



Reprinted
March 3, 2020

ENGROSSED

SENATE BILL No. 408

DIGEST OF SB 408 (Updated March 2, 2020 5:22 pm - DI 113)

Citations Affected: IC 4-38; IC 6-1.1; 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; IC 36-7; noncode.

Synopsis: Various tax matters. Provides that if payments for loans or advances from the common school fund are suspended, a school corporation must establish a school improvement fund (fund) and transfer an amount equal to the suspended payments to the fund. Provides that the fund may be used only for the purposes of repair, renovation, other improvements, or demolition of school buildings and property. Requires all expenditures from the fund be approved by the distressed unit appeal board. Allows a school corporation to annually levy a tax in the debt service fund equal to an amount that would have been deducted from the distribution of state tuition support for the payment of loans and advances from the common school fund during calendar year 2020. 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))
(Continued next page)

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

Holdman, Mishler,
Randolph Lonnie M, Kruse

(HOUSE SPONSORS — BROWN T, PORTER)

January 14, 2020, read first time and referred to Committee on Tax and Fiscal Policy.
January 30, 2020, amended, reported favorably — Do Pass.
February 3, 2020, read second time, amended, ordered engrossed.
February 4, 2020, engrossed. Read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 10, 2020, read first time and referred to Committee on Ways and Means.
February 27, 2020, amended, reported — Do Pass.
March 2, 2020, read second time, amended, ordered engrossed.

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Digest Continued

on retail transactions made in Indiana if certain threshold conditions are met.) Makes clarifying and technical changes to the definitions of "bundled transaction", "unitary transaction", and "gross retail income" in the 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 Removes outdated references to the gross income tax and adjusted gross income tax.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. Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on January 1, 2020. Clarifies the allowable state income tax deductions and credits for a married individual filing a separate return. Requires a payor of prize money to an initial recipient in connection with a racing event at a qualified motorsports facility to withhold adjusted gross income tax from the payment 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 "mine reclamation site" in the context of the redevelopment tax credit. Defines "loans arising in factoring" under the financial institutions tax statute. Specifies the duties of the motor carrier service division of the department of state revenue (department). 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). Authorizes the department to require a taxpayer to execute a power of attorney for representation of the taxpayer on a form prescribed by the department. Requires each county to periodically submit certain data to the GIS officer. 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. Allows for certain disclosures of a taxpayer's information concerning returns and remittances for a listed tax in connection with the department's online tax system to an individual without a power of attorney. Provides that after a date determined by the department, not later than September 1, 2023, the department may not make disclosures of a taxpayer's information concerning returns and remittances for a listed tax to an individual unless the individual has a power of attorney or is otherwise authorized to receive the information by law. 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 payments made to the department by a payment instrument on which the department is unable to obtain payment. Expands the functions of the taxpayer rights advocate office within the department. 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. Modifies the definition of "residential housing" for purposes of a residential housing development program to specify that the term includes condominiums and townhouses located within a target area. Provides that certain calculations do not apply for purposes of establishing a residential housing development program within a target area. Revises the definition of "income tax base period amount" in the context of the certified technology park statute. Makes conforming changes.

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Reprinted
March 3, 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.

ENGROSSED 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 4-38-2-2, AS ADDED BY P.L.293-2019,
2 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 2. "Adjusted gross receipts" means:
4 (1) the total of all cash and property (including checks received
5 by a certificate holder, whether collected or not) received **from**
6 **authorized sports wagering offered** by a certificate holder; ~~from~~
7 ~~sports wagering~~; minus
8 (2) the total of:
9 (A) all cash paid out as winnings to sports wagering patrons,
10 including the cash equivalent of any merchandise or thing of
11 value awarded as a prize; and
12 (B) uncollectible gaming receivables, not to exceed the lesser
13 of:
14 (i) a reasonable provision for uncollectible patron checks
15 received from sports wagering; or

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

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

7 SECTION 2. IC 6-1.1-20.3-17, AS ADDED BY P.L.257-2019,
 8 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2020]: Sec. 17. **(a)** If the distressed unit appeal board delays
 10 or suspends, for a period determined by the board, any payments on
 11 loans or advances from the common school fund under section 6.8 of
 12 this chapter, the distressed unit appeal board may recommend to the
 13 state board of finance that the term of the loans or advances be
 14 extended. If the distressed unit appeal board makes a recommendation
 15 to extend the term of the loan or advances, the state board of finance
 16 may extend the term of the loans or advances for a period of time that
 17 is equal to or less than the number of months for which the payments
 18 are delayed or suspended.

19 **(b) If payments on loans or advances from the common school
 20 fund are suspended under section 6.8 of this chapter, the distressed
 21 unit appeal board shall require that the school corporation:**

22 **(1) establish a school improvement fund; and**

23 **(2) transfer to the school improvement fund an amount equal
 24 to the payments that are delayed or suspended.**

25 **(c) A school improvement fund established under subsection
 26 (b)(1) may be used only for the following purposes:**

27 **(1) Repair, renovation, or other improvements to school
 28 buildings and property being used for education purposes as
 29 of July 1, 2020.**

30 **(2) Demolition of school buildings or other structures on
 31 school property in existence as of July 1, 2020.**

32 **(d) All expenditures from a school improvement fund
 33 established under subsection (b)(1) must be approved by the
 34 distressed unit appeal board.**

35 **(e) A school corporation may, on an annual basis, levy a tax in
 36 the debt service fund equal to the amount that would have been
 37 deducted from the distribution of state tuition support for the
 38 payment of loans made under section 6.8 of this chapter during
 39 calendar year 2020 if the loans had not been suspended. The
 40 amount received from a tax under this subsection must be
 41 transferred from the debt service fund to the education fund.**

42 **(f) With the approval of the distressed unit appeal board, a**



1 school corporation may spend other funds of the school
 2 corporation for the purposes described in subsection (c) and
 3 reimburse the expenditures from a school improvement fund
 4 established under subsection (b)(1).

5 (g) This section expires January 1, 2025.

6 SECTION 3. IC 6-2.5-1-1 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Except as
 8 provided in subsection (b) or (c), "unitary transaction" includes all
 9 items of personal property and services which are furnished under a
 10 single order or agreement and for which a total combined charge or
 11 price is calculated.

12 (b) "Unitary transaction" does not include a transaction that
 13 meets one (1) of the exceptions in section 11.5(d) of this chapter.

14 (c) "Unitary transaction" as it applies to the furnishing of public
 15 utility commodities or services means the public utility commodities
 16 and services which are invoiced in a single bill or statement for
 17 payment by the consumer.

18 SECTION 4. IC 6-2.5-1-5, AS AMENDED BY P.L.188-2018,
 19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2020]: Sec. 5. (a) Except as provided in subsection (b), "gross
 21 retail income" means the total amount of consideration, including cash,
 22 credit, property, and services, for which tangible personal property is
 23 sold, leased, or rented, valued in money, whether received in money or
 24 otherwise, without any deduction for:

- 25 (1) the seller's cost of the property sold;
- 26 (2) the cost of materials used, labor or service cost, interest,
 27 losses, all costs of transportation to the seller, all taxes imposed
 28 on the seller, and any other expense of the seller;
- 29 (3) charges by the seller for any services necessary to complete
 30 the sale, other than delivery and installation charges;
- 31 (4) delivery charges; or
- 32 (5) consideration received by the seller from a third party if:
 - 33 (A) the seller actually receives consideration from a party
 34 other than the purchaser and the consideration is directly
 35 related to a price reduction or discount on the sale;
 - 36 (B) the seller has an obligation to pass the price reduction or
 37 discount through to the purchaser;
 - 38 (C) the amount of the consideration attributable to the sale is
 39 fixed and determinable by the seller at the time of the sale of
 40 the item to the purchaser; and
 - 41 (D) the price reduction or discount is identified as a third party
 42 price reduction or discount on the invoice received by the



- 1 purchaser or on a coupon, certificate, or other documentation
 2 presented by the purchaser.
- 3 For purposes of subdivision (4), delivery charges are charges by the
 4 seller for preparation and delivery of the property to a location
 5 designated by the purchaser of property, including but not limited to
 6 transportation, shipping, postage charges that are not separately stated
 7 on the invoice, bill of sale, or similar document, handling, crating, and
 8 packing. Delivery charges do not include postage charges that are
 9 separately stated on the invoice, bill of sale, or similar document.
- 10 (b) "Gross retail income" does not include that part of the gross
 11 receipts attributable to:
- 12 (1) the value of any tangible personal property received in a like
 13 kind exchange in the retail transaction, if the value of the property
 14 given in exchange is separately stated on the invoice, bill of sale,
 15 or similar document given to the purchaser;
- 16 (2) the receipts received in a retail transaction which constitute
 17 interest, finance charges, or insurance premiums on either a
 18 promissory note or an installment sales contract;
- 19 (3) discounts, including cash, terms, or coupons that are not
 20 reimbursed by a third party that are allowed by a seller and taken
 21 by a purchaser on a sale;
- 22 (4) interest, financing, and carrying charges from credit extended
 23 on the sale of personal property if the amount is separately stated
 24 on the invoice, bill of sale, or similar document given to the
 25 purchaser;
- 26 (5) any taxes legally imposed directly on the consumer that are
 27 separately stated on the invoice, bill of sale, or similar document
 28 given to the purchaser, including an excise tax imposed under
 29 IC 6-6-15;
- 30 (6) installation charges that are separately stated on the invoice,
 31 bill of sale, or similar document given to the purchaser;
- 32 (7) telecommunications nonrecurring charges; ~~or~~
- 33 (8) postage charges that are separately stated on the invoice, bill
 34 of sale, or similar document; ~~or~~
- 35 **(9) charges for serving or delivering food and food ingredients**
 36 **furnished, prepared, or served for consumption at a location,**
 37 **or on equipment, provided by the retail merchant, to the**
 38 **extent that the charges for the serving or delivery are stated**
 39 **separately from the price of the food and food ingredients**
 40 **when the purchaser pays the charges.**
- 41 (c) Notwithstanding subsection (b)(5):
- 42 (1) in the case of retail sales of special fuel (as defined in



1 **IC 6-6-2.5-22), the gross retail income is the total sales price**
 2 **of the special fuel minus the part of that price attributable to**
 3 **tax imposed under IC 6-6-2.5 or Section 4041 or Section 4081**
 4 **of the Internal Revenue Code; and**

5 **(2) in the case of retail sales of cigarettes (as defined in**
 6 **IC 6-7-1-2), the gross retail income is the total sales price of**
 7 **the cigarettes including the tax imposed under IC 6-7-1.**

8 **(d) Gross retail income is only taxable under this article to the**
 9 **extent that the income represents:**

10 **(1) the price of the property transferred, without the rendition**
 11 **of any services; and**

12 **(2) except as provided in subsection (b), any bona fide changes**
 13 **which are made for preparation, fabrication, alteration,**
 14 **modification, finishing, completion, delivery, or other service**
 15 **performed in respect to the property transferred before its**
 16 **transfer and which are separately stated on the transferor's**
 17 **records. For purposes of this subdivision, a transfer is**
 18 **considered to have occurred after the delivery of the property**
 19 **to the purchaser.**

20 **(e) A public utility's or a power subsidiary's gross retail income**
 21 **includes all gross retail income received by the public utility or power**
 22 **subsidiary, including any minimum charge, flat charge, membership**
 23 **fee, or any other form of charge or billing.**

24 **SECTION 5. IC 6-2.5-1-11.5, AS ADDED BY P.L.153-2006,**
 25 **SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 26 **JULY 1, 2020]: Sec. 11.5. (a) This section applies to retail transactions**
 27 **occurring after December 31, 2007.**

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

- 30 **(1) distinct;**
 31 **(2) identifiable; and**
 32 **(3) sold for one (1) nonitemized price.**

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

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

- 37 **(1) is comprised of:**
 38 **(A) a service that is the true object of the transaction; and**
 39 **(B) tangible personal property that:**
 40 **(i) is essential to the use of the service; and**
 41 **(ii) is provided exclusively in connection with the service;**
 42 **(2) includes both taxable and nontaxable products in which:**



- 1 (A) the seller's purchase price; or
 2 (B) the sales price;
 3 of the taxable products does not exceed ten percent (10%) of the
 4 total purchase price or the total sales price of the bundled
 5 products; or
 6 (3) includes both exempt tangible personal property and taxable
 7 tangible personal property:
 8 (A) any of which is classified as:
 9 (i) food and food ingredients;
 10 (ii) drugs;
 11 (iii) durable medical equipment;
 12 (iv) mobility enhancing equipment;
 13 (v) over-the-counter drugs;
 14 (vi) prosthetic devices; or
 15 (vii) medical supplies; and
 16 (B) for which:
 17 (i) the seller's purchase price; or
 18 (ii) the sales price;
 19 of the taxable tangible personal property is fifty percent (50%)
 20 or less of the total purchase price or the total sales price of the
 21 bundled tangible personal property.

22 The determination under clause (B) must be made on the basis of
 23 either individual item purchase prices or individual item sale
 24 prices.

25 **(e) A transaction that meets one (1) of the exceptions in**
 26 **subsection (d) shall be excluded from the definition of unitary**
 27 **transaction under section 1(a) of this chapter.**

28 SECTION 6. IC 6-2.5-2-1, AS AMENDED BY P.L.108-2019,
 29 SECTION 108, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) An excise tax, known as the
 31 state gross retail tax, is imposed on retail transactions made in Indiana.

32 (b) The person who acquires property in a retail transaction is liable
 33 for the tax on the transaction and, except as otherwise provided in this
 34 chapter, shall pay the tax to the retail merchant as a separate added
 35 amount to the consideration in the transaction. ~~The~~ A retail merchant
 36 **that has either physical presence in Indiana as described in**
 37 **subsection (c) or that meets one (1) or both of the thresholds in**
 38 **subsection (d) shall collect the tax as agent for the state.**

39 **(c) A retail merchant has physical presence in Indiana when the**
 40 **retail merchant:**

- 41 **(1) maintains an office, place of distribution, sales location,**
 42 **sample location, warehouse, storage place, or other place of**



1 **business which is located in Indiana and which the retail**
 2 **merchant maintains, occupies, or uses, either permanently or**
 3 **temporarily, either directly or indirectly, and either by the**
 4 **retail merchant or through a representative, agent, or**
 5 **subsidiary;**

6 **(2) maintains a representative, agent, salesperson, canvasser,**
 7 **or solicitor who, while operating in Indiana under the**
 8 **authority of and on behalf of the retail merchant or a**
 9 **subsidiary of the retail merchant, sells, delivers, installs,**
 10 **repairs, assembles, sets up, accepts returns of, bills, invoices,**
 11 **or takes orders for sales of tangible personal property or**
 12 **services to be used, stored, or consumed in Indiana; or**

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

15 ~~(c)~~ **(d)** A retail merchant that does not have a physical presence in
 16 Indiana shall, as an agent for the state, collect the gross retail tax on a
 17 retail transaction made in Indiana, remit the gross retail tax as provided
 18 in this article, and comply with all applicable procedures and
 19 requirements of this article as if the retail merchant has a physical
 20 presence in Indiana, if the retail merchant meets either of the following
 21 conditions for the calendar year in which the retail transaction is made
 22 or for the calendar year preceding the calendar year in which the retail
 23 transaction is made:

24 (1) The retail merchant's gross revenue from any combination of:

25 (A) the sale of tangible personal property that is delivered into
 26 Indiana;

27 (B) a product transferred electronically into Indiana; or

28 (C) a service delivered in Indiana;

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

30 (2) The retail merchant sells any combination of:

31 (A) tangible personal property that is delivered into Indiana;

32 (B) a product transferred electronically into Indiana; or

33 (C) a service delivered in Indiana;

34 in two hundred (200) or more separate transactions.

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



1 seller has met the thresholds in subsection ~~(c)~~: **(d)**.

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

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

12 (c) A seller may elect to round the tax under subsection (b) on a
13 transaction on an item basis or an invoice basis. However, a seller may
14 not round the tax under subsection (b) to circumvent the tax that would
15 otherwise be imposed on a transaction using an invoice basis.

16 SECTION 8. IC 6-2.5-3-1, AS AMENDED BY P.L.242-2015,
17 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2020]: Sec. 1. For purposes of this chapter:

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

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

23 (c) "A retail merchant engaged in business in Indiana" includes any
24 retail merchant who makes retail transactions in which a person
25 acquires personal property or services for use, storage, or consumption
26 in Indiana and who:

27 (1) maintains an office, place of distribution, sales location,
28 sample location, warehouse, storage place, or other place of
29 business which is located in Indiana and which the retail
30 merchant maintains, occupies, or uses, either permanently or
31 temporarily, either directly or indirectly, and either by the retail
32 merchant or through a representative, agent, or subsidiary;

33 (2) maintains a representative, agent, salesman, canvasser, or
34 solicitor who, while operating in Indiana under the authority of
35 and on behalf of the retail merchant or a subsidiary of the retail
36 merchant, sells, delivers, installs, repairs, assembles, sets up,
37 accepts returns of, bills, invoices, or takes orders for sales of
38 tangible personal property or services to be used, stored, or
39 consumed in Indiana;

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

42 (4) may be required by the state to collect tax under this article to



1 the extent allowed under the Constitution of the United States and
2 federal law.

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

7 ~~(e)~~ (d) Notwithstanding any other provision of this section, tangible
8 or intangible property that is:

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

11 (2) located at the premises of the commercial printer;

12 shall not be considered to be, or to create, an office, a place of
13 distribution, a sales location, a sample location, a warehouse, a storage
14 place, or other place of business maintained, occupied, or used in any
15 way by the person. A commercial printer with which a person has
16 contracted for printing shall not be considered to be in any way a
17 representative, an agent, a salesman, a canvasser, or a solicitor for the
18 person.

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

27 SECTION 10. IC 6-2.5-3-4 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) The storage, use,
29 and consumption of tangible personal property in Indiana is exempt
30 from the use tax if:

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

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

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



1 SECTION 11. IC 6-2.5-3-6, AS AMENDED BY P.L.182-2009(ss),
 2 SECTION 175, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) For purposes of this section,
 4 "person" includes an individual who is personally liable for use tax
 5 under IC 6-2.5-9-3.

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

9 (c) The person liable for the use tax shall pay ~~the tax to the retail~~
 10 ~~merchant from whom the person acquired the property; and the retail~~
 11 ~~merchant shall collect the tax as an agent for the state; if the retail~~
 12 ~~merchant is engaged in business in Indiana or if the retail merchant has~~
 13 ~~departmental permission to collect the tax. In all other cases, the person~~
 14 ~~shall pay~~ the use tax to the department.

15 (d) Notwithstanding subsection (c), a person liable for the use tax
 16 imposed in respect to a vehicle, watercraft, or aircraft under section
 17 2(b) of this chapter shall pay the tax:

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

20 (2) to the registering agency when the person registers the
 21 aircraft; or

22 (3) to the registering agency when the person registers the
 23 watercraft because it is a United States Coast Guard documented
 24 vessel;

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

29 (e) At the time a person pays the use tax for the purchase of a
 30 vehicle to a titling agency pursuant to subsection (d), the titling agency
 31 shall compute the tax due based on the presumption that the sale price
 32 was the average selling price for that vehicle, as determined under a
 33 used vehicle buying guide to be chosen by the titling agency. However,
 34 the titling agency shall compute the tax due based on the actual sale
 35 price of the vehicle if the buyer, at the time the buyer pays the tax to the
 36 titling agency, presents documentation to the titling agency sufficient
 37 to rebut the presumption set forth in this subsection and to establish the
 38 actual selling price of the vehicle.

39 SECTION 12. IC 6-2.5-3.5-26, AS ADDED BY P.L.227-2013,
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2014 (RETROACTIVE)]: Sec. 26. (a) The gasoline use tax
 42 collected under this chapter is considered equivalent to the state gross



1 retail tax that would be collected by a retail merchant in a retail sale
 2 and replaces the obligation of the retail merchant to collect the state
 3 gross retail tax on the sale of gasoline.

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

8 SECTION 13. IC 6-2.5-4-1, AS AMENDED BY P.L.227-2013,
 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 1. (a) A person is a retail merchant making a retail
 11 transaction when the person engages in selling at retail.

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

- 15 (1) acquires tangible personal property for the purpose of resale;
- 16 and
- 17 (2) transfers that property to another person for consideration.

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

- 20 (1) the property is transferred in the same form as when it was
- 21 acquired;
- 22 (2) the property is transferred alone or in conjunction with other
- 23 property or services; or
- 24 (3) the property is transferred conditionally or otherwise.

