listed in this subdivision, the state GIS officer may develop and adopt state GIS data standards and a statewide data integration plan. The standards and the plan adopted under this subdivision must promote interoperability and open use of data with various GIS software, applications, computer hardware, and computer operating systems.

- (3) Act as the administrator of:

- (A) the state standards and policies concerning GIS data and framework data; and
- (B) the statewide data integration plan.

- (4) Enforce the state GIS data standards and execute the statewide data integration plan adopted under subdivision (2) through the use of:

- (A) GIS policies developed for state agencies; and
- (B) data exchange agreements involving an entity other than a state agency.

- (5) Coordinate the state data center's duties under this chapter.

- (6) Act as the state's representative for:

- (A) requesting grants available for the acquisition or enhancement of GIS resources; and
- (B) preparing funding proposals for grants to enhance coordination and implementation of GIS.

- (7) Review and approve, in accordance with the statewide data



integration plan, the procurement of GIS goods and services involving the state data center or a state agency.

(8) Cooperate with the United States Board on Geographic Names established by P.L.80-242 by serving as the chair of a committee formed with the IGIC as the state names authority for Indiana.

(9) Publish a biennial report. The report must include the status and metrics on the progress of the statewide data integration plan.

(10) Represent the state's interest to federal agencies regarding the National Spatial Data Infrastructure.

(11) Serve as the state's primary point of contact for communications and discussions with federal agencies regarding framework data, spatial data exchanges, cost leveraging opportunities, spatial data standards, and other GIS related issues.

(12) Facilitate GIS data cooperation between units of the federal, state, and local governments.

(13) Promote the development and maintenance of statewide GIS data and framework data layers associated with a statewide base map.

(14) Approve and maintain data exchange agreements to which the state data center or a state agency is a party to increase the amount and quality of GIS data and framework data available to the state.

(15) Use personnel made available from state educational institutions to provide technical support to the:

(A) state GIS officer in carrying out the officer's duties under this chapter; and

(B) IGIC.

(16) Establish, before December 31, 2021, and update, before December 31 of every year thereafter, in coordination with the office of technology and the management performance hub, a GIS that contains a parcel level data base for each county that may be used by the department of state revenue's tax systems to identify each taxing unit within which each taxpayer's residence is located. The state GIS officer shall provide the department of state revenue with any information necessary in order for the department of state revenue to use the GIS codes."

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 3. IC 5-1.2-4.5-1, AS ADDED BY P.L.108-2019, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2020]: Sec. 1. (a) This section applies to:

(1) a public-private agreement to which the authority is a party



under IC 8-15.5 and that was originally entered into before January 1, 2013; and

(2) any other agreement to which the authority or the state is a party under any provision of the Indiana Code, other than IC 8-15.5, that would increase revenue as the result of the monetization of a state asset.

(b) If an extension or an amendment to:

(1) a public-private agreement described in subsection (a)(1), which is proposed to be entered into after May 1, 2019; or

(2) an agreement described in subsection (a)(2), which is proposed to be entered into after May 1, 2020;

would require the approval of the authority at a meeting of the authority before taking effect, the authority shall submit the proposed extension or amendment to the ~~public-private~~ agreement to the budget committee established by IC 4-12-1-3 for its review. The budget committee may request that the authority, ~~or~~ the department of transportation, or both, **or the state, as applicable,** appear at a public meeting of the budget committee concerning the proposed extension or amendment to the ~~public-private~~ agreement. The authority **or the state** may not enter into any extension or amendment to ~~the public-private agreement~~ **an agreement described in this section** until after the budget committee has reviewed the proposed extension or amendment.

(c) If the authority or the state receives a lump sum payment or a series of payments totaling more than one million dollars (\$1,000,000) as a result of entering into any extension or amendment to the ~~public-private~~ agreement in accordance with subsection (b), any amount of that payment that is not obligated to cover any obligation incurred or amounts owed by the authority or the state before the date of the extension or amendment shall be deposited in a special payment reserve fund to be administered by the authority.

(d) The money in the special payment reserve fund at the end of any state fiscal year does not revert to any other fund.

(e) The authority shall invest or cause to be invested all the money in the special payment reserve fund in one (1) or more fiduciary accounts with a trustee that is a financial institution in accordance with the authority's investment policy.