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

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

- 32 ~~(1) the price of the property transferred, without the rendition of~~
- 33 ~~any service; and~~
- 34 ~~(2) except as provided in subsection (g), any bona fide charges~~
- 35 ~~which are made for preparation, fabrication, alteration,~~
- 36 ~~modification, finishing, completion, delivery, or other service~~
- 37 ~~performed in respect to the property transferred before its transfer~~
- 38 ~~and which are separately stated on the transferor's records.~~

39 ~~For purposes of this subsection, a transfer is considered to have~~
 40 ~~occurred after delivery of the property to the purchaser.~~

41 (f) ~~Notwithstanding subsection (e):~~

- 42 (1) ~~in the case of retail sales of special fuel (as defined in~~



1 IC 6-6-2.5-22); the gross retail income received from selling at
 2 retail is the total sales price of the special fuel minus the part of
 3 that price attributable to tax imposed under IC 6-6-2.5 or Section
 4 4041(a) or Section 4081 of the Internal Revenue Code; and
 5 (2) in the case of retail sales of cigarettes (as defined in
 6 IC 6-7-1-2); the gross retail income received from selling at retail
 7 is the total sales price of the cigarettes including the tax imposed
 8 under IC 6-7-1.

9 (g) Gross retail income does not include income that represents
 10 charges for serving or delivering food and food ingredients furnished;
 11 prepared; or served for consumption at a location; or on equipment;
 12 provided by the retail merchant. However, the exclusion under this
 13 subsection only applies if the charges for the serving or delivery are
 14 stated separately from the price of the food and food ingredients when
 15 the purchaser pays the charges.

16 SECTION 14. IC 6-2.5-4-18, AS ADDED BY P.L.108-2019,
 17 SECTION 112, IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2020]: Sec. 18. (a) A marketplace facilitator
 19 shall be considered the retail merchant of each retail transaction
 20 (including a retail transaction under section 4 of this chapter) that is
 21 facilitated for sellers on its marketplace when it does any of the
 22 following on behalf of the seller:

- 23 (1) Collects the sales price or purchase price of the seller's
- 24 products.
- 25 (2) Provides access to payment processing services, either directly
- 26 or indirectly.
- 27 (3) Charges, collects, or otherwise receives fees or other
- 28 consideration for transactions made on its electronic marketplace.

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

- 33 (1) Collect and remit the gross retail tax, even if a seller for whom
- 34 a transaction was facilitated:
 - 35 (A) does not have a registered retail merchant certificate; or
 - 36 (B) would not have been required to collect gross retail tax had
 - 37 the transaction not been facilitated by the marketplace
 - 38 facilitator.
- 39 (2) Comply with all applicable procedures and requirements
- 40 imposed under this article as the retail merchant in such
- 41 transaction.

42 (c) The gross retail income from a transaction under this section is



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

7 SECTION 15. IC 6-2.5-6-6 IS REPEALED [EFFECTIVE JULY 1,
 8 2020]. ~~Sec. 6. When possible, the department shall coordinate the~~
 9 ~~reporting and payment of the state gross retail and use taxes with the~~
 10 ~~reporting and payment of the gross income tax.~~

11 SECTION 16. IC 6-2.5-6-14.1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14.1. ~~Notwithstanding~~
 13 ~~the refund provisions of this article as incorporated from the gross~~
 14 ~~income tax law (IC 6-2.1, repealed);~~ A retail merchant is not entitled
 15 to a refund of state gross retail or use taxes unless the retail merchant
 16 refunds those taxes to the person from whom they were collected.

17 SECTION 17. IC 6-2.5-8-1, AS AMENDED BY P.L.234-2019,
 18 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2020]: Sec. 1. (a) A retail merchant may not make a retail
 20 transaction in Indiana, unless the retail merchant has applied for a
 21 registered retail merchant's certificate.

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

28 (c) The retail merchant shall list on the application the location
 29 (including the township) of each place of business where the retail
 30 merchant makes retail transactions. However, if the retail merchant
 31 does not have a fixed place of business, the retail merchant shall list the
 32 retail merchant's residence as the retail merchant's place of business. In
 33 addition, a public utility may list only its principal Indiana office as its
 34 place of business for sales of public utility commodities or service, but
 35 the utility must also list on the application the places of business where
 36 it makes retail transactions other than sales of public utility
 37 commodities or service.

38 (d) Upon receiving a proper application, the correct fee, and the
 39 security for payment, if required, the department shall issue to the retail
 40 merchant a separate registered retail merchant's certificate for each
 41 place of business listed on the application. Each certificate shall bear
 42 a serial number and the location of the place of business for which it is



- 1 issued.
- 2 (e) The department may deny an application for a registered retail
3 merchant's certificate if the applicant's business is operated, managed,
4 or otherwise controlled by or affiliated with a person, including a
5 relative, family member, responsible officer, or owner, who the
6 department has determined:
- 7 (1) failed to:
- 8 (A) file all tax returns or information reports with the
9 department for listed taxes; or
- 10 (B) pay all taxes, penalties, and interest to the department for
11 listed taxes; and
- 12 (2) the business of the person who has failed to file all tax returns
13 or information reports under subdivision (1)(A) or who has failed
14 to pay all taxes, penalties, and interest under subdivision (1)(B)
15 is substantially similar to the business of the applicant.
- 16 (f) If a retail merchant intends to make retail transactions during a
17 calendar year at a new Indiana place of business, the retail merchant
18 must file a supplemental application and pay the fee for that place of
19 business.
- 20 (g) Except as provided in subsection (i), a registered retail
21 merchant's certificate is valid for two (2) years after the date the
22 registered retail merchant's certificate is originally issued or renewed.
23 If the retail merchant has filed all returns and remitted all taxes the
24 retail merchant is currently obligated to file or remit, the department
25 shall renew the registered retail merchant's certificate within thirty (30)
26 days after the expiration date, at no cost to the retail merchant. Before
27 issuing or renewing the registered retail merchant certification, the
28 department may require the following to be provided:
- 29 (1) The names and addresses of the retail merchant's principal
30 employees, agents, or representatives who engage in Indiana in
31 the solicitation or negotiation of the retail transaction.
- 32 (2) The location of all of the retail merchant's places of business
33 in Indiana, including offices and distribution houses.
- 34 (3) Any other information that the department requests.
- 35 (h) The department may not renew a registered retail merchant
36 certificate of a retail merchant who is delinquent in remitting
37 withholding taxes required to be remitted under IC 6-3-4 or sales or use
38 tax. The department, at least sixty (60) days before the date on which
39 a retail merchant's registered retail merchant's certificate expires, shall
40 notify a retail merchant who is delinquent in remitting withholding
41 taxes required to be remitted under IC 6-3-4 or sales or use tax that the
42 department will not renew the retail merchant's registered retail



1 merchant's certificate.

2 (i) If:

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

6 (2) the retail merchant pays the outstanding liability before the
7 expiration of the retail merchant's registered retail merchant's
8 certificate;

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

11 (j) ~~A retail merchant engaged in business in Indiana as defined in~~
12 ~~IC 6-2.5-3-1(c) who makes retail transactions that are only subject to~~
13 ~~the use tax must obtain a registered retail merchant's certificate before~~
14 ~~making those transactions. The retail merchant may obtain the~~
15 ~~certificate by following the same procedure as a retail merchant under~~
16 ~~subsections (b) and (c), except that the retail merchant must also~~
17 ~~include on the application:~~

18 (1) ~~the names and addresses of the retail merchant's principal~~
19 ~~employees, agents, or representatives who engage in Indiana in~~
20 ~~the solicitation or negotiation of the retail transactions;~~

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

23 (3) ~~any other information that the department requests.~~

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

26 (k) ~~(j)~~ The department may permit an out-of-state retail merchant to
27 collect the use **gross retail tax in instances where the retail**
28 **merchant has not met the thresholds in IC 6-2.5-2-1(d)**. However,
29 before the out-of-state retail merchant may collect the tax, the
30 out-of-state retail merchant must obtain a registered retail merchant's
31 certificate in the manner provided by this section. Upon receiving the
32 certificate, the out-of-state retail merchant becomes subject to the same
33 conditions and duties as an Indiana retail merchant and must then
34 collect the use **gross retail tax** due on all **sales of tangible personal**
35 **property retail transactions** that the out-of-state retail merchant knows
36 is intended for use in **are sourced to Indiana pursuant to**
37 **IC 6-2.5-13-1**.

38 (l) ~~(k)~~ Except as provided in subsection ~~(m)~~; **(l)**, the department
39 shall submit to the township assessor, or the county assessor if there is
40 no township assessor for the township, before ~~March 15~~ **January 15**
41 of each year:

42 (1) the name of each retail merchant that has newly obtained a



- 1 registered retail merchant's certificate during the preceding year
- 2 for a place of business located in the township or county; ~~and~~
- 3 (2) the address of each place of business of the taxpayer in the
- 4 township or county **described in subdivision (1);**
- 5 **(3) the name of each retail merchant that:**
- 6 **(A) held a registered retail merchant's certificate at any**
- 7 **time during the preceding year for a place of business**
- 8 **located in the township or county; and**
- 9 **(B) had ceased to hold the registered retail merchant's**
- 10 **certificate at the end of the preceding year for the place of**
- 11 **business; and**
- 12 **(4) the address of each place of business described in**
- 13 **subdivision (3).**

14 ~~(m)~~ **(l)** If the duties of the township assessor have been transferred
 15 to the county assessor as described in IC 6-1.1-1-24, the department
 16 shall submit the information listed in subsection ~~(j)~~ **(k)** to the county
 17 assessor.

18 SECTION 18. IC 6-2.5-9-9, AS ADDED BY P.L.247-2017,
 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2020]: Sec. 9. (a) Notwithstanding any other law and
 21 regardless of whether the department initiates an audit or any other
 22 collection or enforcement procedure, the department may bring a
 23 declaratory judgment action under IC 34-14-1 in any circuit court or
 24 superior court against a person that the department believes meets the
 25 criteria of ~~IC 6-2.5-2-1(c)~~ **IC 6-2.5-2-1(d)** in order to establish that:

- 26 (1) the person has an obligation to collect state gross retail tax as
- 27 provided in ~~IC 6-2.5-2-1(c)~~ **IC 6-2.5-2-1(d)**; and
- 28 (2) the person's obligation to collect state gross retail tax as
- 29 provided in ~~IC 6-2.5-2-1(c)~~ **IC 6-2.5-2-1(d)** is valid under state
- 30 and federal law.

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

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

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

- 40 (1) The department and other state agencies and state entities may
- 41 not, during the pendency of the declaratory judgment action
- 42 (including any appeals from a judgment in the declaratory



1 judgment action), enforce the obligation to collect state gross
 2 retail tax as provided in ~~IC 6-2.5-2-1(e)~~ **IC 6-2.5-2-1(d)** against
 3 any person that does not affirmatively consent or otherwise remit
 4 the gross retail tax on a voluntary basis. However, this subdivision
 5 does not apply to a person if there is a previous judgment from a
 6 court establishing the validity of the obligation to collect state
 7 gross retail tax with respect to that person.

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

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

14 (B) the final judgment of the court is no longer subject to
 15 appeal.

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

19 SECTION 19. IC 6-2.5-9-10, AS ADDED BY P.L.247-2017,
 20 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2020]: Sec. 10. (a) A taxpayer complying with
 22 ~~IC 6-2.5-2-1(e)~~, **IC 6-2.5-2-1(d)**, voluntarily or otherwise, may seek
 23 only a refund under IC 6-8.1-9 of taxes, interest, and penalties that have
 24 been paid to and collected by the department. However, a refund may
 25 not be granted on the basis that the taxpayer lacked a physical presence
 26 in Indiana and complied with ~~IC 6-2.5-2-1(e)~~ **IC 6-2.5-2-1(d)**
 27 voluntarily.

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

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

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

38 SECTION 20. IC 6-2.5-9-11, AS ADDED BY P.L.247-2017,
 39 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2020]: Sec. 11. The general assembly finds the following:

41 (1) The inability to effectively collect the gross retail tax or use
 42 tax from remote sellers that deliver tangible personal property,



- 1 products transferred electronically, or services directly into
2 Indiana is seriously eroding the tax base of Indiana and causing
3 revenue losses and imminent harm to Indiana through the loss of
4 critical funding for state and local services.
- 5 (2) Gross retail tax and use tax revenues are essential in funding
6 state and local services.
- 7 (3) Despite the fact that a use tax is imposed on the storage, use,
8 or consumption of tangible personal property in Indiana if the
9 property was acquired in a retail transaction, many remote sellers
10 actively market sales as "tax free" or as "no sales tax"
11 transactions.
- 12 (4) The structural advantages of remote sellers, including the
13 absence of point-of-sale tax collection, and the general growth of
14 the online retail industry make clear that further erosion of
15 Indiana's gross retail tax base is likely in the near future.
- 16 (5) Remote sellers that make a substantial number of deliveries
17 into Indiana or have large gross revenues from Indiana benefit
18 extensively from Indiana's market (including the economy
19 generally) and from the infrastructure in Indiana.
- 20 (6) In contrast with the expanding harms caused to Indiana from
21 this exemption of gross retail tax collection obligations for remote
22 sellers, the costs of that collection have fallen. Given modern
23 computing and software options, it is neither unusually difficult
24 nor burdensome for remote sellers to collect and remit gross retail
25 taxes associated with sales into Indiana.
- 26 (7) The Supreme Court of the United States should reconsider its
27 doctrine that prevents, under certain circumstances, states from
28 requiring remote sellers to collect gross retail tax, and as the
29 findings of this section make clear, this argument has grown
30 stronger, and the cause more urgent, with time.
- 31 (8) Given the urgent need for the Supreme Court of the United
32 States to reconsider this doctrine, it is necessary for the general
33 assembly to enact ~~IC 6-2.5-2-1(c)~~; **IC 6-2.5-2-1(d)**, clarifying the
34 state's immediate intent to require collection of gross retail taxes
35 by remote sellers.
- 36 (9) Expeditious review is necessary and appropriate because,
37 while it may be reasonable notwithstanding this law for remote
38 sellers to continue to refuse to collect the gross retail tax in light
39 of existing federal constitutional doctrine, such a refusal causes
40 imminent harm to Indiana.
- 41 (10) It is the intent of the general assembly to apply Indiana's
42 gross retail tax and use tax obligations to the limit of federal and



1 state constitutional doctrines and to specify that Indiana law
 2 permits the state to immediately argue in any litigation that such
 3 a constitutional doctrine should be changed to permit the
 4 obligation to collect state gross retail tax as provided in
 5 ~~IC 6-2.5-2-1(c)~~. **IC 6-2.5-2-1(d)**.

6 SECTION 21. IC 6-2.5-10-2 IS REPEALED [EFFECTIVE JULY
 7 1, 2020]. Sec. 2: The provisions of the adjusted gross income tax law
 8 (~~IC 6-3~~); which do not conflict with the provisions of this article and
 9 which deal with any of the following subjects; apply for the purposes
 10 of imposing, collecting, and administering the state gross retail and use
 11 taxes under this article:

- 12 (1) Filing of returns.
- 13 (2) Auditing of returns.
- 14 (3) Investigation of tax liability.
- 15 (4) Determination of tax liability.
- 16 (5) Notification of tax liability.
- 17 (6) Assessment of tax liability.
- 18 (7) Collection of tax liability.
- 19 (8) Examination of taxpayer's books and records.
- 20 (9) Legal proceedings.
- 21 (10) Court actions.
- 22 (11) Remedies.
- 23 (12) Privileges.
- 24 (13) Taxpayer and departmental relief.
- 25 (14) Statutes of limitations.
- 26 (15) Hearings.
- 27 (16) Refunds.
- 28 (17) Remittances.
- 29 (18) Imposition of penalties and interest.
- 30 (19) Maintenance of departmental records.
- 31 (20) Confidentiality of taxpayer's returns.
- 32 (21) Duties of the secretary of state and the treasurer of state.
- 33 (22) Administration.

34 SECTION 22. IC 6-3-1-3.5, AS AMENDED BY THE TECHNICAL
 35 CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS
 36 AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1,
 37 2021]: Sec. 3.5. When used in this article, the term "adjusted gross
 38 income" shall mean the following:

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

- 42 (1) Subtract income that is exempt from taxation under this article



- 1 by the Constitution and statutes of the United States.
- 2 (2) Except as provided in subsection (c), add an amount equal to
- 3 any deduction or deductions allowed or allowable pursuant to
- 4 Section 62 of the Internal Revenue Code for taxes based on or
- 5 measured by income and levied at the state level by any state of
- 6 the United States.
- 7 (3) Subtract one thousand dollars (\$1,000), or in the case of a
- 8 joint return filed by a husband and wife, subtract for each spouse
- 9 one thousand dollars (\$1,000).
- 10 (4) Subtract one thousand dollars (\$1,000) for:
- 11 (A) each of the exemptions provided by Section 151(c) of the
- 12 Internal Revenue Code (as effective January 1, 2017);
- 13 (B) each additional amount allowable under Section 63(f) of
- 14 the Internal Revenue Code; and
- 15 (C) the spouse of the taxpayer if a separate return is made by
- 16 the taxpayer and if the spouse, for the calendar year in which
- 17 the taxable year of the taxpayer begins, has no gross income
- 18 and is not the dependent of another taxpayer.
- 19 (5) Subtract:
- 20 (A) one thousand five hundred dollars (\$1,500) for each of the
- 21 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 22 Revenue Code (as effective January 1, 2004);
- 23 (B) one thousand five hundred dollars (\$1,500) for each
- 24 exemption allowed under Section 151(c) of the Internal
- 25 Revenue Code (as effective January 1, 2017) for an individual:
- 26 (i) who is less than nineteen (19) years of age or is a
- 27 full-time student who is less than twenty-four (24) years of
- 28 age;
- 29 (ii) for whom the taxpayer is the legal guardian; and
- 30 (iii) for whom the taxpayer does not claim an exemption
- 31 under clause (A); and
- 32 (C) five hundred dollars (\$500) for each additional amount
- 33 allowable under Section 63(f)(1) of the Internal Revenue Code
- 34 if the **federal** adjusted gross income of the taxpayer, or the
- 35 taxpayer and the taxpayer's spouse in the case of a joint return,
- 36 is less than forty thousand dollars (\$40,000). **In the case of a**
- 37 **married individual filing a separate return, the qualifying**
- 38 **income amount in this clause is equal to twenty thousand**
- 39 **dollars (\$20,000).**
- 40 This amount is in addition to the amount subtracted under
- 41 subdivision (4).
- 42 (6) Subtract any amounts included in federal adjusted gross



- 1 income under Section 111 of the Internal Revenue Code as a
 2 recovery of items previously deducted as an itemized deduction
 3 from adjusted gross income.
- 4 (7) Subtract any amounts included in federal adjusted gross
 5 income under the Internal Revenue Code which amounts were
 6 received by the individual as supplemental railroad retirement
 7 annuities under 45 U.S.C. 231 and which are not deductible under
 8 subdivision (1).
- 9 (8) Subtract an amount equal to the amount of federal Social
 10 Security and Railroad Retirement benefits included in a taxpayer's
 11 federal gross income by Section 86 of the Internal Revenue Code.
- 12 (9) In the case of a nonresident taxpayer or a resident taxpayer
 13 residing in Indiana for a period of less than the taxpayer's entire
 14 taxable year, the total amount of the deductions allowed pursuant
 15 to subdivisions (3), (4), and (5) shall be reduced to an amount
 16 which bears the same ratio to the total as the taxpayer's income
 17 taxable in Indiana bears to the taxpayer's total income.
- 18 (10) In the case of an individual who is a recipient of assistance
 19 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
 20 subtract an amount equal to that portion of the individual's
 21 adjusted gross income with respect to which the individual is not
 22 allowed under federal law to retain an amount to pay state and
 23 local income taxes.
- 24 (11) In the case of an eligible individual, subtract the amount of
 25 a Holocaust victim's settlement payment included in the
 26 individual's federal adjusted gross income.
- 27 (12) Subtract an amount equal to the portion of any premiums
 28 paid during the taxable year by the taxpayer for a qualified long
 29 term care policy (as defined in IC 12-15-39.6-5) for the taxpayer
 30 or the taxpayer's spouse ~~or both~~: **if the taxpayer and the**
 31 **taxpayer's spouse file a joint income tax return or the**
 32 **taxpayer is otherwise entitled to a deduction under this**
 33 **subdivision for the taxpayer's spouse, or both.**
- 34 (13) Subtract an amount equal to the lesser of:
 35 (A) two thousand five hundred dollars (\$2,500), or **one**
 36 **thousand two hundred fifty dollars (\$1,250) in the case of**
 37 **a married individual filing a separate return; or**
 38 (B) the amount of property taxes that are paid during the
 39 taxable year in Indiana by the individual on the individual's
 40 principal place of residence.
- 41 (14) Subtract an amount equal to the amount of a September 11
 42 terrorist attack settlement payment included in the individual's



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



- 1 taxpayer's gross income for federal income tax purposes under
2 Section 112 of the Internal Revenue Code.
- 3 (19) Subtract income that is:
- 4 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
5 derived from patents); and
- 6 (B) included in the individual's federal adjusted gross income
7 under the Internal Revenue Code.
- 8 (20) Add an amount equal to any income not included in gross
9 income as a result of the deferral of income arising from business
10 indebtedness discharged in connection with the reacquisition after
11 December 31, 2008, and before January 1, 2011, of an applicable
12 debt instrument, as provided in Section 108(i) of the Internal
13 Revenue Code. Subtract the amount necessary from the adjusted
14 gross income of any taxpayer that added an amount to adjusted
15 gross income in a previous year to offset the amount included in
16 federal gross income as a result of the deferral of income arising
17 from business indebtedness discharged in connection with the
18 reacquisition after December 31, 2008, and before January 1,
19 2011, of an applicable debt instrument, as provided in Section
20 108(i) of the Internal Revenue Code.
- 21 (21) Add the amount excluded from federal gross income under
22 Section 103 of the Internal Revenue Code for interest received on
23 an obligation of a state other than Indiana, or a political
24 subdivision of such a state, that is acquired by the taxpayer after
25 December 31, 2011.
- 26 (22) Subtract an amount as described in Section 1341(a)(2) of the
27 Internal Revenue Code to the extent, if any, that the amount was
28 previously included in the taxpayer's adjusted gross income for a
29 prior taxable year.
- 30 (23) For taxable years beginning after December 25, 2016, add an
31 amount equal to the deduction for deferred foreign income that
32 was claimed by the taxpayer for the taxable year under Section
33 965(c) of the Internal Revenue Code.
- 34 (24) Subtract any interest expense paid or accrued in the current
35 taxable year but not deducted as a result of the limitation imposed
36 under Section 163(j)(1) of the Internal Revenue Code. Add any
37 interest expense paid or accrued in a previous taxable year but
38 allowed as a deduction under Section 163 of the Internal Revenue
39 Code in the current taxable year. For purposes of this subdivision,
40 an interest expense is considered paid or accrued only in the first
41 taxable year the deduction would have been allowable under
42 Section 163 of the Internal Revenue Code if the limitation under



- 1 Section 163(j)(1) of the Internal Revenue Code did not exist.
2 (25) Subtract the amount that would have been excluded from
3 gross income but for the enactment of Section 118(b)(2) of the
4 Internal Revenue Code for taxable years ending after December
5 22, 2017.
6 (26) Subtract any other amounts the taxpayer is entitled to deduct
7 under IC 6-3-2.
8 (b) In the case of corporations, the same as "taxable income" (as
9 defined in Section 63 of the Internal Revenue Code) adjusted as
10 follows:
11 (1) Subtract income that is exempt from taxation under this article
12 by the Constitution and statutes of the United States.
13 (2) Add an amount equal to any deduction or deductions allowed
14 or allowable pursuant to Section 170 of the Internal Revenue
15 Code (concerning charitable contributions).
16 (3) Except as provided in subsection (c), add an amount equal to
17 any deduction or deductions allowed or allowable pursuant to
18 Section 63 of the Internal Revenue Code for taxes based on or
19 measured by income and levied at the state level by any state of
20 the United States.
21 (4) Subtract an amount equal to the amount included in the
22 corporation's taxable income under Section 78 of the Internal
23 Revenue Code (concerning foreign tax credits).
24 (5) Add or subtract the amount necessary to make the adjusted
25 gross income of any taxpayer that owns property for which bonus
26 depreciation was allowed in the current taxable year or in an
27 earlier taxable year equal to the amount of adjusted gross income
28 that would have been computed had an election not been made
29 under Section 168(k) of the Internal Revenue Code to apply bonus
30 depreciation to the property in the year that it was placed in
31 service.
32 (6) Add an amount equal to any deduction allowed under Section
33 172 of the Internal Revenue Code (concerning net operating
34 losses).
35 (7) Add or subtract the amount necessary to make the adjusted
36 gross income of any taxpayer that placed Section 179 property (as
37 defined in Section 179 of the Internal Revenue Code) in service
38 in the current taxable year or in an earlier taxable year equal to
39 the amount of adjusted gross income that would have been
40 computed had an election for federal income tax purposes not
41 been made for the year in which the property was placed in
42 service to take deductions under Section 179 of the Internal



- 1 Revenue Code in a total amount exceeding the sum of:
- 2 (A) twenty-five thousand dollars (\$25,000) to the extent
- 3 deductions under Section 179 of the Internal Revenue Code
- 4 were not elected as provided in clause (B); and
- 5 (B) for taxable years beginning after December 31, 2017, the
- 6 deductions elected under Section 179 of the Internal Revenue
- 7 Code on property acquired in an exchange if:
- 8 (i) the exchange would have been eligible for
- 9 nonrecognition of gain or loss under Section 1031 of the
- 10 Internal Revenue Code in effect on January 1, 2017;
- 11 (ii) the exchange is not eligible for nonrecognition of gain or
- 12 loss under Section 1031 of the Internal Revenue Code; and
- 13 (iii) the taxpayer made an election to take deductions under
- 14 Section 179 of the Internal Revenue Code with regard to the
- 15 acquired property in the year that the property was placed
- 16 into service.
- 17 The amount of deductions allowable for an item of property
- 18 under this clause may not exceed the amount of adjusted gross
- 19 income realized on the property that would have been deferred
- 20 under the Internal Revenue Code in effect on January 1, 2017.
- 21 (8) Add to the extent required by IC 6-3-2-20:
- 22 (A) the amount of intangible expenses (as defined in
- 23 IC 6-3-2-20) for the taxable year that reduced the corporation's
- 24 taxable income (as defined in Section 63 of the Internal
- 25 Revenue Code) for federal income tax purposes; and
- 26 (B) any directly related interest expenses (as defined in
- 27 IC 6-3-2-20) that reduced the corporation's adjusted gross
- 28 income (determined without regard to this subdivision). For
- 29 purposes of this ~~subdivision, clause~~, any directly related
- 30 interest expense that constitutes business interest within the
- 31 meaning of Section 163(j) of the Internal Revenue Code shall
- 32 be considered to have reduced the taxpayer's federal taxable
- 33 income only in the first taxable year in which the deduction
- 34 otherwise would have been allowable under Section 163 of the
- 35 Internal Revenue Code if the limitation under Section
- 36 163(j)(1) of the Internal Revenue Code did not exist.
- 37 (9) Add an amount equal to any deduction for dividends paid (as
- 38 defined in Section 561 of the Internal Revenue Code) to
- 39 shareholders of a captive real estate investment trust (as defined
- 40 in section 34.5 of this chapter).
- 41 (10) Subtract income that is:
- 42 (A) exempt from taxation under IC 6-3-2-21.7 (certain income



- 1 derived from patents); and
 2 (B) included in the corporation's taxable income under the
 3 Internal Revenue Code.
- 4 (11) Add an amount equal to any income not included in gross
 5 income as a result of the deferral of income arising from business
 6 indebtedness discharged in connection with the reacquisition after
 7 December 31, 2008, and before January 1, 2011, of an applicable
 8 debt instrument, as provided in Section 108(i) of the Internal
 9 Revenue Code. Subtract from the adjusted gross income of any
 10 taxpayer that added an amount to adjusted gross income in a
 11 previous year the amount necessary to offset the amount included
 12 in federal gross income as a result of the deferral of income
 13 arising from business indebtedness discharged in connection with
 14 the reacquisition after December 31, 2008, and before January 1,
 15 2011, of an applicable debt instrument, as provided in Section
 16 108(i) of the Internal Revenue Code.
- 17 (12) Add the amount excluded from federal gross income under
 18 Section 103 of the Internal Revenue Code for interest received on
 19 an obligation of a state other than Indiana, or a political
 20 subdivision of such a state, that is acquired by the taxpayer after
 21 December 31, 2011.
- 22 (13) For taxable years beginning after December 25, 2016:
 23 (A) for a corporation other than a real estate investment trust,
 24 add:
 25 (i) an amount equal to the amount reported by the taxpayer
 26 on IRC 965 Transition Tax Statement, line 1; or
 27 (ii) if the taxpayer deducted an amount under Section 965(c)
 28 of the Internal Revenue Code in determining the taxpayer's
 29 taxable income for purposes of the federal income tax, the
 30 amount deducted under Section 965(c) of the Internal
 31 Revenue Code; and
 32 (B) for a real estate investment trust, add an amount equal to
 33 the deduction for deferred foreign income that was claimed by
 34 the taxpayer for the taxable year under Section 965(c) of the
 35 Internal Revenue Code, but only to the extent that the taxpayer
 36 included income pursuant to Section 965 of the Internal
 37 Revenue Code in its taxable income for federal income tax
 38 purposes or is required to add back dividends paid under
 39 subdivision (9).
- 40 (14) Add an amount equal to the deduction that was claimed by
 41 the taxpayer for the taxable year under Section 250(a)(1)(B) of the
 42 Internal Revenue Code (attributable to global intangible



- 1 low-taxed income). The taxpayer shall separately specify the
 2 amount of the reduction under Section 250(a)(1)(B)(i) of the
 3 Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the
 4 Internal Revenue Code.
- 5 (15) Subtract any interest expense paid or accrued in the current
 6 taxable year but not deducted as a result of the limitation imposed
 7 under Section 163(j)(1) of the Internal Revenue Code. Add any
 8 interest expense paid or accrued in a previous taxable year but
 9 allowed as a deduction under Section 163 of the Internal Revenue
 10 Code in the current taxable year. For purposes of this subdivision,
 11 an interest expense is considered paid or accrued only in the first
 12 taxable year the deduction would have been allowable under
 13 Section 163 of the Internal Revenue Code if the limitation under
 14 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 15 (16) Subtract the amount that would have been excluded from
 16 gross income but for the enactment of Section 118(b)(2) of the
 17 Internal Revenue Code for taxable years ending after December
 18 22, 2017.
- 19 (17) Add or subtract any other amounts the taxpayer is:
 20 (A) required to add or subtract; or
 21 (B) entitled to deduct;
 22 under IC 6-3-2.
- 23 (c) The following apply to taxable years beginning after December
 24 31, 2018, for purposes of the add back of any deduction allowed on the
 25 taxpayer's federal income tax return for wagering taxes, as provided in
 26 subsection (a)(2) if the taxpayer is an individual or subsection (b)(3) if
 27 the taxpayer is a corporation:
- 28 (1) For taxable years beginning after December 31, 2018, and
 29 before January 1, 2020, a taxpayer is required to add back under
 30 this section eighty-seven and five-tenths percent (87.5%) of any
 31 deduction allowed on the taxpayer's federal income tax return for
 32 wagering taxes.
- 33 (2) For taxable years beginning after December 31, 2019, and
 34 before January 1, 2021, a taxpayer is required to add back under
 35 this section seventy-five percent (75%) of any deduction allowed
 36 on the taxpayer's federal income tax return for wagering taxes.
- 37 (3) For taxable years beginning after December 31, 2020, and
 38 before January 1, 2022, a taxpayer is required to add back under
 39 this section sixty-two and five-tenths percent (62.5%) of any
 40 deduction allowed on the taxpayer's federal income tax return for
 41 wagering taxes.
- 42 (4) For taxable years beginning after December 31, 2021, and



- 1 before January 1, 2023, a taxpayer is required to add back under
 2 this section fifty percent (50%) of any deduction allowed on the
 3 taxpayer's federal income tax return for wagering taxes.
- 4 (5) For taxable years beginning after December 31, 2022, and
 5 before January 1, 2024, a taxpayer is required to add back under
 6 this section thirty-seven and five-tenths percent (37.5%) of any
 7 deduction allowed on the taxpayer's federal income tax return for
 8 wagering taxes.
- 9 (6) For taxable years beginning after December 31, 2023, and
 10 before January 1, 2025, a taxpayer is required to add back under
 11 this section twenty-five percent (25%) of any deduction allowed
 12 on the taxpayer's federal income tax return for wagering taxes.
- 13 (7) For taxable years beginning after December 31, 2024, and
 14 before January 1, 2026, a taxpayer is required to add back under
 15 this section twelve and five-tenths percent (12.5%) of any
 16 deduction allowed on the taxpayer's federal income tax return for
 17 wagering taxes.
- 18 (8) For taxable years beginning after December 31, 2025, a
 19 taxpayer is not required to add back under this section any amount
 20 of a deduction allowed on the taxpayer's federal income tax return
 21 for wagering taxes.
- 22 (d) In the case of life insurance companies (as defined in Section
 23 816(a) of the Internal Revenue Code) that are organized under Indiana
 24 law, the same as "life insurance company taxable income" (as defined
 25 in Section 801 of the Internal Revenue Code), adjusted as follows:
- 26 (1) Subtract income that is exempt from taxation under this article
 27 by the Constitution and statutes of the United States.
- 28 (2) Add an amount equal to any deduction allowed or allowable
 29 under Section 170 of the Internal Revenue Code (concerning
 30 charitable contributions).
- 31 (3) Add an amount equal to a deduction allowed or allowable
 32 under Section 805 or Section 832(c) of the Internal Revenue Code
 33 for taxes based on or measured by income and levied at the state
 34 level by any state.
- 35 (4) Subtract an amount equal to the amount included in the
 36 company's taxable income under Section 78 of the Internal
 37 Revenue Code (concerning foreign tax credits).
- 38 (5) Add or subtract the amount necessary to make the adjusted
 39 gross income of any taxpayer that owns property for which bonus
 40 depreciation was allowed in the current taxable year or in an
 41 earlier taxable year equal to the amount of adjusted gross income
 42 that would have been computed had an election not been made



- 1 under Section 168(k) of the Internal Revenue Code to apply bonus
 2 depreciation to the property in the year that it was placed in
 3 service.
- 4 (6) Add an amount equal to any deduction allowed under Section
 5 172 of the Internal Revenue Code (concerning net operating
 6 losses).
- 7 (7) Add or subtract the amount necessary to make the adjusted
 8 gross income of any taxpayer that placed Section 179 property (as
 9 defined in Section 179 of the Internal Revenue Code) in service
 10 in the current taxable year or in an earlier taxable year equal to
 11 the amount of adjusted gross income that would have been
 12 computed had an election for federal income tax purposes not
 13 been made for the year in which the property was placed in
 14 service to take deductions under Section 179 of the Internal
 15 Revenue Code in a total amount exceeding the sum of:
- 16 (A) twenty-five thousand dollars (\$25,000) to the extent
 17 deductions under Section 179 of the Internal Revenue Code
 18 were not elected as provided in clause (B); and
- 19 (B) for taxable years beginning after December 31, 2017, the
 20 deductions elected under Section 179 of the Internal Revenue
 21 Code on property acquired in an exchange if:
- 22 (i) the exchange would have been eligible for
 23 nonrecognition of gain or loss under Section 1031 of the
 24 Internal Revenue Code in effect on January 1, 2017;
- 25 (ii) the exchange is not eligible for nonrecognition of gain or
 26 loss under Section 1031 of the Internal Revenue Code; and
- 27 (iii) the taxpayer made an election to take deductions under
 28 Section 179 of the Internal Revenue Code with regard to the
 29 acquired property in the year that the property was placed
 30 into service.
- 31 The amount of deductions allowable for an item of property
 32 under this clause may not exceed the amount of adjusted gross
 33 income realized on the property that would have been deferred
 34 under the Internal Revenue Code in effect on January 1, 2017.
- 35 (8) Subtract income that is:
- 36 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
 37 derived from patents); and
- 38 (B) included in the insurance company's taxable income under
 39 the Internal Revenue Code.
- 40 (9) Add an amount equal to any income not included in gross
 41 income as a result of the deferral of income arising from business
 42 indebtedness discharged in connection with the reacquisition after



- 1 December 31, 2008, and before January 1, 2011, of an applicable
2 debt instrument, as provided in Section 108(i) of the Internal
3 Revenue Code. Subtract from the adjusted gross income of any
4 taxpayer that added an amount to adjusted gross income in a
5 previous year the amount necessary to offset the amount included
6 in federal gross income as a result of the deferral of income
7 arising from business indebtedness discharged in connection with
8 the reacquisition after December 31, 2008, and before January 1,
9 2011, of an applicable debt instrument, as provided in Section
10 108(i) of the Internal Revenue Code.
- 11 (10) Add an amount equal to any exempt insurance income under
12 Section 953(e) of the Internal Revenue Code that is active
13 financing income under Subpart F of Subtitle A, Chapter 1,
14 Subchapter N of the Internal Revenue Code.
- 15 (11) Add the amount excluded from federal gross income under
16 Section 103 of the Internal Revenue Code for interest received on
17 an obligation of a state other than Indiana, or a political
18 subdivision of such a state, that is acquired by the taxpayer after
19 December 31, 2011.
- 20 (12) For taxable years beginning after December 25, 2016, add:
21 (A) an amount equal to the amount reported by the taxpayer on
22 IRC 965 Transition Tax Statement, line 1; or
23 (B) if the taxpayer deducted an amount under Section 965(c)
24 of the Internal Revenue Code in determining the taxpayer's
25 taxable income for purposes of the federal income tax, the
26 amount deducted under Section 965(c) of the Internal Revenue
27 Code.
- 28 (13) Add an amount equal to the deduction that was claimed by
29 the taxpayer for the taxable year under Section 250(a)(1)(B) of the
30 Internal Revenue Code (attributable to global intangible
31 low-taxed income). The taxpayer shall separately specify the
32 amount of the reduction under Section 250(a)(1)(B)(i) of the
33 Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the
34 Internal Revenue Code.
- 35 (14) Subtract any interest expense paid or accrued in the current
36 taxable year but not deducted as a result of the limitation imposed
37 under Section 163(j)(1) of the Internal Revenue Code. Add any
38 interest expense paid or accrued in a previous taxable year but
39 allowed as a deduction under Section 163 of the Internal Revenue
40 Code in the current taxable year. For purposes of this subdivision,
41 an interest expense is considered paid or accrued only in the first
42 taxable year the deduction would have been allowable under



- 1 Section 163 of the Internal Revenue Code if the limitation under
 2 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 3 (15) 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 (16) Add or subtract any other amounts the taxpayer is:
 8 (A) required to add or subtract; or
 9 (B) entitled to deduct;
 10 under IC 6-3-2.
- 11 (e) In the case of insurance companies subject to tax under Section
 12 831 of the Internal Revenue Code and organized under Indiana law, the
 13 same as "taxable income" (as defined in Section 832 of the Internal
 14 Revenue Code), adjusted as follows:
- 15 (1) Subtract income that is exempt from taxation under this article
 16 by the Constitution and statutes of the United States.
- 17 (2) Add an amount equal to any deduction allowed or allowable
 18 under Section 170 of the Internal Revenue Code (concerning
 19 charitable contributions).
- 20 (3) Add an amount equal to a deduction allowed or allowable
 21 under Section 805 or Section 832(c) of the Internal Revenue Code
 22 for taxes based on or measured by income and levied at the state
 23 level by any state.
- 24 (4) Subtract an amount equal to the amount included in the
 25 company's taxable income under Section 78 of the Internal
 26 Revenue Code (concerning foreign tax credits).
- 27 (5) Add or subtract the amount necessary to make the adjusted
 28 gross income of any taxpayer that owns property for which bonus
 29 depreciation was allowed in the current taxable year or in an
 30 earlier taxable year equal to the amount of adjusted gross income
 31 that would have been computed had an election not been made
 32 under Section 168(k) of the Internal Revenue Code to apply bonus
 33 depreciation to the property in the year that it was placed in
 34 service.
- 35 (6) Add an amount equal to any deduction allowed under Section
 36 172 of the Internal Revenue Code (concerning net operating
 37 losses).
- 38 (7) Add or subtract the amount necessary to make the adjusted
 39 gross income of any taxpayer that placed Section 179 property (as
 40 defined in Section 179 of the Internal Revenue Code) in service
 41 in the current taxable year or in an earlier taxable year equal to
 42 the amount of adjusted gross income that would have been



1 computed had an election for federal income tax purposes not
 2 been made for the year in which the property was placed in
 3 service to take deductions under Section 179 of the Internal
 4 Revenue Code in a total amount exceeding the sum of:

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

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

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

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

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

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

24 (8) Subtract income that is:

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

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

29 (9) Add an amount equal to any income not included in gross
 30 income as a result of the deferral of income arising from business
 31 indebtedness discharged in connection with the reacquisition after
 32 December 31, 2008, and before January 1, 2011, of an applicable
 33 debt instrument, as provided in Section 108(i) of the Internal
 34 Revenue Code. Subtract from the adjusted gross income of any
 35 taxpayer that added an amount to adjusted gross income in a
 36 previous year the amount necessary to offset the amount included
 37 in federal gross income as a result of the deferral of income
 38 arising from business indebtedness discharged in connection with
 39 the reacquisition after December 31, 2008, and before January 1,
 40 2011, of an applicable debt instrument, as provided in Section
 41 108(i) of the Internal Revenue Code.