(f) The special payment reserve fund may not be used for any purpose before May 1 of the year following the year in which the payment was received. Thereafter, unless the use of the fund is otherwise specified by law, the money in the fund shall be allocated and distributed to the fund into which the payment would have otherwise been deposited:



- (1) under IC 8-15.5, in the case of a public-private agreement described in subsection (a)(1); or
 (2) based on the agreement, in the case of an agreement described in subsection (a)(2).

SECTION 4. IC 5-1.2-4.5-2, AS ADDED BY P.L.108-2019, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2020]: Sec. 2. (a) This section applies to:

- (1) a public-private agreement to which the authority is a party under IC 8-15.5 and that is originally entered into after May 1, 2019; and
 (2) any other agreement to which the authority or the state is a party under any provision of the Indiana Code, other than IC 8-15.5, that would increase revenue as the result of the monetization of a state asset and that is entered into after May 1, 2020.

(b) If an extension or an amendment to:

- (1) a public-private agreement described in subsection (a)(1) would increase the amount to be:

(+) (A) paid by the authority to the operator, another private entity, or a governmental entity by at least one hundred million dollars (\$100,000,000); or

(-) (B) received by the operator or a party related to the operator by at least one hundred million dollars (\$100,000,000); or

- (2) an agreement described in subsection (a)(2) would increase revenue by at least one hundred million dollars (\$100,000,000) as the result of the monetization of a state asset;

the authority or the state shall submit the proposed extension or amendment to the ~~public-private~~ agreement to the budget committee established by IC 4-12-1-3 for its review.

(c) The budget committee may request that the authority, or the department of transportation, or both, or the state, as applicable, appear at a public meeting of the budget committee concerning the proposed extension or amendment to the ~~public-private~~ an agreement described in this section. The authority or the state may not enter into any extension or amendment to the ~~public-private~~ agreement an agreement described in this section until after the budget committee has reviewed the proposed extension or amendment."

Page 6, line 13, after "Indiana;" insert "or".

Page 6, line 15, delete "IC 6-2.5-8-1; or" and insert "IC 6-2.5-8-1".

Page 6, delete lines 16 through 18.

Page 20, line 32, delete ", or fifty percent".



Page 20, delete line 33.

Page 20, line 34, delete "case of a married individual filing a separate return,".

Page 23, line 3, delete "withheld" and insert "**imposed**".

Page 26, line 19, delete "withheld" and insert "**imposed**".

Page 35, line 26, delete "withheld" and insert "**imposed**".

Page 36, delete lines 13 through 42.

Page 37, delete lines 1 through 31.

Page 45, delete lines 16 through 42, begin a new paragraph and insert:

"SECTION 33. IC 6-3-4-16.7, AS ADDED BY P.L.234-2019, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.7. (a) For taxable years ending after December 31, 2019, a partnership that is required to provide twenty-five (25) or more ~~reports~~ **schedules K-1 of form IT-65** to partners ~~under section 12(b) of this chapter~~ or a corporation that is required to provide twenty-five (25) or more ~~reports~~ **schedules K-1 of form IT-20S** to shareholders ~~under section 13(b) of this chapter~~ must file all such ~~reports~~ **schedules** in an electronic format specified by the department.

(b) For taxable years ending after December 31, 2021, an estate or trust required to provide ten (10) or more reports to beneficiaries under section 15(b) of this chapter must file all such reports in an electronic format specified by the department.

(c) **If the department receives a form IT-65, form IT-20S, or form IT-41 with more than fifty (50) schedules K-1 in a format other than the electronic format specified by the department, the department may provide written notification to the partnership, estate, or trust that the department will consider the schedules to not be filed until the schedules have been filed in the specified electronic format."**

Delete pages 46 through 55.

Page 56, delete lines 1 through 25.

Page 56, line 28, delete "JANUARY 1, 2021]:" and insert "APRIL 1, 2020]:".

Page 57, line 5, after "rate)," insert "**imposed on Marion County residents,**".

Page 57, line 9, delete "withholding tax on behalf of an individual or" and insert "**that is subject to the tax imposed**".

Page 57, line 10, delete "entity recipient".

Page 57, line 14, delete "twenty (20) days after the end of the month in" and insert "**thirty (30) days after the end of the calendar year**".



during".