42 (10) Add an amount equal to any exempt insurance income under



- 1 Section 953(e) of the Internal Revenue Code that is active
 2 financing income under Subpart F of Subtitle A, Chapter 1,
 3 Subchapter N of the Internal Revenue Code.
- 4 (11) Add the amount excluded from federal gross income under
 5 Section 103 of the Internal Revenue Code for interest received on
 6 an obligation of a state other than Indiana, or a political
 7 subdivision of such a state, that is acquired by the taxpayer after
 8 December 31, 2011.
- 9 (12) For taxable years beginning after December 25, 2016, add:
 10 (A) an amount equal to the amount reported by the taxpayer on
 11 IRC 965 Transition Tax Statement, line 1; or
 12 (B) if the taxpayer deducted an amount under Section 965(c)
 13 of the Internal Revenue Code in determining the taxpayer's
 14 taxable income for purposes of the federal income tax, the
 15 amount deducted under Section 965(c) of the Internal Revenue
 16 Code.
- 17 (13) Add an amount equal to the deduction that was claimed by
 18 the taxpayer for the taxable year under Section 250(a)(1)(B) of the
 19 Internal Revenue Code (attributable to global intangible
 20 low-taxed income). The taxpayer shall separately specify the
 21 amount of the reduction under Section 250(a)(1)(B)(i) of the
 22 Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the
 23 Internal Revenue Code.
- 24 (14) Subtract any interest expense paid or accrued in the current
 25 taxable year but not deducted as a result of the limitation imposed
 26 under Section 163(j)(1) of the Internal Revenue Code. Add any
 27 interest expense paid or accrued in a previous taxable year but
 28 allowed as a deduction under Section 163 of the Internal Revenue
 29 Code in the current taxable year. For purposes of this subdivision,
 30 an interest expense is considered paid or accrued only in the first
 31 taxable year the deduction would have been allowable under
 32 Section 163 of the Internal Revenue Code if the limitation under
 33 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 34 (15) Subtract the amount that would have been excluded from
 35 gross income but for the enactment of Section 118(b)(2) of the
 36 Internal Revenue Code for taxable years ending after December
 37 22, 2017.
- 38 (16) Add or subtract any other amounts the taxpayer is:
 39 (A) required to add or subtract; or
 40 (B) entitled to deduct;
 41 under IC 6-3-2.
- 42 (f) In the case of trusts and estates, "taxable income" (as defined for



1 trusts and estates in Section 641(b) of the Internal Revenue Code)
2 adjusted as follows:

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

5 (2) Subtract an amount equal to the amount of a September 11
6 terrorist attack settlement payment included in the federal
7 adjusted gross income of the estate of a victim of the September
8 11 terrorist attack or a trust to the extent the trust benefits a victim
9 of the September 11 terrorist attack.

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

18 (4) Add an amount equal to any deduction allowed under Section
19 172 of the Internal Revenue Code (concerning net operating
20 losses).

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

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

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

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

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

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



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



- 1 beneficiary.
- 2 For purposes of this article, the amount required to be added back
- 3 under clause (B) is not considered to be distributed or
- 4 distributable to a beneficiary of the estate or trust for purposes of
- 5 Sections 651 and 661 of the Internal Revenue Code.
- 6 (10) Subtract any interest expense paid or accrued in the current
- 7 taxable year but not deducted as a result of the limitation imposed
- 8 under Section 163(j)(1) of the Internal Revenue Code. Add any
- 9 interest expense paid or accrued in a previous taxable year but
- 10 allowed as a deduction under Section 163 of the Internal Revenue
- 11 Code in the current taxable year. For purposes of this subdivision,
- 12 an interest expense is considered paid or accrued only in the first
- 13 taxable year the deduction would have been allowable under
- 14 Section 163 of the Internal Revenue Code if the limitation under
- 15 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 16 (11) Add an amount equal to the deduction for qualified business
- 17 income that was claimed by the taxpayer for the taxable year
- 18 under Section 199A of the Internal Revenue Code.
- 19 (12) Subtract the amount that would have been excluded from
- 20 gross income but for the enactment of Section 118(b)(2) of the
- 21 Internal Revenue Code for taxable years ending after December
- 22 22, 2017.
- 23 (13) Add or subtract any other amounts the taxpayer is:
- 24 (A) required to add or subtract; or
- 25 (B) entitled to deduct;
- 26 under IC 6-3-2.
- 27 (g) Subsections (a)(26), (b)(17), (d)(16), (e)(16), or (f)(13) may not
- 28 be construed to require an add back or allow a deduction or exemption
- 29 more than once for a particular add back, deduction, or exemption.
- 30 (h) For taxable years beginning after December 25, 2016, if:
- 31 (1) a taxpayer is a shareholder, either directly or indirectly, in a
- 32 corporation that is an E&P deficit foreign corporation as defined
- 33 in Section 965(b)(3)(B) of the Internal Revenue Code, and the
- 34 earnings and profit deficit, or a portion of the earnings and profit
- 35 deficit, of the E&P deficit foreign corporation is permitted to
- 36 reduce the federal adjusted gross income or federal taxable
- 37 income of the taxpayer, the deficit, or the portion of the deficit,
- 38 shall also reduce the amount taxable under this section to the
- 39 extent permitted under the Internal Revenue Code, however, in no
- 40 case shall this permit a reduction in the amount taxable under
- 41 Section 965 of the Internal Revenue Code for purposes of this
- 42 section to be less than zero (0); and



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

7 SECTION 23. IC 6-3-1-11, AS AMENDED BY P.L.234-2019,
 8 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 2020 (RETROACTIVE)]: Sec. 11. (a) The term "Internal
 10 Revenue Code" means the Internal Revenue Code of 1986 of the
 11 United States as amended and in effect on January 1, ~~2019~~ **2020**.

12 (b) Whenever the Internal Revenue Code is mentioned in this
 13 article, the particular provisions that are referred to, together with all
 14 the other provisions of the Internal Revenue Code in effect on January
 15 1, ~~2019~~ **2020**, that pertain to the provisions specifically mentioned,
 16 shall be regarded as incorporated in this article by reference and have
 17 the same force and effect as though fully set forth in this article. To the
 18 extent the provisions apply to this article, regulations adopted under
 19 Section 7805(a) of the Internal Revenue Code and in effect on January
 20 1, ~~2019~~ **2020**, shall be regarded as rules adopted by the department
 21 under this article, unless the department adopts specific rules that
 22 supersede the regulation.

23 (c) An amendment to the Internal Revenue Code made by an act
 24 passed by Congress before January 1, ~~2019~~ **2020**, other than the
 25 federal 21st Century Cures Act (P.L. 114-255) and the federal Disaster
 26 Tax Relief and Airport and Airway Extension Act of 2017 (P.L.
 27 115-63), that is effective for any taxable year that began before January
 28 1, ~~2019~~ **2020**, and that affects:

- 29 (1) individual adjusted gross income (as defined in Section 62 of
 30 the Internal Revenue Code);
 31 (2) corporate taxable income (as defined in Section 63 of the
 32 Internal Revenue Code);
 33 (3) trust and estate taxable income (as defined in Section 641(b)
 34 of the Internal Revenue Code);
 35 (4) life insurance company taxable income (as defined in Section
 36 801(b) of the Internal Revenue Code);
 37 (5) mutual insurance company taxable income (as defined in
 38 Section 821(b) of the Internal Revenue Code); or
 39 (6) taxable income (as defined in Section 832 of the Internal
 40 Revenue Code);

41 is also effective for that same taxable year for purposes of determining
 42 adjusted gross income under section 3.5 of this chapter.



1 (d) This subsection applies to a taxable year ending before January
 2 1, 2013. The following provisions of the Internal Revenue Code that
 3 were amended by the Tax Relief Act, Unemployment Insurance
 4 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are
 5 treated as though they were not amended by the Tax Relief Act,
 6 Unemployment Insurance Reauthorization, and Job Creation Act of
 7 2010 (P.L. 111-312):

8 (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to
 9 an adjustment of basis of the stock of shareholders.

10 (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal
 11 Revenue Code pertaining to the treatment of certain dividends of
 12 regulated investment companies.

13 (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code
 14 pertaining to regulated investment companies qualified entity
 15 treatment.

16 (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code
 17 pertaining to the modification of tax treatment of certain
 18 payments to controlling exempt organizations.

19 (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code
 20 pertaining to the limitations on percentage depletion in the case
 21 of oil and gas wells.

22 (6) Section 451(i)(3) of the Internal Revenue Code pertaining to
 23 special rule for sales or dispositions to implement Federal Energy
 24 Regulatory Commission or state electric restructuring policy for
 25 qualified electric utilities.

26 (7) Section 954(c)(6) of the Internal Revenue Code pertaining to
 27 the look-through treatment of payments between related
 28 controlled foreign corporation under foreign personal holding
 29 company rules.

30 The department shall develop forms and adopt any necessary rules
 31 under IC 4-22-2 to implement this subsection.

32 SECTION 24. IC 6-3-2-6, AS AMENDED BY P.L.146-2008,
 33 SECTION 318, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JANUARY 1, 2021]: Sec. 6. (a) Each taxable year, an
 35 individual who rents a dwelling for use as the individual's principal
 36 place of residence may deduct from the individual's adjusted gross
 37 income (as defined in IC 6-3-1-3.5(a)), the lesser of:

38 (1) the amount of rent paid by the individual with respect to the
 39 dwelling during the taxable year; or

40 (2) three thousand dollars (\$3,000).

41 (b) Notwithstanding subsection (a):

42 (1) ~~a husband and wife~~ **a married couple** filing a joint ~~adjusted~~



1 ~~gross income tax~~ return for a particular taxable year may not
 2 claim a deduction under this section of more than three thousand
 3 dollars (\$3,000); **and**

4 **(2) a married individual filing a separate return for a**
 5 **particular taxable year may not claim a deduction under this**
 6 **section of more than one thousand five hundred dollars**
 7 **(\$1,500).**

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

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

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

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

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

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

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

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

32 STEP TWO: Determine for each week of the taxable year the
 33 amount by which each weekly payment referred to in STEP ONE
 34 exceeds one hundred dollars (\$100), then add these amounts.

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

41 STEP FOUR: Subtract from the amount determined in STEP
 42 ONE the amount determined in STEP TWO and the amount



- 1 determined in STEP THREE.
- 2 (c) For purposes of this section, an individual has a permanent and
3 total disability if the individual is unable to engage in any substantial
4 gainful activity by reason of any medically determinable physical or
5 mental impairment that can be expected to result in death or that has
6 lasted or can be expected to last for a continuous period of not less than
7 twelve (12) months. An individual may not be considered to have a
8 permanent and total disability unless the individual furnishes proof of
9 the existence of the disability as the department of revenue may
10 require.
- 11 SECTION 26. IC 6-3-3-1 IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a) Subject to subsection**
13 **(b)**, the amount deducted and withheld as tax under ~~IC 6-3-4-8,~~
14 ~~IC 6-3-4-12, and IC 6-3-4-13~~ **IC 6-3-4 or IC 6-5.5-2-8** during any
15 taxable year shall be allowed as a credit to the taxpayer against the tax
16 imposed on ~~him~~ **the taxpayer** by IC 6-3-2.
- 17 **(b) For each taxable year, the credit provided to a taxpayer by**
18 **subsection (a) is reduced to the extent that the amount deducted**
19 **and withheld as tax under IC 6-3-4 or IC 6-5.5-2-8 during the**
20 **taxable year is applied as a credit against the tax imposed by**
21 **IC 6-5.5.**
- 22 SECTION 27. IC 6-3-3-12, AS AMENDED BY P.L.214-2018(ss),
23 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JANUARY 1, 2020 (RETROACTIVE)]: Sec. 12. (a) As used in this
25 section, "account" has the meaning set forth in IC 21-9-2-2.
- 26 (b) As used in this section, "account beneficiary" has the meaning
27 set forth in IC 21-9-2-3.
- 28 (c) As used in this section, "account owner" has the meaning set
29 forth in IC 21-9-2-4.
- 30 (d) As used in this section, "college choice 529 education savings
31 plan" refers to a college choice 529 plan established under IC 21-9.
- 32 (e) As used in this section, "contribution" means the amount of
33 money directly provided to a college choice 529 education savings plan
34 account by a taxpayer. A contribution does not include any of the
35 following:
- 36 (1) Money credited to an account as a result of bonus points or
37 other forms of consideration earned by the taxpayer that result in
38 a transfer of money to the account.
- 39 (2) Money transferred from any other qualified tuition program
40 under Section 529 of the Internal Revenue Code or from any other
41 similar plan.
- 42 (3) Money that is credited to an account and that will be



- 1 transferred to an ABLÉ account (as defined in Section 529A of
2 the Internal Revenue Code).
- 3 (f) As used in this section, "nonqualified withdrawal" means a
4 withdrawal or distribution from a college choice 529 education savings
5 plan that is not a qualified withdrawal.
- 6 (g) As used in this section, "qualified higher education expenses"
7 has the meaning set forth in IC 21-9-2-19.5.
- 8 (h) As used in this section, "qualified K-12 education expenses"
9 means expenses that are for tuition in connection with enrollment or
10 attendance at an elementary or secondary public, private, or religious
11 school located in Indiana and are permitted under Section 529 of the
12 Internal Revenue Code.
- 13 (i) As used in this section, "qualified withdrawal" means a
14 withdrawal or distribution from a college choice 529 education savings
15 plan that is made:
- 16 (1) to pay for qualified higher education expenses, excluding any
17 withdrawals or distributions used to pay for qualified higher
18 education expenses, if the withdrawals or distributions are made
19 from an account of a college choice 529 education savings plan
20 that is terminated within twelve (12) months after the account is
21 opened;
 - 22 (2) as a result of the death or disability of an account beneficiary;
 - 23 (3) because an account beneficiary received a scholarship that
24 paid for all or part of the qualified higher education expenses of
25 the account beneficiary, to the extent that the withdrawal or
26 distribution does not exceed the amount of the scholarship; or
 - 27 (4) by a college choice 529 education savings plan as the result of
28 a transfer of funds by a college choice 529 education savings plan
29 from one (1) third party custodian to another.
- 30 However, a qualified withdrawal does not include a withdrawal or
31 distribution that will be used for expenses that are for tuition in
32 connection with enrollment or attendance at an elementary or
33 secondary public, private, or religious school unless the school is
34 located in Indiana. A qualified withdrawal does not include a rollover
35 distribution or transfer of assets from a college choice 529 education
36 savings plan to any other qualified tuition program under Section 529
37 of the Internal Revenue Code or to any other similar plan.
- 38 (j) As used in this section, "taxpayer" means:
- 39 (1) an individual filing a single return; ~~or~~
 - 40 (2) a married couple filing a joint return; ~~or~~
 - 41 **(3) for taxable years beginning after December 31, 2019, a**
 - 42 **married individual filing a separate return.**



1 (k) A taxpayer is entitled to a credit against the taxpayer's adjusted
 2 gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable
 3 year equal to the least of the following:

4 (1) The following amount:

5 (A) For taxable years beginning before January 1, 2019, the
 6 sum of twenty percent (20%) multiplied by the amount of the
 7 total contributions that are made by the taxpayer to an account
 8 or accounts of a college choice 529 education savings plan
 9 during the taxable year and that will be used to pay for
 10 qualified higher education expenses that are not qualified K-12
 11 education expenses, plus the lesser of:

12 (i) five hundred dollars (\$500); or

13 (ii) ten percent (10%) multiplied by the amount of the total
 14 contributions that are made by the taxpayer to an account or
 15 accounts of a college choice 529 education savings plan
 16 during the taxable year and that will be used to pay for
 17 qualified K-12 education expenses.

18 (B) For taxable years beginning after December 31, 2018, the
 19 sum of:

20 (i) twenty percent (20%) multiplied by the amount of the
 21 total contributions that are made by the taxpayer to an
 22 account or accounts of a college choice 529 education
 23 savings plan during the taxable year and that are designated
 24 to pay for qualified higher education expenses that are not
 25 qualified K-12 education expenses; plus

26 (ii) twenty percent (20%) multiplied by the amount of the
 27 total contributions that are made by the taxpayer to an
 28 account or accounts of a college choice 529 education
 29 savings plan during the taxable year and that are designated
 30 to pay for qualified K-12 education expenses.

31 (2) One thousand dollars (\$1,000), **or five hundred dollars**
 32 **(\$500) in the case of a married individual filing a separate**
 33 **return.**

34 (3) The amount of the taxpayer's adjusted gross income tax
 35 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,
 36 reduced by the sum of all credits (as determined without regard to
 37 this section) allowed by IC 6-3-1 through IC 6-3-7.

38 (l) This subsection applies after December 31, 2018. At the time a
 39 contribution is made to or a withdrawal is made from an account or
 40 accounts of a college choice 529 education savings plan, the person
 41 making the contribution or withdrawal shall designate whether the
 42 contribution is made for or the withdrawal will be used for:



- 1 (1) qualified higher education expenses that are not qualified
 2 K-12 education expenses; or
 3 (2) qualified K-12 education expenses.
- 4 The Indiana education savings authority (IC 21-9-3) shall use
 5 subaccounting to track the designations.
- 6 (m) A taxpayer who makes a contribution to a college choice 529
 7 education savings plan is considered to have made the contribution on
 8 the date that:
- 9 (1) the taxpayer's contribution is postmarked or accepted by a
 10 delivery service, for contributions that are submitted to a college
 11 choice 529 education savings plan by mail or delivery service; or
 12 (2) the taxpayer's electronic funds transfer is initiated, for
 13 contributions that are submitted to a college choice 529 education
 14 savings plan by electronic funds transfer.
- 15 (n) A taxpayer is not entitled to a carryback, carryover, or refund of
 16 an unused credit.
- 17 (o) A taxpayer may not sell, assign, convey, or otherwise transfer the
 18 tax credit provided by this section.
- 19 (p) To receive the credit provided by this section, a taxpayer must
 20 claim the credit on the taxpayer's annual state tax return or returns in
 21 the manner prescribed by the department. The taxpayer shall submit to
 22 the department all information that the department determines is
 23 necessary for the calculation of the credit provided by this section.
- 24 (q) An account owner of an account of a college choice 529
 25 education savings plan must repay all or a part of the credit in a taxable
 26 year in which any nonqualified withdrawal is made from the account.
 27 The amount the taxpayer must repay is equal to the lesser of:
- 28 (1) twenty percent (20%) of the total amount of nonqualified
 29 withdrawals made during the taxable year from the account; or
 30 (2) the excess of:
- 31 (A) the cumulative amount of all credits provided by this
 32 section that are claimed by any taxpayer with respect to the
 33 taxpayer's contributions to the account for all prior taxable
 34 years beginning on or after January 1, 2007; over
 35 (B) the cumulative amount of repayments paid by the account
 36 owner under this subsection for all prior taxable years
 37 beginning on or after January 1, 2008.
- 38 (r) Any required repayment under subsection (q) shall be reported
 39 by the account owner on the account owner's annual state income tax
 40 return for any taxable year in which a nonqualified withdrawal is made.
- 41 (s) A nonresident account owner who is not required to file an
 42 annual income tax return for a taxable year in which a nonqualified



1 withdrawal is made shall make any required repayment on the form
 2 required under IC 6-3-4-1(2). If the nonresident account owner does
 3 not make the required repayment, the department shall issue a demand
 4 notice in accordance with IC 6-8.1-5-1.

5 (t) The executive director of the Indiana education savings authority
 6 shall submit or cause to be submitted to the department a copy of all
 7 information returns or statements issued to account owners, account
 8 beneficiaries, and other taxpayers for each taxable year with respect to:

9 (1) nonqualified withdrawals made from accounts, including
 10 subaccounts of a college choice 529 education savings plan for
 11 the taxable year; or

12 (2) account closings for the taxable year.

13 SECTION 28. IC 6-3-4-13.5 IS ADDED TO THE INDIANA CODE
 14 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 15 **APRIL 1, 2020 (RETROACTIVE)]: Sec. 13.5. (a) The following**
 16 **definitions apply throughout this section:**

17 (1) **"Initial recipient" means a person or entity to whom prize**
 18 **money is paid by a payor.**

19 (2) **"Payor" means a promoter, sanctioning body, or designee**
 20 **of the promoter or sanctioning body that first pays prize**
 21 **money to a race team or any other person or entity. The term**
 22 **does not include a subsequent person or entity who pays or**
 23 **distributes any part of the prize money.**

24 (3) **"Prize money" with respect to a racing event at a qualified**
 25 **motorsports facility means any purse or other amounts**
 26 **earned for placement or participation in a race or part of a**
 27 **race, including qualification. The term does not include**
 28 **amounts earned based on placement or participation in more**
 29 **than one (1) race unless the races are conducted at a qualified**
 30 **motorsports facility.**

31 (4) **"Qualified motorsports facility" has the meaning set forth**
 32 **in IC 5-1-17.5-14.**

33 (5) **"Race team" has the meaning set forth in IC 6-3-2-3.2(a).**

34 (6) **"Ultimate recipient" means the person or entity to whom**
 35 **any tax withheld under this section is to be credited for**
 36 **purposes of this article or IC 6-5.5. The term may apply to an**
 37 **initial recipient.**

38 (b) **Whenever a payor pays prize money to an initial recipient,**
 39 **the payor shall deduct and retain from the prize money the**
 40 **applicable amount prescribed in the withholding instructions**
 41 **described in section 8 of this chapter. The following provisions**
 42 **apply to a payor and the money required to be deducted and**



- 1 retained by the payor under this section:
- 2 (1) Money deducted and retained by a payor under this
- 3 section immediately becomes the money of the state and every
- 4 payor who deducts and retains money under this section holds
- 5 the money in trust for the state.
- 6 (2) The provisions of IC 6-8.1 relating to additions to tax in
- 7 case of delinquency and penalties apply to a payor under this
- 8 section. For these purposes, the payor shall be considered the
- 9 taxpayer and any amount required to be remitted to the
- 10 department under this section shall be considered to be the
- 11 tax of the payor.
- 12 (3) The payor is liable to the state for the payment of the tax
- 13 required to be deducted and retained under this section. The
- 14 payor is not liable to any initial recipient or ultimate recipient
- 15 for the amount deducted from the payment of prize money
- 16 and paid to the department in compliance, or intended
- 17 compliance, with this section.
- 18 (c) A payor shall remit to the department the amount required
- 19 to be deducted and retained under subsection (b) not later than
- 20 thirty (30) days after the end of the month in which the prize
- 21 money is paid. At the time of the remittance, the payor shall
- 22 provide to the department a list of all initial recipients and the
- 23 amount withheld on behalf of each initial recipient on forms
- 24 prescribed by the department.
- 25 (d) Not later than thirty (30) days after the end of the calendar
- 26 year for which tax is withheld under this section, an initial
- 27 recipient shall provide a statement to each ultimate recipient and
- 28 to the department listing the amounts withheld under subsection
- 29 (b) on behalf of the ultimate recipients. The statement must be
- 30 made in the manner prescribed by the department. A statement
- 31 from the initial recipient to the ultimate recipient is evidence of tax
- 32 withheld by the payor in favor of the ultimate recipient unless the
- 33 statement from the initial recipient is determined to be erroneous
- 34 or fraudulent.
- 35 (e) This section does not impose a duty to withhold amounts
- 36 from prize money on an entity other than a payor. However, an
- 37 initial recipient or ultimate recipient may otherwise have a duty to
- 38 withhold amounts from prize money under sections 8, 12, 13, or 15
- 39 of this chapter.
- 40 SECTION 29. IC 6-3-4-16.7, AS ADDED BY P.L.234-2019,
- 41 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 42 UPON PASSAGE]: Sec. 16.7. (a) For taxable years ending after



1 December 31, 2019, a partnership that is required to provide
 2 twenty-five (25) or more ~~reports~~ **schedules K-1 of form IT-65** to
 3 partners ~~under section 12(b) of this chapter~~ or a corporation that is
 4 required to provide twenty-five (25) or more ~~reports~~ **schedules K-1 of**
 5 **form IT-20S** to shareholders ~~under section 13(b) of this chapter~~ must
 6 file all such ~~reports~~ **schedules** in an electronic format specified by the
 7 department.

8 (b) For taxable years ending after December 31, 2021, an estate or
 9 trust required to provide ten (10) or more ~~reports~~ **schedules K-1 of**
 10 **form IT-41** to beneficiaries ~~under section 15(b) of this chapter~~ must
 11 file all such reports in an electronic format specified by the department.

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

19 SECTION 30. IC 6-3.1-16.1 IS ADDED TO THE INDIANA CODE
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 21 JANUARY 1, 2016 (RETROACTIVE)]:

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

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

- 24 (1) the department of natural resources; or
- 25 (2) the office of community and rural affairs.

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

- 27 (1) the cap of zero dollars (\$0) on the amount of historic
 28 rehabilitation tax credits allowed in a state fiscal year
 29 beginning after June 30, 2016, as set forth in IC 6-3.1-16-14
 30 (before its expiration); and
- 31 (2) the expiration of the historic rehabilitation tax credit
 32 chapter (IC 6-3.1-16) on January 1, 2019.

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



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

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

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

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

23 SECTION 31. IC 6-3.1-20-4, AS AMENDED BY P.L.250-2015,
 24 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JANUARY 1, 2021]: Sec. 4. (a) Except as provided in ~~subsection~~
 26 **subsections (b) and (c)**, an individual is entitled to a credit under this
 27 chapter if:

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

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

32 (A) the individual:

33 (i) owns; or

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

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

41 (b) An individual is not entitled to a credit under this chapter for a
 42 taxable year for property taxes paid on the individual's homestead if the



1 individual claims the deduction under IC 6-3-1-3.5(a)(13) for the
2 homestead for that same taxable year.

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

6 SECTION 32. IC 6-3.1-20-5, AS AMENDED BY P.L.166-2014,
7 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JANUARY 1, 2021]: Sec. 5. (a) Each year, an individual described in
9 section 4 of this chapter is entitled to a refundable credit against the
10 individual's state income tax liability in the amount determined under
11 this section.

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

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

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

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

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

23 STEP ONE: Determine the result of:

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

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

26 STEP TWO: Determine the result of:

27 (i) the STEP ONE amount; multiplied by

28 (ii) five-tenths (0.5).

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

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

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

37 SECTION 33. IC 6-3.1-34-3.5 IS ADDED TO THE INDIANA
38 CODE AS A NEW SECTION TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2020]: Sec. 3.5. As used in this chapter,
40 "mine reclamation site" means:

41 (1) land that has been mined using surface mining methods or
42 underground mining methods, specifically and primarily for



- 1 **the removal of coal; and**
- 2 **(2) land that is contiguous to land described in subdivision (1).**
- 3 SECTION 34. IC 6-3.1-34-6, AS ADDED BY P.L.158-2019,
- 4 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2020]: Sec. 6. As used in this chapter, "qualified
- 6 redevelopment site" means:
- 7 (1) land on which a vacant building or complex of buildings was
- 8 placed in service at least fifteen (15) years before the date on
- 9 which the application is filed with the corporation under this
- 10 chapter;
- 11 (2) land on which a vacant building or complex of buildings:
- 12 (A) was placed in service at least fifteen (15) years before the
- 13 date on which the demolition of the vacant building or
- 14 complex of buildings was completed; and
- 15 (B) that was demolished in an effort to protect the health,
- 16 safety, and welfare of the community;
- 17 (3) land on which a vacant building or complex of buildings:
- 18 (A) was placed in service at least fifteen (15) years before the
- 19 date on which the demolition of the vacant building or
- 20 complex of buildings was completed;
- 21 (B) was placed in service as a public building;
- 22 (C) was owned by a unit of local government; and
- 23 (D) has not been redeveloped since the building was taken out
- 24 of service as a public building;
- 25 (4) vacant land; ~~or~~
- 26 **(5) mine reclamation site; or**
- 27 ~~(5)~~ **(6) brownfields** consisting of more than fifty (50) acres.

28 For a complex of buildings to be considered a qualified redevelopment
 29 site under subdivision (1), (2) or (3), the buildings must have been
 30 located on a single parcel or contiguous parcels of land that were under
 31 common ownership at the time the site was placed in service.

32 SECTION 35. IC 6-3.1-34-10, AS ADDED BY P.L.158-2019,
 33 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2020]: Sec. 10. As used in this chapter, "taxpayer" means any
 35 person, corporation, limited liability company, partnership, or other
 36 entity that has any state tax liability. The term includes the owner or the
 37 developer of the qualified development site property, a pass through
 38 entity, and a **person an assignee** that is assigned part or all of a credit
 39 under section 14 of this chapter.

40 SECTION 36. IC 6-3.1-34-14, AS ADDED BY P.L.158-2019,
 41 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2020]: Sec. 14.(a) If a taxpayer is awarded a credit under this



1 chapter before July 1, 2029, the taxpayer may assign any part of the
 2 credit that the taxpayer may claim under this chapter. A credit that is
 3 assigned under this subsection remains subject to this chapter.

4 (b) If a taxpayer assigns a part of a credit during a taxable year, the
 5 assignee may not subsequently assign all or part of the credit to another
 6 ~~person.~~ **taxpayer.** A taxpayer may make only one (1) assignment of a
 7 credit. Before a credit may be assigned, the taxpayer must notify the
 8 corporation of the assignment of the credit in the manner prescribed by
 9 the corporation. An assignment of a credit must be in writing, and both
 10 the taxpayer and assignee shall report the assignment on the taxpayer's
 11 and assignee's state tax returns for the year in which the assignment is
 12 made, in the manner prescribed by the department. A taxpayer may not
 13 receive value in connection with an assignment under this section that
 14 exceeds the value of that part of the credit assigned.

15 (c) The corporation shall collect and compile data on the
 16 assignments of tax credits under this chapter and determine the
 17 effectiveness of each assignment in getting projects completed. The
 18 corporation shall report its findings under this subsection to the
 19 legislative council in an electronic format under IC 5-14-6 before
 20 November 1, 2022.

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

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

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

30 **(b) The term does not refer to:**

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

33 **(2) an assignment of an account receivable.**

34 SECTION 38. IC 6-6-1.1-606.5, AS AMENDED BY P.L.234-2019,
 35 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2020]: **Sec. 606.5. (a)** Every person included within the terms
 37 of section 606(a) and 606(c) of this chapter shall register with the
 38 administrator before engaging in those activities. The administrator
 39 shall issue a transportation license to a person who registers with the
 40 administrator under this section.

41 (b) Every person included within the terms of section 606(a) of this
 42 chapter who transports gasoline in a vehicle on the highways in Indiana



1 for purposes other than use and consumption by that person may not
 2 make a delivery of that gasoline to any person in Indiana other than a
 3 licensed distributor except:

- 4 (1) when the tax imposed by this chapter on the receipt of the
 5 transported gasoline was charged and collected by the parties; and
 6 (2) under the circumstances described in section 205 of this
 7 chapter.

8 (c) Every person included within the terms of section 606(c) of this
 9 chapter who transports gasoline in a vehicle upon the highways of
 10 Indiana for purposes other than use and consumption by that person
 11 may not, on the journey carrying that gasoline to points outside Indiana,
 12 make delivery of that fuel to any person in Indiana.

13 (d) Every transporter of gasoline included within the terms of
 14 section 606(a) and 606(c) of this chapter who transports gasoline upon
 15 the highways of Indiana for purposes other than use and consumption
 16 by that person shall at the time of registration and on an annual basis
 17 list with the administrator a description of all vehicles, including the
 18 vehicles' license numbers, to be used on the highways of Indiana in
 19 transporting gasoline from:

- 20 (1) points outside Indiana to points inside Indiana; and
 21 (2) points inside Indiana to points outside Indiana.

22 (e) The description that subsection (d) requires shall contain the
 23 information that is reasonably required by the administrator including
 24 the carrying capacity of the vehicle. When the vehicle is a
 25 tractor-trailer type, the trailer is the vehicle to be described. When
 26 additional vehicles are placed in service or when a vehicle previously
 27 listed is retired from service during the year, the administrator shall be
 28 notified within ten (10) days of the change so that the listing of the
 29 vehicles may be kept accurate.

30 (f) (d) A distributor's or an Indiana transportation license is required
 31 for a person or the person's agent acting in the person's behalf to
 32 operate a vehicle for the purpose of delivering gasoline within the
 33 boundaries of Indiana when the vehicle has a total tank capacity of at
 34 least eight hundred fifty (850) gallons.

35 (g) (e) The operator of a vehicle to which this section applies shall
 36 at all times when engaged in the transporting of gasoline on the
 37 highways have with the vehicle an invoice or manifest showing the
 38 origin, quantity, nature, and destination of the gasoline that is being
 39 transported.

40 (h) (f) The department shall provide for relief if a shipment of
 41 gasoline is legitimately diverted from the represented destination state
 42 after the shipping paper has been issued by a terminal operator or if a



1 terminal operator failed to cause proper information to be printed on
2 the shipping paper. Provisions for relief under this subsection:

3 (1) must require that the shipper or its agent obtain a diversion
4 number within twenty-four (24) hours of the diversion and report
5 the number on the shipper's or agent's monthly return to the
6 department; and

7 (2) must be consistent with the refund provisions of this chapter.

8 SECTION 39. IC 6-6-2.5-42 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 42. (a) Each application
10 for a license under section 41 of this chapter shall be made upon a form
11 prepared and furnished by the department. It shall be subscribed to by
12 the applicant and shall contain the information as the department may
13 reasonably require for the administration of this chapter, including the
14 applicant's federal identification number and, with respect to the
15 applicant for an exporter's license, a copy of the applicant's license to
16 purchase or handle special fuel tax free in the specified destination
17 state or states for which the export license is to be issued.

18 (b) The department shall investigate each applicant for a license
19 under this section. No license shall be issued if the department
20 determines that any one (1) of the following exists:

21 (1) The application is not filed in good faith.

22 (2) The applicant is not the real party in interest.

23 (3) The license of the real party in interest has been revoked for
24 cause.

25 (4) Other reasonable cause for non-issuance exists.

26 (c) Applicants, including corporate officers, partners, and
27 individuals, for a license issued by the commissioner may be required
28 to submit their fingerprints to the commissioner at the time of applying.
29 Officers of publicly held corporations and their subsidiaries shall be
30 exempt from this fingerprinting provision. Fingerprints required by this
31 section must be submitted on forms prescribed by the commissioner.
32 The commissioner may forward to the Federal Bureau of Investigation
33 or any other agency for processing all fingerprints submitted by license
34 applicants. The receiving agency shall issue its findings to the
35 commissioner. The license application fee shall be used to pay the costs
36 of the investigation. The commissioner may maintain a file of
37 fingerprints.

38 SECTION 40. IC 6-6-2.5-43 IS REPEALED [EFFECTIVE JULY
39 1, 2020]. Sec. 43: (a) Each licensed transporter shall at the time of
40 licensing and on an annual basis, list with the commissioner a
41 description of all vehicles, including license numbers, to be used on the
42 highways of Indiana in transporting special fuel from points outside



1 Indiana to points inside Indiana and from points inside Indiana to
2 points outside Indiana:

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

11 SECTION 41. IC 6-6-4.1-21 IS REPEALED [EFFECTIVE JULY
12 1, 2020]. Sec. 21. A carrier subject to the taxes imposed under section
13 4 of this chapter, section 4.3 of this chapter (before its repeal), and
14 section 4.5 of this chapter (before its repeal) who fails to file a
15 quarterly report as required by section 10 of this chapter shall pay a
16 civil penalty of three hundred dollars (\$300) for each report that is not
17 filed.

18 SECTION 42. IC 6-8.1-3-7.1, AS AMENDED BY P.L.108-2019,
19 SECTION 133, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2020]: Sec. 7.1. (a) **As used in this section,**
21 **"fiscal officer" has the meaning set forth means:**

- 22 **(1) a fiscal officer (as defined in IC 36-1-2-7); and**
23 **(2) in the case of a county, the county treasurer.**

24 (b) The department shall enter into an agreement with the fiscal
25 officer of an entity that has adopted an innkeeper's tax, a food and
26 beverage tax, or an admissions tax under IC 6-9 to furnish the fiscal
27 officer annually with:

- 28 (1) the name of each business collecting the taxes listed in this
29 subsection; and
30 (2) the amount of money collected from each business.

31 For an innkeeper's tax or food and beverage tax remitted through a
32 marketplace facilitator, the information must include the name of each
33 business and the amount of money collected from each business by a
34 marketplace facilitator acting on behalf of the business.

35 (c) The agreement must provide that the department must provide
36 the information in an electronic format that the fiscal officer can use.
37 as well as a paper copy:

38 (d) The agreement must include a provision that, unless in
39 accordance with a judicial order, the fiscal officer, employees of the
40 fiscal officer, former employees of the fiscal officer, counsel of the
41 fiscal officer, agents of the fiscal officer, or any other person may not
42 divulge the names of the businesses, the amount of taxes paid by the



1 businesses, or any other information disclosed to the fiscal officer by
2 the department.

3 (e) The department shall also enter into an agreement with the fiscal
4 officer of a capital improvement board of managers:

5 (1) created under IC 36-10-8 or IC 36-10-9; and

6 (2) that is responsible for expenditure of funds from:

7 (A) an innkeeper's tax, a food and beverage tax, or an
8 admissions tax under IC 6-9;

9 (B) the supplemental auto rental excise tax under IC 6-6-9.7;
10 or

11 (C) the state gross retail taxes allocated to a professional sports
12 development area fund, a sports and convention facilities
13 operating fund, or other fund under IC 36-7-31 or
14 IC 36-7-31.3;

15 to furnish the fiscal officer annually with the name of each business
16 collecting the taxes listed in this subsection, and the amount of money
17 collected from each business. An agreement with a fiscal officer under
18 this subsection must include a nondisclosure provision the same as is
19 required for a fiscal officer under subsection (d).

20 SECTION 43. IC 6-8.1-3-8 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. **(a)** The department
22 may prescribe qualifications a person must have to represent a taxpayer
23 before the department. However, a person may not represent a taxpayer
24 before the department, unless:

25 (1) the taxpayer is present at all times when the representation
26 occurs; or

27 (2) the person representing the taxpayer has a properly executed
28 power of attorney authorizing **him the person** to represent the
29 taxpayer.

30 **(b) Notwithstanding any other law, the department may require**
31 **a power of attorney relating to a listed tax to be completed on a**
32 **form prescribed by the department.**

33 **(c) The department may accept a power of attorney that names**
34 **an entity as a representative of a taxpayer, subject to rules adopted**
35 **under IC 4-22-2, including emergency rules adopted in the manner**
36 **provided in IC 4-22-2-37.1. Notwithstanding this article or IC 30-5,**
37 **the department may adopt rules under IC 4-22-2, including**
38 **emergency rules adopted in manner provided in IC 4-22-2-37.1,**
39 **allowing a change of individuals acting on behalf of the entity**
40 **without requiring a new or amended power of attorney to be**
41 **completed by the taxpayer.**

42 SECTION 44. IC 6-8.1-3-17, AS AMENDED BY P.L.214-2018(ss),



1 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2020]: Sec. 17. (a) Before an original tax appeal is filed with
 3 the tax court under IC 33-26, the commissioner, **or the taxpayer rights**
 4 **advocate office to the extent granted the authority by the**
 5 **commissioner**, may settle any tax liability dispute if a substantial doubt
 6 exists as to:

- 7 (1) the constitutionality of the tax under the Constitution of the
- 8 State of Indiana;
- 9 (2) the right to impose the tax;
- 10 (3) the correct amount of tax due;
- 11 (4) the collectability of the tax; or
- 12 (5) whether the taxpayer is a resident or nonresident of Indiana.

13 (b) After an original tax appeal is filed with the tax court under
 14 IC 33-26, and notwithstanding IC 4-6-2-11, the commissioner may
 15 settle a tax liability dispute with an amount in contention of twenty-five
 16 thousand dollars (\$25,000) or less. Notwithstanding IC 6-8.1-7-1(a),
 17 the terms of a settlement under this subsection are available for public
 18 inspection.