Page 57, line 31, delete "chapter." and insert "**chapter, except against the tax imposed under this chapter.**".

Page 57, line 33, delete "withholding under this section" and insert "**tax under this chapter**".

Page 57, line 33, delete "information".

Page 57, line 35, delete "thirtieth" and insert "**fifteenth day of the fourth month**".

Page 57, line 36, delete "day".

Page 60, delete lines 19 through 42, begin a new paragraph and insert:

"SECTION 37. IC 6-5.5-1-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: **Sec. 21. (a) "Loans arising in factoring" means:**

(1) a loan or extension of credit secured by one (1) or more accounts receivable; or

(2) a sale of one (1) or more accounts receivable in which the purchaser has recourse against the seller for an uncollected accounts receivable.

(b) The term does not refer to:

(1) a sale of one (1) or more accounts receivable without recourse; or

(2) an assignment of an account receivable."

Delete page 61.

Page 62, delete lines 1 through 39.

Page 62, line 41, reset in roman "Sec. 606.5. (a) Every person included within the terms of".

Page 62, reset in roman line 42.

Page 63, reset in roman lines 1 through 17.

Page 63, line 35, after "(f)" insert "**(d)**".

Page 63, line 35, reset in roman "A distributor's or an Indiana transportation license is required for".

Page 63, reset in roman lines 36 through 39.

Page 63, line 40, after "(g)" insert "**(e)**".

Page 63, line 40, reset in roman "The operator of a vehicle to which this section applies shall at all".

Page 63, reset in roman lines 41 through 42.

Page 64, reset in roman lines 1 through 2.

Page 64, line 3, after "(h)" insert "**(f)**".

Page 64, line 3, reset in roman "The department shall provide for relief if a shipment of gasoline".



Page 64, reset in roman lines 4 through 12.

Page 68, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 46. IC 6-8.1-3-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 27. (a) The appropriate county officer, as designated by the county executive, in each county shall, before December 1, 2021, and before December 1 of every year thereafter, submit parcel level data to the state GIS officer to be used in establishing and updating the geographic information system described in IC 4-23-7.3-14(16).**

(b) Beginning January 1, 2022, the department shall integrate the geographic information system codes developed and updated by the state GIS officer under IC 4-23-7.3-14(16).

(c) Before July 1, 2021, and before every July 1 thereafter, the department and state GIS officer shall submit a report to the general assembly in an electronic format under IC 5-14-6 concerning the implementation and use of geographic information systems under this section."

Page 71, line 39, delete "IC 6-3-4.5-9," and insert "**subsection (j),**".

Page 72, between lines 6 and 7, begin a new paragraph and insert:

"(j) The following apply:

(1) This subsection applies to partnerships whose taxable year:

(A) begins after December 31, 2017;

(B) ends after August 12, 2018; or

(C) begins after November 2, 2015, and before January 1, 2018, and for which a valid election under United States Treasury Regulation 301.9100-22 is in effect;

and to the partners of such partnerships, including any partners, shareholders, or beneficiaries of a pass through entity that is a partner in such partnership.

(2) Notwithstanding any other provision of this article, if a partnership is subject to federal income tax liability or a federal tax adjustment at the partnership level as the result of a modification under Sections 6221 through 6241 of the Internal Revenue Code, the date on which the department must issue a proposed assessment to either the partners or the partnership shall be the later of:

(A) the date on which a proposed assessment must otherwise be issued to the partner or the partnership under this section with regard to the taxable year of the partnership to which the modification is taxed at the



partnership level; or

(B) December 31, 2021.

(3) For purposes of this section and IC 6-8.1-9-1, a modification under this subsection shall be considered a modification to the federal taxable income, federal adjusted gross income, or federal income tax liability of both the partners and the partnership within the meaning of IC 6-3-4-6 and IC 6-5.5-6-6, and shall be considered to be included in the federal taxable income or federal adjusted gross income of both the partners and partnerships for purposes of this article and IC 6-5.5.

(4) If a modification made to a partnership for federal income tax purposes is reported to the partners to determine the partners' respective federal taxable income, federal adjusted gross income, or federal income tax liability, including reporting to partners as the result of an election made under Section 6226 of the Internal Revenue Code, subdivision (2) shall not apply, and those modifications shall be treated as modifications to the partner's federal taxable income, federal adjusted gross income, or federal income tax liability for purposes of the following:

(A) This section.