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

- 23 (1) for any tax liability resulting from the taxpayer's failure to
- 24 comply with IC 6-3-1-3.5(b)(3) with regard to the tax imposed by
- 25 IC 4-33-13 or IC 4-35-8; or
- 26 (2) if the taxpayer participated in any previous amnesty program
- 27 under:
 - 28 (A) this section (as in effect on December 31, 2014); or
 - 29 (B) IC 6-2.5-14.

30 The time in which a voluntary payment of tax liability may be made (or
 31 the taxpayer may enter into a payment program acceptable to the
 32 department for the payment of the unpaid listed taxes in full in the
 33 manner and time established in a written payment program agreement
 34 between the department and the taxpayer) under the amnesty program
 35 is limited to the period determined by the department, not to exceed
 36 eight (8) regular business weeks ending before the earlier of the date
 37 set by the department or January 1, 2017. The amnesty program must
 38 provide that, upon payment by a taxpayer to the department of all listed
 39 taxes due from the taxpayer for a tax period (or payment of the unpaid
 40 listed taxes in full in the manner and time established in a written
 41 payment program agreement between the department and the taxpayer),
 42 entry into an agreement that the taxpayer is not eligible for any other



1 amnesty program that may be established and waives any part of
 2 interest and penalties on the same type of listed tax that is being
 3 granted amnesty in the current amnesty program, and compliance with
 4 all other amnesty conditions adopted under a rule of the department in
 5 effect on the date the voluntary payment is made, the department:

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

8 (2) shall release any liens imposed;

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

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

15 for listed taxes due from the taxpayer for the tax period for which
 16 amnesty has been granted to the taxpayer. Amnesty granted under this
 17 subsection is binding on the state and its agents. However, failure to
 18 pay to the department all listed taxes due for a tax period invalidates
 19 any amnesty granted under this subsection for that tax period. The
 20 department shall conduct an assessment of the impact of the tax
 21 amnesty program on tax collections and an analysis of the costs of
 22 administering the tax amnesty program. As soon as practicable after the
 23 end of the tax amnesty period, the department shall submit a copy of
 24 the assessment and analysis to the legislative council in an electronic
 25 format under IC 5-14-6. The department shall enforce an agreement
 26 with a taxpayer that prohibits the taxpayer from receiving amnesty in
 27 another amnesty program.

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

30 (1) the department has issued:

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

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

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

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

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

39 (e) The department may waive interest and penalties if the general
 40 assembly enacts a change in a listed tax for a tax period that increases
 41 a taxpayer's tax liability for that listed tax after the due date for that
 42 listed tax and tax period. However, such a waiver shall apply only to



1 the extent of the increase in tax liability and only for a period not
 2 exceeding sixty (60) days after the change is enacted. The department
 3 may adopt rules, including emergency rules, or issue guidelines to carry
 4 out this subsection.

5 SECTION 45. IC 6-8.1-3-27 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2020]: **Sec. 27. (a) The appropriate county officer, as designated**
 8 **by the county executive, in each county shall, before September 1,**
 9 **2021, and before September 1 of every year thereafter, submit**
 10 **parcel level data, in a standard developed by the state GIS officer**
 11 **pursuant to IC 4-23-7.3-14, to the state GIS officer. This data may**
 12 **be used by the department's tax systems to identify each taxing**
 13 **unit within which each taxpayer's residence is located.**

14 **(b) Beginning January 1, 2022, the department shall integrate**
 15 **the geographic information system data developed and updated by**
 16 **the state GIS officer.**

17 **(c) Before July 1, 2022, and before every July 1 thereafter, the**
 18 **department, consulting with the state GIS officer, shall submit a**
 19 **report to the general assembly in an electronic format under**
 20 **IC 5-14-6 concerning the implementation and use of geographic**
 21 **information systems under this section.**

22 SECTION 46. IC 6-8.1-4-4, AS AMENDED BY P.L.257-2017,
 23 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2020]: **Sec. 4. (a) The department shall establish a registration**
 25 **center to service owners of motor carriers or entities that otherwise**
 26 **own or operate commercial motor vehicles.**

27 **(b) The registration center is under the supervision of the**
 28 **department through the motor carrier services division.**

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

- 32 (1) Vehicle registration (IC 9-18.1).
- 33 (2) Motor carrier fuel tax annual permit.
- 34 (3) Proportional use credit certificate (IC 6-6-4.1-4.7).
- 35 (4) Certificate of operating authority.
- 36 (5) Oversize vehicle permit (IC 9-20-3).
- 37 (6) Overweight vehicle permit (IC 9-20-4).
- 38 (7) Payment of the commercial vehicle excise tax imposed under
- 39 IC 6-6-5.5.

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

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- 1 (1) File all tax returns or information reports.
 2 (2) Pay all taxes, penalties, and interest.
 3 (e) The commissioner may:
 4 (1) deny an application for an oversize vehicle permit, an
 5 overweight vehicle permit, or a single oversize-overweight
 6 permit; or
 7 (2) suspend any permit issued to a person;
 8 if the applicant or permit holder is delinquent in paying escort fees to
 9 the state police department.
 10 (f) The commissioner may suspend or revoke any registration,
 11 permit, certificate, or authority if the person to whom the registration,
 12 permit, certificate, or authority is issued fails to do any of the following
 13 with respect to a listed tax:
 14 (1) File all tax returns or information reports.
 15 (2) Pay all taxes, penalties, and interest.
 16 (g) Funding for the development and operation of the registration
 17 center shall be taken from the motor carrier regulation fund
 18 (IC 8-2.1-23-1).
 19 (h) The department shall recommend to the general assembly other
 20 functions that the registration center may perform.
 21 SECTION 47. IC 6-8.1-5-1.5 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2020]: **Sec. 1.5. (a) This section applies to:**
 24 **(1) department audits, investigations, or reviews; and**
 25 **(2) amended returns filed by a taxpayer;**
 26 **that result in an adjustment to a net operating loss, capital loss,**
 27 **credit, or other tax attribute that does not result in an assessment**
 28 **or refund denial for any taxable year at the time of the adjustment.**
 29 **(b) A taxpayer may request a secondary review of any**
 30 **adjustments made by the department or by the taxpayer within**
 31 **sixty (60) days from the date of notice of the adjustments based on:**
 32 **(1) the department's audit, investigation, or review; or**
 33 **(2) the amended return filed by the taxpayer;**
 34 **whichever is applicable.**
 35 **(c) If a taxpayer requests a secondary review under this section,**
 36 **the department shall review the taxpayer's request and may, upon**
 37 **the request of the taxpayer, conduct a conference regarding the**
 38 **adjustment.**
 39 **(d) Upon completion of the department's secondary review, the**
 40 **department shall either:**
 41 **(1) determine that the previous adjustments were correct; or**
 42 **(2) issue revised adjustments of relevant tax attributes.**



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

4 (f) Except as provided in subsection (e), for purposes of:

5 (1) IC 6-8.1-5-1;

6 (2) IC 6-8.1-9-1; or

7 (3) an appeal related to subdivision (1) or (2);

8 an adjustment described in subsection (a) or the result of the
 9 department's secondary review under subsection (d) does not
 10 constitute a final determination and may not be construed to treat
 11 any adjustment as finally determined.

12 SECTION 48. IC 6-8.1-5-2, AS AMENDED BY P.L.256-2017,
 13 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 APRIL 1, 2020]: Sec. 2. (a) Except as otherwise provided in this
 15 section **and section 2.5 of this chapter**, the department may not issue
 16 a proposed assessment under section 1 of this chapter more than three
 17 (3) years after the latest of the date the return is filed, or ~~either~~ of the
 18 following:

19 (1) The due date of the return.

20 (2) In the case of a return filed for the state gross retail or use tax,
 21 **the gasoline use tax**, the gasoline tax (**including the inventory**
 22 **tax**), the special fuel tax (**including the inventory tax**), the motor
 23 carrier fuel tax (**including the inventory tax**), the oil inspection
 24 fee, **the cigarette tax, the tobacco products tax, any county**
 25 **innkeeper's taxes imposed under IC 6-9, any food and**
 26 **beverage taxes imposed under IC 6-9, any county or local**
 27 **admissions taxes imposed under IC 6-9**, or the petroleum
 28 severance tax, the end of the calendar year which contains the
 29 taxable period for which the return is filed.

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

33 (b) If a person files a return for the utility receipts tax (IC 6-2.3),
 34 adjusted gross income tax (IC 6-3), supplemental net income tax
 35 (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1)
 36 (repealed), county option income tax (IC 6-3.5-6) (repealed), local
 37 income tax (IC 6-3.6), or financial institutions tax (IC 6-5.5) that
 38 understates the person's income, as that term is defined in the particular
 39 income tax law, by at least twenty-five percent (25%), the proposed
 40 assessment limitation is six (6) years instead of the three (3) years
 41 provided in subsection (a).

42 (c) In the case of the vehicle excise tax (IC 6-6-5), the tax shall be



1 assessed as provided in IC 6-6-5 and shall include the penalties and
 2 interest due on all listed taxes not paid by the due date. A person that
 3 fails to properly register a vehicle as required by IC 9-18 (before its
 4 expiration) or IC 9-18.1 and pay the tax due under IC 6-6-5 is
 5 considered to have failed to file a return for purposes of this article.

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

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

22 (f) If a person files a fraudulent, unsigned, or substantially blank
 23 return, or if a person does not file a return, there is no time limit within
 24 which the department must issue its proposed assessment.

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

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

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

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

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

35 (h) If, before the end of the time within which the department may
 36 make an assessment, the department and the person agree to extend
 37 that assessment period, the period may be extended according to the
 38 terms of a written agreement signed by both the department and the
 39 person. The agreement must contain:

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

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



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

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

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

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

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

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

18 **(C) begins after November 2, 2015, and before January 1,**
19 **2018, and for which a valid election under United States**
20 **Treasury Regulation 301.9100-22 is in effect;**

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

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

31 **(A) the date on which a proposed assessment must**
32 **otherwise be issued to the partner or the partnership under**
33 **this section with regard to the taxable year of the**
34 **partnership to which the modification is taxed at the**
35 **partnership level; or**

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

37 **(3) For purposes of this section and IC 6-8.1-9-1, a**
38 **modification under this subsection shall be considered a**
39 **modification to the federal taxable income, federal adjusted**
40 **gross income, or federal income tax liability of both the**
41 **partners and the partnership within the meaning of IC 6-3-4-6**
42 **and IC 6-5.5-6-6, and shall be considered to be included in the**



1 federal taxable income or federal adjusted gross income of
 2 both the partners and partnerships for purposes of this article
 3 and IC 6-5.5.

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

14 (A) This section.

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

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

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

18 SECTION 49. IC 6-8.1-7-1, AS AMENDED BY P.L.234-2019,
 19 SECTION 32, AND AS AMENDED BY P.L.285-2019, SECTION 2,
 20 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL
 21 OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND
 22 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:
 23 Sec. 1. (a) This subsection does not apply to the disclosure of
 24 information concerning a conviction on a tax evasion charge. Unless in
 25 accordance with a judicial order or as otherwise provided in this
 26 chapter, the department, its employees, former employees, counsel,
 27 agents, or any other person may not divulge the amount of tax paid by
 28 any taxpayer, terms of a settlement agreement executed between a
 29 taxpayer and the department, investigation records, investigation
 30 reports, or any other information disclosed by the reports filed under
 31 the provisions of the law relating to any of the listed taxes, including
 32 required information derived from a federal return, except to any of the
 33 following when it is agreed that the information is to be confidential
 34 and to be used solely for official purposes:

35 (1) Members and employees of the department.

36 (2) The governor.

37 (3) A member of the general assembly or an employee of the
 38 house of representatives or the senate when acting on behalf of a
 39 taxpayer located in the member's legislative district who has
 40 provided sufficient information to the member or employee for
 41 the department to determine that the member or employee is
 42 acting on behalf of the taxpayer.



- 1 (4) An employee of the legislative services agency to carry out the
 2 responsibilities of the legislative services agency under
 3 IC 2-5-1.1-7 or another law.
- 4 (5) The attorney general or any other legal representative of the
 5 state in any action in respect to the amount of tax due under the
 6 provisions of the law relating to any of the listed taxes.
- 7 (6) Any authorized officers of the United States.
- 8 (b) The information described in subsection (a) may be revealed
 9 upon the receipt of a certified request of any designated officer of the
 10 state tax department of any other state, district, territory, or possession
 11 of the United States when:
- 12 (1) the state, district, territory, or possession permits the exchange
 13 of like information with the taxing officials of the state; and
- 14 (2) it is agreed that the information is to be confidential and to be
 15 used solely for tax collection purposes.
- 16 (c) The information described in subsection (a) relating to a person
 17 on public welfare or a person who has made application for public
 18 welfare may be revealed to the director of the division of family
 19 resources, and to any director of a county office of the division of
 20 family resources located in Indiana, upon receipt of a written request
 21 from either director for the information. The information shall be
 22 treated as confidential by the directors. In addition, the information
 23 described in subsection (a) relating to a person who has been
 24 designated as an absent parent by the state Title IV-D agency shall be
 25 made available to the state Title IV-D agency upon request. The
 26 information shall be subject to the information safeguarding provisions
 27 of the state and federal Title IV-D programs.
- 28 (d) The name, address, Social Security number, and place of
 29 employment relating to any individual who is delinquent in paying
 30 educational loans owed to a postsecondary educational institution may
 31 be revealed to that institution if it provides proof to the department that
 32 the individual is delinquent in paying for educational loans. This
 33 information shall be provided free of charge to approved postsecondary
 34 educational institutions (as defined by IC 21-7-13-6(a)). The
 35 department shall establish fees that all other institutions must pay to the
 36 department to obtain information under this subsection. However, these
 37 fees may not exceed the department's administrative costs in providing
 38 the information to the institution.
- 39 (e) The information described in subsection (a) relating to reports
 40 submitted under IC 6-6-1.1-502 concerning the number of gallons of
 41 gasoline sold by a distributor and IC 6-6-2.5 concerning the number of
 42 gallons of special fuel sold by a supplier and the number of gallons of



1 special fuel exported by a licensed exporter or imported by a licensed
 2 transporter may be released by the commissioner upon receipt of a
 3 written request for the information.

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

7 (1) the state agency shows an official need for the information;
 8 and

9 (2) the administrative head of the state agency agrees that any
 10 information released will be kept confidential and will be used
 11 solely for official purposes.

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

17 (h) The name and address of retail merchants, including township,
 18 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
 19 released solely for tax collection purposes to township assessors and
 20 county assessors.

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

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

29 (k) All information relating to the delinquency or evasion of
 30 commercial vehicle excise taxes payable to the bureau of motor
 31 vehicles in Indiana may be disclosed to the bureau and may be
 32 disclosed to another state, if the information is disclosed for the
 33 purpose of the enforcement and collection of the taxes imposed by
 34 IC 6-6-5.5.

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

40 (m) All information relating to the delinquency or evasion of the
 41 excise taxes imposed on recreational vehicles and truck campers that
 42 are payable to the bureau of motor vehicles in Indiana may be disclosed



1 to the bureau and may be disclosed to another state if the information
 2 is disclosed for the purpose of the enforcement and collection of the
 3 taxes imposed by IC 6-6-5.1.

4 (n) This section does not apply to:

5 (1) the beer excise tax, including brand and packaged type
 6 (IC 7.1-4-2);

7 (2) the liquor excise tax (IC 7.1-4-3);

8 (3) the wine excise tax (IC 7.1-4-4);

9 (4) the hard cider excise tax (IC 7.1-4-4.5);

10 ~~(5) the malt excise tax (IC 7.1-4-5);~~

11 ~~(5)~~ (5) the vehicle excise tax (IC 6-6-5);

12 ~~(7)~~ (6) the commercial vehicle excise tax (IC 6-6-5.5); and

13 ~~(8)~~ (7) the fees under IC 13-23.

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

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

21 (q) The department may release information concerning total
 22 incremental tax amounts under:

23 (1) IC 5-28-26;

24 (2) IC 36-7-13;

25 (3) IC 36-7-26;

26 (4) IC 36-7-27;

27 (5) IC 36-7-31;

28 (6) IC 36-7-31.3; or

29 (7) any other statute providing for the calculation of incremental
 30 state taxes that will be distributed to or retained by a political
 31 subdivision or other entity;

32 to the fiscal officer of the political subdivision or other entity that
 33 established the district or area from which the incremental taxes were
 34 received if that fiscal officer enters into an agreement with the
 35 department specifying that the political subdivision or other entity will
 36 use the information solely for official purposes.

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

39 (1) an innkeeper's tax, a food and beverage tax, or an admissions
 40 tax under IC 6-9;

41 (2) the supplemental auto rental excise tax under IC 6-6-9.7; and

42 (3) the covered taxes allocated to a professional sports



- 1 development area fund, sports and convention facilities operating
 2 fund, or other fund under IC 36-7-31 and IC 36-7-31.3.
- 3 (s) Information concerning state gross retail tax exemption
 4 certificates that relate to a person who is exempt from the state gross
 5 retail tax under IC 6-2.5-4-5 may be disclosed to a power subsidiary (as
 6 defined in IC 6-2.5-4-5) or a person selling the services or commodities
 7 listed in IC 6-2.5-4-5(b) for the purpose of enforcing and collecting the
 8 state gross retail and use taxes under IC 6-2.5.
- 9 (t) *The department may release a statement of tax withholding or*
 10 *other tax information statement provided on behalf of a taxpayer to the*
 11 *department to:*
- 12 (1) *the taxpayer on whose behalf the tax withholding or other tax*
 13 *information statement was provided to the department;*
- 14 (2) *the taxpayer's spouse, if:*
- 15 (A) *the taxpayer is deceased or incapacitated; and*
 16 (B) *the taxpayer's spouse is filing a joint income tax return*
 17 *with the taxpayer; or*
- 18 (3) *an administrator, executor, trustee, or other fiduciary acting*
 19 *on behalf of the taxpayer if the taxpayer is deceased.*
- 20 **(u) Information related to a listed tax regarding a taxpayer may**
 21 **be disclosed to an individual without a power of attorney under**
 22 **IC 6-8.1-3-8(a)(2) if:**
- 23 (1) **the individual is authorized to file returns and remit**
 24 **payments for one (1) or more listed taxes on behalf of the**
 25 **taxpayer through the department's online tax system before**
 26 **September 8, 2020;**
- 27 (2) **the information relates to a listed tax described in**
 28 **subdivision (1) for which the individual is authorized to file**
 29 **returns and remit payments;**
- 30 (3) **the taxpayer has been notified by the department of the**
 31 **individual's ability to access the taxpayer's information for**
 32 **the listed taxes described in subdivision (1) and the taxpayer**
 33 **has not objected to the individual's access;**
- 34 (4) **the individual's authorization or right to access the**
 35 **taxpayer's information for a listed tax described in**
 36 **subdivision (1) has not been withdrawn by the taxpayer; and**
 37 (5) **disclosure of the information to the individual is not**
 38 **prohibited by federal law.**
- 39 **Except as otherwise provided by this article, this subsection does**
 40 **not authorize the disclosure of any correspondence from the**
 41 **department that is mailed or otherwise delivered to the taxpayer**
 42 **relating to the specified listed taxes for which the individual was**



1 given authorization by the taxpayer. The department shall
 2 establish a date, which may be earlier but not later than September
 3 1, 2023, after which a taxpayer's information concerning returns
 4 and remittances for a listed tax may not be disclosed to an
 5 individual without a power of attorney under IC 6-8.1-3-8(a)(2) by
 6 providing notice to the affected taxpayers and previously
 7 authorized individuals, including notification published on the
 8 department's Internet web site. After the earlier of the date
 9 established by the department or September 1, 2023, the
 10 department may not disclose a taxpayer's information concerning
 11 returns and remittances for a listed tax to an individual unless the
 12 individual has a power of attorney under IC 6-8.1-3-8(a)(2) or the
 13 disclosure is otherwise allowed under this article.

14 SECTION 50. IC 6-8.1-9-1, AS AMENDED BY P.L.86-2018,
 15 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 APRIL 1, 2020]: Sec. 1. (a) If a person has paid more tax than the
 17 person determines is legally due for a particular taxable period, the
 18 person may file a claim for a refund with the department. Except as
 19 provided in subsections (j), ~~and~~ (k), **and (l)**, in order to obtain the
 20 refund, the person must file the claim with the department within three
 21 (3) years after the later of the following:

22 (1) The due date of the return.

23 (2) The date of payment.

24 For purposes of this section, the due date for a return filed for the state
 25 gross retail or use tax, **the gasoline use tax**, the gasoline tax (**including**
 26 **the inventory tax**), the special fuel tax (**including the inventory tax**),
 27 the motor carrier fuel tax (**including the inventory tax**), the oil
 28 inspection fee, **the cigarette tax, the tobacco products tax, any**
 29 **county innkeeper's taxes imposed under IC 6-9, any food and**
 30 **beverage taxes imposed under IC 6-9, any county or local**
 31 **admissions taxes imposed under IC 6-9**, or the petroleum severance
 32 tax is the end of the calendar year which contains the taxable period for
 33 which the return is filed. The claim must set forth the amount of the
 34 refund to which the person is entitled and the reasons that the person
 35 is entitled to the refund.

36 (b) After considering the claim and all evidence relevant to the
 37 claim, the department shall issue a decision on the claim, stating the
 38 part, if any, of the refund allowed and containing a statement of the
 39 reasons for any part of the refund that is denied. The department shall
 40 mail a copy of the decision to the person that filed the claim. If the
 41 person disagrees with a part of the decision on the claim, the person
 42 may file a protest and request a hearing with the department. If the



1 department allows the full amount of the refund claim, a warrant for the
2 payment of the claim is sufficient notice of the decision.

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

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

- 14 (1) set the hearing at the department's earliest convenient time;
15 and
16 (2) notify the person by United States mail of the time, date, and
17 location of the hearing.

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

20 (f) After conducting a hearing on a protest, or after making a
21 decision on a protest when no hearing is requested, the department
22 shall issue a memorandum of decision or order denying a refund and
23 shall send a copy of the decision through the United States mail to the
24 person that filed the protest. If the department allows the full amount
25 of the refund claim, a warrant for the payment of the claim is sufficient
26 notice of the decision. The department may continue the hearing until
27 a later date if the taxpayer presents additional information at the
28 hearing or the taxpayer requests an opportunity to present additional
29 information after the hearing.

30 (g) A person that disagrees with any part of the department's
31 ~~decision~~ **determination** in a memorandum of decision or order denying
32 a refund may request a rehearing not more than thirty (30) days after
33 the date on which the memorandum of decision or order denying a
34 refund is issued by the department. The department shall consider the
35 request and may grant the rehearing if the department reasonably
36 believes that a rehearing would be in the best interests of the taxpayer
37 and the state. **If the department grants the rehearing, the**
38 **department shall issue a supplemental order denying a refund or**
39 **a supplemental memorandum of decision based on the rehearing,**
40 **whichever is applicable.**

41 (h) If the person disagrees with any part of the department's
42 ~~decision;~~ **determination,** the person may appeal the ~~decision;~~



1 **determination**, regardless of whether or not the person protested the
 2 tax payment or whether or not the person has accepted a refund. The
 3 person must file the appeal with the tax court. The tax court does not
 4 have jurisdiction to hear a refund appeal if:

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

7 (A) the memorandum of decision or order denying a refund is
 8 issued by the department, if the person does not make a timely
 9 request for a rehearing under subsection (g) on the ~~letter of~~
 10 **findings; or memorandum of decision or order denying a**
 11 **refund;**

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

15 **(C) the department issues a supplemental memorandum of**
 16 **decision or supplemental order denying a refund following**
 17 **a rehearing granted under subsection (g); or**

18 (2) the appeal is filed both before the decision is issued and
 19 before the one hundred eighty-first day after the date the person
 20 files the claim for a refund with the department.

21 The ninety (90) day period may be extended according to the terms of
 22 a written agreement signed by both the department and the person. The
 23 agreement must specify a date upon which the extension will terminate
 24 and include a statement that the person agrees to preserve the person's
 25 records until that specified termination date. The specified termination
 26 date agreed upon under this subsection may not be more than ninety
 27 (90) days after the expiration of the period otherwise specified by this
 28 subsection.

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

32 (j) If a taxpayer's federal taxable income, federal adjusted gross
 33 income, or federal income tax liability for a taxable year is modified by
 34 the Internal Revenue Service, and the modification would result in a
 35 reduction of the tax legally due, the due date by which the taxpayer
 36 must file a claim for refund with the department is the ~~later~~ **latest** of:

37 (1) the date determined under subsection (a); ~~or~~

38 (2) the date that is one hundred eighty (180) days after the date of
 39 the modification by the Internal Revenue Service as provided
 40 under:

41 (A) IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted gross
 42 income tax); or



- 1 (B) IC 6-5.5-6-6(c) and IC 6-5.5-6-6(d) (for the financial
2 institutions tax); or
3 **(3) in the case of a modification described in IC 6-8.1-5-2(j)(1)**
4 **through IC 6-8.1-5-2(j)(3), December 31, 2021.**
5 **(k) Notwithstanding any other provision of this section, if an**
6 **individual received a severance payment described in Section**
7 **3(a)(1)(A) of the Combat-Injured Veterans Tax Fairness Act of**
8 **2016 (P.L. 114-292) and upon which the United States Secretary of**
9 **Defense withheld tax under IC 6-3, IC 6-3.5-1.1 (before its repeal),**
10 **IC 6-3.5-6 (before its repeal), IC 6-3.5-7 (before its repeal), or**
11 **IC 6-3.6, the individual must file a claim for refund for taxes that**
12 **were overpaid and attributable to the severance payment not later**
13 **than December 31, 2020. Any refund under this subsection shall be**
14 **computed without regard to subsection (a)(2). The department may**
15 **establish procedures to provide standard refund amounts if a**
16 **standard refund amount is requested from the Internal Revenue**
17 **Service.**
18 ~~(k)~~ **(l)** If an agreement to extend the assessment time period is
19 entered into under IC 6-8.1-5-2(h), the period during which a person
20 may file a claim for a refund under subsection (a) is extended to the
21 same date to which the assessment time period is extended.
22 SECTION 51. IC 6-8.1-9-2, AS AMENDED BY P.L.242-2015,
23 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 APRIL 1, 2020]: Sec. 2. (a) If the department finds that a person has
25 paid more tax for a taxable year than is legally due, the department
26 shall apply the amount of the excess against any amount of that same
27 tax that is assessed and is currently due. The department may then
28 apply any remaining excess against any of the listed taxes that have
29 been assessed against the person and that are currently due. Subject to
30 subsection (c), if any excess remains after the department has applied
31 the overpayment against the person's tax liabilities, the department
32 shall either refund the amount to the person or, at the person's request,
33 credit the amount to the person's future tax liabilities.
34 (b) Subject to subsection (c), if a court determines that a person has
35 paid more tax for a taxable year than is legally due, the department
36 shall refund the excess amount to the person.
37 (c) As used in this subsection, "pass through entity" means a
38 corporation that is exempt from the adjusted gross income tax under
39 IC 6-3-2-2.8(2), a partnership, a limited liability company, or a limited
40 liability partnership and "pass through income" means a person's
41 distributive share of adjusted gross income for a taxable year
42 attributable to the person's interest in a pass through entity. This



1 subsection applies to a person's overpayment of adjusted gross income
2 tax for a taxable year if:

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

5 (2) the overpayment:

6 (A) is with respect to a taxable year beginning before January
7 1, 2009;

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

9 (i) a nonresident shareholder, partner, or member of a pass
10 through entity;

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

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

17 (3) the overpayment arises from a determination by the
18 department or a court that the person's pass through income is not
19 includible in the person's adjusted gross income derived from
20 sources within Indiana as a result of the application of
21 IC 6-3-2-2(a)(5) and IC 6-3-2-2.2(g).

22 The department shall apply the overpayment to the person's liability for
23 taxes that have been assessed and are currently due as provided in
24 subsection (a) and apply any remaining overpayment as a credit or
25 credits in satisfaction of the person's liability for listed taxes in taxable
26 years beginning after December 31, 2008. If the person, including any
27 successor to the person's interest in the overpayment, does not have
28 sufficient liability for listed taxes against which to credit all the
29 remaining overpayment in a taxable year beginning after December 31,
30 2008, and ending before January 1, 2019, the taxpayer is not entitled
31 for any taxable year ending after December 31, 2018, to have any part
32 of the remaining overpayment applied, refunded, or credited to the
33 person's liability for listed taxes. If an overpayment or part of an
34 overpayment is required to be applied as a credit under this subsection
35 to the person's liability for listed taxes for a taxable year beginning after
36 December 31, 2008, and has not been determined by the department or
37 a court to meet the conditions of subdivision (3) by the due date of the
38 person's return for a listed tax for a taxable year beginning after
39 December 31, 2008, the department shall refund to the person that part
40 of the overpayment that should have been applied as a credit for such
41 taxable year within ninety (90) days of the date that the department or
42 a court makes the determination that the overpayment meets the



1 conditions of subdivision (3). However, the department may establish
 2 a program to refund small overpayment amounts that do not exceed the
 3 threshold dollar value established by the department rather than
 4 crediting the amounts against tax liability accruing for a taxable year
 5 after December 31, 2008. A person that receives a refund or credit
 6 under this subsection shall file a report with the department in the form
 7 and in the schedule specified by the department that identifies under
 8 penalties of perjury the home state or other jurisdiction where the
 9 income subject to the refund or credit was reported as income
 10 attributable to that state or jurisdiction.

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

- 15 (1) the date the refund claim is filed, if the refund claim is filed
 16 before July 1, 2015; or
 17 (2) for a refund claim filed after June 30, 2015, the latest of:
 18 (A) the date the tax payment was due;
 19 (B) the date the tax was paid; or
 20 (C) July 1, 2015;

21 at the rate established under IC 6-8.1-10-1 until a date, determined by
 22 the department, that does not precede by more than thirty (30) days, the
 23 date on which the refund or credit is made. As used in this subsection,
 24 "refund claim" includes a return and an amended return that indicates
 25 an overpayment of tax. For purposes of this subsection only, the due
 26 date for the payment of the state gross retail or use tax, the oil
 27 inspection fee, and the petroleum severance tax is December 31 of the
 28 calendar year that contains the taxable period for which the payment is
 29 remitted. Notwithstanding any other provision, no interest is due for
 30 any time before the filing of a tax return for the period and tax type for
 31 which a taxpayer files a refund claim.

32 (e) A person who is liable for the payment of excise taxes under
 33 IC 7.1-4-3 or IC 7.1-4-4 is entitled to claim a credit against the person's
 34 excise tax liability in the amount of the excise taxes paid in duplicate
 35 by the person, or the person's assignors or predecessors, upon both:

- 36 (1) the receipt of the goods subject to the excise taxes, as reported
 37 by the person, or the person's assignors or predecessors, on excise
 38 tax returns filed with the department; and
 39 (2) the withdrawal of the same goods from a storage facility
 40 operated under 19 U.S.C. 1555(a).

41 (f) The amount of the credit under subsection (e) is equal to fifty
 42 percent (50%) of the amount of excise taxes:



- 1 (1) that were paid by the person as described in subsection (e)(2);
 2 (2) that are duplicative of excise taxes paid by the person as
 3 described in subsection (e)(1); and
 4 (3) for which the person has not previously claimed a credit.

5 The credit may be claimed by subtracting the amount of the credit from
 6 the amount of the person's excise taxes reported on the person's
 7 monthly excise tax returns filed under IC 7.1-4-6 with the department
 8 for taxes imposed under IC 7.1-4-3 or IC 7.1-4-4. The amount of the
 9 credit that may be taken monthly by the person on each monthly excise
 10 tax return may not exceed ten percent (10%) of the excise tax liability
 11 reported by the person on the monthly excise tax return. The credit may
 12 be claimed on not more than thirty-six (36) consecutive monthly excise
 13 tax returns beginning with the month in which credit is first claimed.

14 (g) The amount of the credit calculated under subsection (f) must be
 15 used for capital expenditures to:

- 16 (1) expand employment; or
 17 (2) assist in retaining employment within Indiana.

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

20 **(h) An excess tax payment under section 1(k) of this chapter that**
 21 **is not refunded or credited against a current or future tax liability**
 22 **within ninety (90) days after the date the refund claim is filed, the**
 23 **date the tax payment was due, or the date the tax was paid,**
 24 **whichever is latest, accrues interest from April 1, 2020. For**
 25 **purposes of this subsection, a refund claim filed prior to April 1,**
 26 **2020, shall be treated as filed on April 1, 2020.**

27 SECTION 52. IC 6-8.1-10-5, AS AMENDED BY P.L.293-2013(ts),
 28 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JANUARY 1, 2021]: Sec. 5. (a) If a person makes a tax payment with
 30 a check, credit card, debit card, or electronic funds transfer, and the
 31 department is unable to obtain payment on the check, credit card, debit
 32 card, or electronic funds transfer for its full face amount when the
 33 check, credit card, debit card, or electronic funds transfer is presented
 34 for payment through normal banking channels, a penalty of ten percent
 35 (10%) of the unpaid tax or the value of the check, credit card, debit
 36 card, or electronic funds transfer, whichever is smaller, is imposed.

37 (b) When a penalty is imposed under subsection (a), the department
 38 shall notify the person by mail that the check, credit card, debit card,
 39 or electronic funds transfer was not honored and that the person has ten
 40 (10) days after the date the notice is mailed to pay the tax and the
 41 penalty either in cash, by certified check, or other guaranteed payment.
 42 If the person fails to make the payment within the ten (10) day period;



1 the penalty is increased to thirty percent (30%) multiplied by the value
 2 of the check, credit card, debit card, or electronic funds transfer, or the
 3 unpaid tax, whichever is smaller.

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

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

11 (a) As used in this section, "payment instrument" means:

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

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

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

29 (c) If the department determines that the person made a
 30 payment described in subsection (b) fraudulently or otherwise
 31 knowing that the department would be unable to obtain payment
 32 on the payment instrument for the full amount of the attempted
 33 payment when the payment instrument is presented for payment
 34 through normal banking channels, the penalty is equal to one
 35 hundred percent (100%) of the amount on which the department
 36 was unable to obtain payment, but not less than thirty-five dollars
 37 (\$35). The following apply:

- 38 (1) A penalty assessment under this subsection shall be made
 39 not more than three (3) years after the department was
 40 unable to obtain payment.
- 41 (2) The penalty under this subsection shall not be made in
 42 addition to the penalty under subsection (b)(2). However,



- 1 nothing shall prohibit the department from issuing a penalty
2 under this subsection with regard to a payment after a
3 penalty under subsection (b)(2) was issued.
- 4 (3) If a penalty under this subsection is reduced to the amount
5 specified in subsection (b)(2), the department may issue a new
6 assessment for the penalty within thirty (30) days after the
7 final determination of the penalty reduction.
- 8 (d) If the department is unable to obtain payment on a payment
9 instrument, the amount on which the department was unable to
10 obtain payment shall not be considered to be a payment of that
11 amount.
- 12 (e) The following apply:
- 13 (1) Any penalty under subsection (b)(2) is due not less than
14 twenty (20) days after the department issues the assessment
15 under subsection (b)(2).
- 16 (2) If the person fails to pay the penalty provided under this
17 section in full within the time specified by the department, the
18 department may file a tax warrant for the unpaid portion of
19 the penalty in the manner provided under IC 6-8.1-8-2.
- 20 (3) For purposes of this article, a penalty under subsection
21 (b)(2) shall not be considered to be a proposed assessment
22 under IC 6-8.1-5-1.
- 23 (f) If a person receives a penalty under subsection (c), the
24 penalty shall be treated as a proposed assessment as provided in
25 IC 6-8.1-5-1. However, if the person pays the penalty under
26 subsection (c) and files a claim for refund of the penalty,
27 notwithstanding IC 6-8.1-9-1, the payment of the penalty shall not
28 be refunded unless the person protested the penalty pursuant to
29 IC 6-8.1-5-1 in a timely manner.
- 30 (g) The following apply:
- 31 (1) If the penalty under subsection (b)(2) relates to an
32 attempted payment of a liability for which the department has
33 filed a tax warrant under IC 6-8.1-8-2 or for which the
34 department files a tax warrant under IC 6-8.1-8-2 prior to the
35 expiration of the period specified in subsection (e), the tax
36 warrant may include the amount of the penalty provided in
37 this section prior to the expiration of the period specified in
38 subsection (e).
- 39 (2) If a penalty under this section is included as part of a
40 proposed assessment under IC 6-8.1-5-1, the filing of a tax
41 warrant for the penalty under this section shall be timely if
42 the tax warrant for the penalty:



- 1 (A) was filed on or before the day as a timely filed tax
 2 warrant for the proposed assessment;
 3 (B) was filed as part of the tax warrant for the proposed
 4 assessment; or
 5 (C) was otherwise filed within the period allowable under
 6 IC 6-8.1-8-2.
- 7 (h) The following apply:
- 8 (1) The department may waive the penalty under this section
 9 if the person establishes that the person acted with reasonable
 10 cause in the attempted payment.
- 11 (2) If the department determines that the penalty under
 12 subsection (b)(2) shall not be waived, including a reduction of
 13 a penalty under subsection (c) to the amount specified in
 14 subsection (b)(2), the determination is not subject to
 15 administrative or judicial review.
- 16 (3) If the department determines that the penalty under this
 17 section should be waived, but the liability for the penalty has
 18 advanced to a tax warrant:
- 19 (A) the amount due under the tax warrant shall be reduced
 20 by the amount of any penalty under this section included
 21 in the tax warrant but not paid; or
 22 (B) if the person has paid the penalty under this section,
 23 the department shall refund the penalty under this section
 24 paid by the person.
- 25 (4) Nothing shall prohibit judicial review of a penalty under
 26 this section if the penalty was imposed on a payment
 27 instrument upon which the department was able to collect the
 28 full amount of the payment instrument upon presentation of
 29 the payment through the normal banking channels.
- 30 (i) If a person has been subject to a penalty under this section
 31 more than one (1) time during a twenty-four (24) month period, or
 32 has been subject to a penalty under subsection (c) that has not been
 33 reduced or waived, the department may require the person to
 34 remit all future payments for all listed taxes with guaranteed
 35 funds.
- 36 SECTION 53. IC 6-8.1-11-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) The department
 38 shall appoint an employee to serve as a taxpayer rights advocate ~~who~~
 39 **whose office shall act as an intermediary between taxpayers and**
 40 **the department to facilitate the resolution of taxpayer complaints and**
 41 **problems including unsatisfactory treatment of taxpayers by**
 42 **department employees: not resolved through the normal**



1 administrative channels or operational procedures within the
2 department.

3 (b) The taxpayer rights advocate office shall perform the
4 following duties:

5 (1) Receive and evaluate complaints and make appropriate
6 recommendations to the commissioner.

7 (2) Identify statutes and regulations as well as policies and
8 practices of the department that might inhibit the equitable
9 treatment of taxpayers, and recommend alternatives to the
10 commissioner.

11 (3) Provide expeditious service to taxpayers whose problems
12 are not resolved through normal channels, including but not
13 limited to:

14 (A) assisting taxpayers with matters that have been
15 pending for an unreasonable length of time;

16 (B) assisting with matters where the taxpayer has been
17 unable to communicate with the department; and

18 (C) working with department personnel to resolve the most
19 complex and sensitive taxpayer problems.

20 SECTION 54. IC 6-8.1-16.3-5 IS REPEALED [EFFECTIVE JULY
21 1, 2020]. Sec. 5: (a) As used in this section, "fund" means the
22 department of state revenue pilot program fund established by
23 subsection (b):

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

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

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

29 (1) Appropriations made by the general assembly:

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

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

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

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

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

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

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

42 SECTION 55. IC 6-8.1-16.3-5.5 IS ADDED TO THE INDIANA



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

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

14 SECTION 56. IC 8-2.1-23-4 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. Money in the motor
 16 carrier regulation fund does not revert to the state general fund.
 17 However, if the amount of money in the fund at the end of a fiscal year
 18 exceeds five hundred thousand dollars (\$500,000), the treasurer of state
 19 shall transfer the excess from the fund to the motor vehicle highway
 20 account established in ~~IC 8-14-1~~.

21 SECTION 57. IC 36-7-14-0.5, AS AMENDED BY P.L.235-2019,
 22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2020]: Sec. 0.5. (a) The definitions in this section apply
 24 throughout this chapter.

25 (b) "Obligation" means any bond, note, warrant, lease, or other
 26 instrument under which money is borrowed.

27 (c) "Public funds" means all fees, payments, tax receipts, and funds
 28 of whatever kind or character coming into the possession of a:

- 29 (1) redevelopment commission; or
- 30 (2) department of redevelopment.

31 (d) "Residential housing" means housing or workforce housing that
 32 consists of single family dwelling units sufficient to secure quality
 33 housing in reasonable proximity to employment. **The term includes**
 34 **condominiums and townhouses located within an economic**
 35 **development target area that is designated under IC 6-1.1-12.1-7.**

36 (e) "Residential housing development program" means a residential
 37 housing development program for the:

- 38 (1) construction of new residential housing; or
- 39 (2) renovation of existing residential housing;

40 established by a commission under section 53 of this chapter.