(B) IC 6-3-4-6.

(C) IC 6-5.5-6-6.

(D) IC 6-8.1-9-1."

Page 78, line 27, delete "Except as otherwise provided in IC 6-3-4.5-11, if" and insert "If".

Page 78, line 32, strike "later" and insert "**latest**".

Page 78, line 33, strike "or".

Page 78, line 40, delete "tax)." and insert "tax); **or**".

Page 78, between lines 40 and 41, begin a new line block indented and insert:

"(3) in the case of a modification described in IC 6-8.1-5-2(j)(1) through IC 6-8.1-5-2(j)(3), December 31, 2021."

Page 82, delete lines 21 through 42, begin a new paragraph and insert:

"SECTION 52. IC 6-8.1-10-5, AS AMENDED BY P.L.293-2013(ts), SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 5. (a) If a person makes a tax payment with a check, credit card, debit card, or electronic funds transfer, and the department is unable to obtain payment on the



check, credit card, debit card, or electronic funds transfer for its full face amount when the check, credit card, debit card, or electronic funds transfer is presented for payment through normal banking channels; a penalty of ten percent (10%) of the unpaid tax or the value of the check, credit card, debit card, or electronic funds transfer, whichever is smaller, is imposed.

(b) When a penalty is imposed under subsection (a), the department shall notify the person by mail that the check, credit card, debit card, or electronic funds transfer was not honored and that the person has ten (10) days after the date the notice is mailed to pay the tax and the penalty either in cash, by certified check, or other guaranteed payment. If the person fails to make the payment within the ten (10) day period, the penalty is increased to thirty percent (30%) multiplied by the value of the check, credit card, debit card, or electronic funds transfer, or the unpaid tax, whichever is smaller.

(c) If a person has been assessed a penalty under subsection (a) more than one (1) time, the department may require all future payments for all listed taxes to be remitted with guaranteed funds.

(d) If the person subject to the penalty under this section can show that there is reasonable cause for the check, credit card, debit card, or electronic funds transfer not being honored, the department may waive the penalty imposed under this section.

(a) For purposes of this section, "payment instrument" shall mean:

- (1) a check;
- (2) a credit card;
- (3) a debit card;
- (4) an electronic funds transfer; or
- (5) any other instrument in payment by any commercially allowable means.

(b) If a person makes a payment to the department for an amount due to the department with a payment instrument and the department is unable to obtain payment on the payment instrument for the full amount of the attempted payment when the payment instrument is presented for payment through the normal banking channels, the department shall:

- (1) notify the person that the department was unable to obtain payment on the full amount of the payment instrument; and
- (2) assess a penalty of thirty-five dollars (\$35) not more than thirty (30) days after the department was unable to obtain payment.

(c) If the department determines that the person makes a



payment described in subsection (b) fraudulently or otherwise knowing that the department would be unable to obtain payment on the payment instrument for the full amount of the attempted payment when the payment instrument is presented for payment through normal banking channels, the penalty shall be one hundred percent (100%) of the amount on which the department was unable to obtain payment, but not less than thirty-five dollars (\$35). The following apply:

(1) A penalty assessment under this subsection shall be made not more than three (3) years after the department was unable to obtain payment.

(2) The penalty under this subsection shall not be made in addition to the penalty under subsection (b)(2). However, nothing shall prohibit the department from issuing a penalty under this subsection with regard to a payment after a penalty under subsection (b)(2) was issued.

(d) If the department is unable to obtain payment on a payment instrument, the amount on which the department was unable to obtain payment shall not be considered to be a payment of that amount.

(e) The following apply:

(1) Any penalty under subsection (b)(2) shall be due not less than twenty (20) days after the department issues the assessment under subsection (b)(2) or (c).

(2) If the person fails to pay the penalty provided under this section in full within the time specified by the department, the department may file a tax warrant for the unpaid portion of the penalty in the manner provided under IC 6-8.1-8-2.

(3) For purposes of this article, a penalty under subsection (b)(2) shall not be considered to be a proposed assessment under IC 6-8.1-5-1.

(f) If a person receives a penalty under subsection (c), the penalty shall be treated as a proposed assessment as provided in IC 6-8.1-5-1. However, if the person pays the penalty under subsection (c) and files a claim for refund of the penalty, notwithstanding IC 6-8.1-9-1, the payment of the penalty shall not be refunded unless the person protested the penalty pursuant to IC 6-8.1-5-1 in a timely manner.

(g) The following apply:

(1) If the penalty under subsection (b)(2) relates to an attempted payment of a liability for which the department has filed a tax warrant under IC 6-8.1-8-2 or for which the



department files a tax warrant under IC 6-8.1-8-2 prior to the expiration of the period specified in subsection (e), the tax warrant may include the amount of the penalty provided in this section prior to the expiration of the period specified in subsection (e).

(2) If a penalty under this section is included as part of a proposed assessment under IC 6-8.1-5-1, the filing of a tax warrant for the penalty under this section shall be timely if the tax warrant for the penalty:

(A) was filed on or before the day as a timely filed tax warrant for the proposed assessment;

(B) was filed as part of the tax warrant for the proposed assessment; or

(C) was otherwise filed within the period allowable under IC 6-8.1-8-2.

(h) The following apply:

(1) The department may waive the penalty under this section if the person establishes that the person acted with reasonable cause in its attempted payment.

(2) If the department determines that the penalty under subsection (b)(2) shall not be waived, including a reduction granted under subdivision (3), such determination shall not be subject to administrative or judicial review.

(3) If the department determines that the penalty under this section should be waived, but the liability for the penalty has advanced to a tax warrant:

(A) the amount due under the tax warrant shall be reduced by the amount of any penalty under this section included in the tax warrant but not paid; or

(B) if the person has paid the penalty under this section, the department shall refund the penalty under this section paid by the person.

(4) Nothing shall prohibit judicial review of a penalty under this section if the penalty was imposed on a payment instrument upon which the department was able to collect the full amount of the payment instrument upon presentation of the payment through the normal banking channels.

(i) If a person has been subject to a penalty under this section more than one (1) time during a twenty-four (24) month period, or has been subject to a penalty under subsection (c) that has not been reduced or waived, the department may require the person to remit all future payments for all listed taxes with guaranteed



funds."

Page 83, delete lines 1 through 11.

Page 83, delete lines 38 through 42, begin a new paragraph and insert:

"SECTION 56. IC 6-8.1-16.3-5 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 5: (a) As used in this section, "fund" means the department of state revenue pilot program fund established by subsection (b):

(b) The department of state revenue pilot program fund is established:

(c) The fund shall be used to assist implementation and administration of the pilot program:

(d) The fund may consist of one (1) or more of the following:

(1) Appropriations made by the general assembly:

(2) Donations made or gifts donated to the fund:

(3) Any proceeds derived from agreements or contracts made with third parties:

(e) The fund shall be administered by the department:

(f) The expenses of administering the pilot program and the fund shall be paid for by the fund:

(g) Unless otherwise provided by state or federal law, expenses associated with the pilot program shall be paid for by fund proceeds:

(h) Any money in the fund at the end of a state fiscal year does not revert to the state general fund:

(i) Money in the fund is continuously appropriated to the department of state revenue to carry out the purposes of the fund:

SECTION 57. IC 6-8.1-16.3-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2020]: **Sec. 5.5. (a) Any balance remaining on June 30, 2020, in the state revenue pilot program fund established by section 5 of this chapter (before its repeal) is transferred to the motor carrier regulation fund established by IC 8-2.1-23-1.**

(b) Notwithstanding any other law, any proceeds derived from agreements or a contract made with third parties under this chapter, and any other revenue received under this chapter, that would have been deposited in the state revenue pilot program fund established by section 5 of this chapter (before its repeal) shall be deposited in the motor carrier regulation fund established by IC 8-2.1-23-1.

SECTION 58. IC 8-2.1-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. Money in the motor



carrier regulation fund does not revert to the state general fund. However, if the amount of money in the fund at the end of a fiscal year exceeds five hundred thousand dollars (\$500,000), the treasurer of state shall transfer the excess from the fund to the motor vehicle highway account established in IC 8-14-1.

SECTION 59. [EFFECTIVE JANUARY 1, 2021] (a) IC 6-8.1-10-5, as amended by this act, shall be effective for attempted payments made after December 31, 2020.

(b) This SECTION expires January 1, 2024."

Page 84, delete lines 1 through 5.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 408 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