41 (f) "Workforce housing" means housing that is affordable for
 42 households with earned income that is sufficient to secure quality



1 housing in reasonable proximity to employment.

2 SECTION 58. IC 36-7-14-53, AS ADDED BY P.L.235-2019,
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2020]: Sec. 53. (a) Subject to subsection (g), a commission
5 may establish a residential housing development program by resolution
6 for the construction of new residential housing or the renovation of
7 existing residential housing if:

8 (1) for a commission established by a county, the average of new,
9 single family residential houses constructed in the unincorporated
10 area of the county during the preceding three (3) calendar years
11 is less than one percent (1%) of the total number of single family
12 residential houses within the unincorporated area of the county on
13 January 1 of the year in which the resolution is adopted; or

14 (2) for a commission established by a municipality, the average
15 of new, single family residential houses constructed within the
16 municipal boundaries during the preceding three (3) calendar
17 years is less than one percent (1%) of the total number of single
18 family residential houses within the boundaries of the
19 municipality on January 1 of the year in which the resolution is
20 adopted.

21 **However, the calculations described in subdivisions (1) and (2) and**
22 **the provisions of subsection (f) do not apply for purposes of**
23 **establishing a residential housing development program within an**
24 **economic development target area designated under**
25 **IC 6-1.1-12.1-7.**

26 (b) The program, which may include any relevant elements the
27 commission considers appropriate, may be adopted as part of a
28 redevelopment plan or amendment to a redevelopment plan, and must
29 establish an allocation area for purposes of sections 39 and 56 of this
30 chapter for the accomplishment of the program. The program must be
31 approved by the municipal legislative body or county executive as
32 specified in section 17 of this chapter.

33 (c) The notice and hearing provisions of sections 17 and 17.5 of this
34 chapter, including notice under section 17(c) of this chapter to a taxing
35 unit that is wholly or partly located within an allocation area, apply to
36 the resolution adopted under subsection (b). Judicial review of the
37 resolution may be made under section 18 of this chapter.

38 (d) Before formal submission of any residential housing
39 development program to the commission, the department of
40 redevelopment shall:

41 (1) consult with persons interested in or affected by the proposed
42 program;



- 1 (2) provide the affected neighborhood associations, residents, and
- 2 township assessors with an adequate opportunity to participate in
- 3 an advisory role in planning, implementing, and evaluating the
- 4 proposed program; and
- 5 (3) hold public meetings in the affected neighborhood to obtain
- 6 the views of neighborhood associations and residents.
- 7 (e) A residential housing development program established under
- 8 this section must terminate not later than twenty (20) years after the
- 9 date the program is established under subsection (b).
- 10 (f) The department of local government finance, in cooperation with
- 11 either the appropriate county agency or the appropriate municipal
- 12 agency, or both, shall determine whether a county or municipality
- 13 meets the requirements under subsection (a). A county or municipality
- 14 may request from the department of local government finance a report,
- 15 if it exists, describing the effect of current assessed value allocated to
- 16 tax increment financing allocation areas on the amount of the tax levy
- 17 or proceeds and the credit for excessive property taxes under
- 18 IC 6-1.1-20.6 for the taxing units within the boundaries of the
- 19 residential housing development program.
- 20 (g) A program established under subsection (a) may not take effect
- 21 until the governing body of each school corporation affected by the
- 22 program passes a resolution approving the program.
- 23 SECTION 59. IC 36-7-32-8, AS AMENDED BY P.L.158-2019,
- 24 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 JULY 1, 2020]: Sec. 8. As used in this chapter, "income tax base period
- 26 amount" means the following:
- 27 ~~(1)~~ Except as provided in subdivision ~~(2)~~, the aggregate amount
- 28 of the following taxes paid by employees employed in the territory
- 29 comprising a certified technology park with respect to wages and
- 30 salary earned for work in the certified technology park for the
- 31 state fiscal year that precedes the date on which the certified
- 32 technology park was designated under section 11 of this chapter:
- 33 ~~(A)~~ (1) The adjusted gross income tax.
- 34 ~~(B)~~ (2) The local income tax (IC 6-3.6).
- 35 (2) In the case of a certified technology park for which the amount
- 36 limit under section ~~22(c)~~ or ~~22(d)~~ of this chapter has been
- 37 exceeded, the aggregate amount of adjusted gross income taxes
- 38 and local income taxes (IC 6-3.6) paid by employees employed in
- 39 the territory comprising a certified technology park with respect
- 40 to wages and salary earned for work in the certified technology
- 41 park for:
- 42 (A) the state fiscal year in which the total deposits in the



1 incremental tax financing fund for the certified technology
 2 park first exceeded the amount limit under section 22(c) or
 3 22(d) of this chapter; or
 4 (B) the state fiscal year beginning July 1, 2019; and ending
 5 June 30, 2020; in the case of a certified technology park for
 6 which the amount limit under section 22(c) or 22(d) of this
 7 chapter was exceeded before July 1, 2020.

8 SECTION 60. IC 36-7-32-8.5, AS AMENDED BY P.L.158-2019,
 9 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 8.5. As used in this chapter, "income tax
 11 incremental amount" means the following:

12 (1) Except as provided in subdivision (2), the remainder of:

13 (A) the total amount of state adjusted gross income taxes and
 14 local income taxes paid by employees employed in the
 15 territory comprising the certified technology park with respect
 16 to wages and salary earned for work in the territory comprising
 17 the certified technology park for a particular state fiscal year;
 18 minus

19 (B) the sum of the:

- 20 (i) income tax base period amount as defined in section ~~8(1)~~
 21 **8** of this chapter; and
 22 (ii) tax credits awarded by the Indiana economic
 23 development corporation under IC 6-3.1-13 to businesses
 24 operating in a certified technology park as the result of
 25 wages earned for work in the certified technology park for
 26 the state fiscal year;

27 as determined by the department of state revenue.

28 (2) In the case of a certified technology park for which the amount
 29 limit under section 22(c) or 22(d) of this chapter has been
 30 exceeded, the remainder of:

31 (A) the total amount of state adjusted gross income taxes and
 32 local income taxes paid by employees employed in the
 33 territory comprising the certified technology park with respect
 34 to wages and salary earned for work in the territory comprising
 35 the certified technology park for a particular state fiscal year;
 36 minus

37 (B) the sum of the:

- 38 (i) income tax base period amount as defined in section ~~8(2)~~
 39 **8** of this chapter; and
 40 (ii) tax credits awarded by the Indiana economic
 41 development corporation under IC 6-3.1-13 to businesses
 42 operating in a certified technology park as the result of



- 1 wages earned for work in the certified technology park for
2 the state fiscal year;
3 as determined by the department of state revenue.
- 4 SECTION 61. [EFFECTIVE JANUARY 1, 2021] (a) **IC 6-8.1-10-5,**
5 **as amended by this act, shall be effective for attempted payments**
6 **made after December 31, 2020.**
7 **(b) This SECTION expires January 1, 2024.**
- 8 SECTION 62. [EFFECTIVE APRIL 1, 2020] (a) **IC 6-8.1-9-1(k),**
9 **as added by this act, shall apply to extend the statute of limitations**
10 **for refund claims described in IC 6-8.1-9-1(k):**
11 **(1) that have expired before April 1, 2020, under**
12 **IC 6-8.1-9-1(a); or**
13 **(2) that would otherwise expire after March 31, 2020, under**
14 **IC 6-8.1-9-1(a);**
15 **to December 31, 2020.**
16 **(b) This SECTION expires July 1, 2021.**
- 17 SECTION 63. [EFFECTIVE JULY 1, 2009 (RETROACTIVE)]
18 **IC 6-8.1-5-2(g), as amended by this act, is intended to be a**
19 **clarification of the law and not a substantive change in the law and**
20 **as such shall be applied for purposes of erroneous refunds issued**
21 **after June 30, 2009.**
22 SECTION 64. **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:

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- (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.

SENATE MOTION

Madam President: I move that Senate Bill 408 be amended to read as follows:

Page 47, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 29. IC 6-3-3-12, AS AMENDED BY P.L.214-2018(ss), SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]: Sec. 12. (a) As used in this section, "account" has the meaning set forth in IC 21-9-2-2.

(b) As used in this section, "account beneficiary" has the meaning set forth in IC 21-9-2-3.

(c) As used in this section, "account owner" has the meaning set forth in IC 21-9-2-4.

(d) As used in this section, "college choice 529 education savings plan" refers to a college choice 529 plan established under IC 21-9.

(e) As used in this section, "contribution" means the amount of money directly provided to a college choice 529 education savings plan account by a taxpayer. A contribution does not include any of the following:

- (1) Money credited to an account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the account.

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(2) Money transferred from any other qualified tuition program under Section 529 of the Internal Revenue Code or from any other similar plan.

(3) Money that is credited to an account and that will be transferred to an ABLE account (as defined in Section 529A of the Internal Revenue Code).

(f) As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is not a qualified withdrawal.

(g) As used in this section, "qualified higher education expenses" has the meaning set forth in IC 21-9-2-19.5.

(h) As used in this section, "qualified K-12 education expenses" means expenses that are for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school located in Indiana and are permitted under Section 529 of the Internal Revenue Code.

(i) As used in this section, "qualified withdrawal" means a WITHDRAWAL or distribution from a college choice 529 education savings plan that is made:

(1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher education expenses, if the withdrawals or distributions are made from an account of a college choice 529 education savings plan that is terminated within twelve (12) months after the account is opened;

(2) as a result of the death or disability of an account beneficiary;

(3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or distribution does not exceed the amount of the scholarship; or

(4) by a college choice 529 education savings plan as the result of a transfer of funds by a college choice 529 education savings plan from one (1) third party custodian to another.

However, a qualified withdrawal does not include a withdrawal or distribution that will be used for expenses that are for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school unless the school is located in Indiana. A qualified withdrawal does not include a rollover distribution or transfer of assets from a college choice 529 education savings plan to any other qualified tuition program under Section 529 of the Internal Revenue Code or to any other similar plan.

(j) As used in this section, "taxpayer" means:



- (1) an individual filing a single return; **or**
- (2) a married couple filing a joint return; **or**
- (3) for taxable years beginning after December 31, 2019, a married individual filing a separate return.**

(k) A taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

- (1) The following amount:

(A) For taxable years beginning before January 1, 2019, the sum of twenty percent (20%) multiplied by the amount of the total contributions that are made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year and that will be used to pay for qualified higher education expenses that are not qualified K-12 education expenses, plus the lesser of:

- (i) five hundred dollars (\$500); or
- (ii) ten percent (10%) multiplied by the amount of the total contributions that are made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year and that will be used to pay for qualified K-12 education expenses.

(B) For taxable years beginning after December 31, 2018, the sum of:

- (i) twenty percent (20%) multiplied by the amount of the total contributions that are made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year and that are designated to pay for qualified higher education expenses that are not qualified K-12 education expenses; plus
- (ii) twenty percent (20%) multiplied by the amount of the total contributions that are made by the taxpayer to an account or accounts of a college choice 529 education savings plan during the taxable year and that are designated to pay for qualified K-12 education expenses.

- (2) One thousand dollars (\$1,000), **or five hundred dollars (\$500) in the case of a married individual filing a separate return.**

(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

- (l) This subsection applies after December 31, 2018. At the time a



contribution is made to or a withdrawal is made from an account or accounts of a college choice 529 education savings plan, the person making the contribution or withdrawal shall designate whether the contribution is made for or the withdrawal will be used for:

- (1) qualified higher education expenses that are not qualified K-12 education expenses; or
- (2) qualified K-12 education expenses.

The Indiana education savings authority (IC 21-9-3) shall use subaccounting to track the designations.

(m) A taxpayer who makes a contribution to a college choice 529 education savings plan is considered to have made the contribution on the date that:

- (1) the taxpayer's contribution is postmarked or accepted by a delivery service, for contributions that are submitted to a college choice 529 education savings plan by mail or delivery service; or
- (2) the taxpayer's electronic funds transfer is initiated, for contributions that are submitted to a college choice 529 education savings plan by electronic funds transfer.

(n) A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

(o) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(p) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

(q) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

- (1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or
- (2) the excess of:
 - (A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over
 - (B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

(r) Any required repayment under subsection (q) shall be reported



by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(s) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

(t) The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

- (1) nonqualified withdrawals made from accounts, including subaccounts of a college choice 529 education savings plan for the taxable year; or
- (2) account closings for the taxable year."

Renumber all SECTIONS consecutively.

(Reference is to SB 408 as printed January 31, 2020.)

FORD J.D.

SENATE MOTION

Madam President: I move that Senate Bill 408 be amended to read as follows:

Page 3, delete lines 36 through 42.

Delete page 4.

Page 5, delete lines 1 through 35.

Page 57, line 42, delete "2021," and insert "**2022**,".

Page 77, between lines 41 and 42, begin a new paragraph and insert: "SECTION 53. IC 36-8-16.6-10, AS ADDED BY P.L.113-2010, SECTION 151, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. As used in this chapter, "seller" means a person that **directly** sells prepaid wireless telecommunications service to another person **and a marketplace facilitator as defined in IC 6-2.5-1-21.9**."

Renumber all SECTIONS consecutively.

(Reference is to SB 408 as printed January 31, 2020.)

HOLDMAN



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 408, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 15.

Delete page 2.

Page 3, delete lines 1 through 14.

Page 3, between lines 35 and 36, begin a new paragraph and insert: "SECTION 3. IC 6-1.1-20.3-17, AS ADDED BY P.L.257-2019, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 17. **(a)** If the distressed unit appeal board delays or suspends, for a period determined by the board, any payments on loans or advances from the common school fund under section 6.8 of this chapter, the distressed unit appeal board may recommend to the state board of finance that the term of the loans or advances be extended. If the distressed unit appeal board makes a recommendation to extend the term of the loan or advances, the state board of finance may extend the term of the loans or advances for a period of time that is equal to or less than the number of months for which the payments are delayed or suspended.

(b) If payments on loans or advances from the common school fund are suspended under section 6.8 of this chapter, the distressed unit appeal board shall require that the school corporation:

- (1) establish a school improvement fund; and**
- (2) transfer to the school improvement fund an amount equal to the payments that are delayed or suspended.**

(c) A school improvement fund established under subsection (b)(1) may be used only for the following purposes:

- (1) Repair, renovation, or other improvements to school buildings and property being used for education purposes as of July 1, 2020.**
- (2) Demolition of school buildings or other structures on school property in existence as of July 1, 2020.**

(d) No more than twenty percent (20%) of the funds transferred to the school improvement fund under subsection (b)(2) may be used for the purpose of demolition under subsection (c)(2).

(e) All expenditures from a school improvement fund established under subsection (b)(1) must be approved by the distressed unit appeal board.

(f) A school corporation may, on an annual basis, levy a tax in the debt service fund equal to the amount that would have been



deducted from the distribution of state tuition support for the payment of loans made under section 6.8 of this chapter during calendar year 2020 if the loans had not been suspended. The amount received from a tax under this subsection must be transferred from the debt service fund to the education fund.

(g) With the approval of the distressed unit appeal board, a school corporation may spend other funds of the school corporation for the purposes described in subsection (c) and reimburse the expenditures from a school improvement fund established under subsection (b)(1).

(h) This section expires January 1, 2025."

Page 16, line 28, strike "March 15" and insert "January 15".

Page 16, line 31, strike "and".

Page 16, line 33, delete "." and insert "described in subdivision (1);

(3) the name of each retail merchant that:

(A) held a registered retail merchant's certificate at any time during the preceding year for a place of business located in the township or county; and

(B) had ceased to hold the registered retail merchant's certificate at the end of the preceding year for the place of business; and

(4) the address of each place of business described in subdivision (3)."

Page 21, line 16, delete "dollar" and insert "income".

Page 21, line 16, delete "shall be reduced by fifty" and insert "is equal to twenty thousand dollars (\$20,000)".

Page 21, delete line 17.

Page 24, delete lines 26 through 28.

Page 24, line 29, reset in roman "(26)".

Page 24, line 29, delete "(27)".

Page 26, run in lines 9 through 10.

Page 27, delete line 42.

Page 28, delete lines 1 through 2.

Page 28, line 3, reset in roman "(17)".

Page 28, line 3, delete "(18)".

Page 37, delete lines 7 through 9.

Page 37, line 10, reset in roman "(13)".

Page 37, line 10, delete "(14)".

Page 37, line 14, reset in roman "(a)(26)".

Page 37, line 14, delete "(a)(27)".

Page 37, line 14, reset in roman "(b)(17)".

Page 37, line 14, delete "(b)(18)".



Page 37, line 15, reset in roman "(f)(13)".

Page 37, line 15, delete "(f)(14)".

Page 37, between lines 36 and 37, begin a new paragraph and insert:
 "SECTION 23. IC 6-3-1-11, AS AMENDED BY P.L.234-2019, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2019~~ **2020**.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2019~~ **2020**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2019~~ **2020**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2019~~ **2020**, other than the federal 21st Century Cures Act (P.L. 114-255) and the federal Disaster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63), that is effective for any taxable year that began before January 1, ~~2019~~ **2020**, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

(d) This subsection applies to a taxable year ending before January 1, 2013. The following provisions of the Internal Revenue Code that were amended by the Tax Relief Act, Unemployment Insurance



Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are treated as though they were not amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312):

- (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to an adjustment of basis of the stock of shareholders.
- (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal Revenue Code pertaining to the treatment of certain dividends of regulated investment companies.
- (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code pertaining to regulated investment companies qualified entity treatment.
- (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code pertaining to the modification of tax treatment of certain payments to controlling exempt organizations.
- (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code pertaining to the limitations on percentage depletion in the case of oil and gas wells.
- (6) Section 451(i)(3) of the Internal Revenue Code pertaining to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy for qualified electric utilities.
- (7) Section 954(c)(6) of the Internal Revenue Code pertaining to the look-through treatment of payments between related controlled foreign corporation under foreign personal holding company rules.

The department shall develop forms and adopt any necessary rules under IC 4-22-2 to implement this subsection."

Page 37, delete lines 37 through 42.

Delete pages 38 through 42.

Page 43, delete lines 1 through 41.

Page 45, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 1. IC 6-3-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a) Subject to subsection (b),** the amount deducted and withheld as tax under ~~IC 6-3-4-8, IC 6-3-4-12, and IC 6-3-4-13~~ **IC 6-3-4 or IC 6-5.5-2-8** during any taxable year shall be allowed as a credit to the taxpayer against the tax imposed on ~~him~~ **the taxpayer** by IC 6-3-2.

(b) For each taxable year, the credit provided to a taxpayer by subsection (a) is reduced to the extent that the amount deducted and withheld as tax under IC 6-3-4 or IC 6-5.5-2-8 during the taxable year is applied as a credit against the tax imposed by



IC 6-5.5."

Page 49, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 1. IC 6-3-4-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020 (RETROACTIVE)]: **Sec. 13.5. (a) The following definitions apply throughout this section:**

(1) **"Initial recipient" means a person or entity to whom prize money is paid by a payor.**

(2) **"Payor" means a promoter, sanctioning body, or designee of the promoter or sanctioning body that first pays prize money to a race team or any other person or entity. The term does not include a subsequent person or entity who pays or distributes any part of the prize money.**

(3) **"Prize money" with respect to a racing event at a qualified motorsports facility means any purse or other amounts earned for placement or participation in a race or part of a race, including qualification. The term does not include amounts earned based on placement or participation in more than one (1) race unless the races are conducted at a qualified motorsports facility.**

(4) **"Qualified motorsports facility" has the meaning set forth in IC 5-1-17.5-14.**

(5) **"Race team" has the meaning set forth in IC 6-3-2-3.2(a).**

(6) **"Ultimate recipient" means the person or entity to whom any tax withheld under this section is to be credited for purposes of this article or IC 6-5.5. The term may apply to an initial recipient.**

(b) Whenever a payor pays prize money to an initial recipient, the payor shall deduct and retain from the prize money the applicable amount prescribed in the withholding instructions described in section 8 of this chapter. The following provisions apply to a payor and the money required to be deducted and retained by the payor under this section:

(1) **Money deducted and retained by a payor under this section immediately becomes the money of the state and every payor who deducts and retains money under this section holds the money in trust for the state.**

(2) **The provisions of IC 6-8.1 relating to additions to tax in case of delinquency and penalties apply to a payor under this section. For these purposes, the payor shall be considered the taxpayer and any amount required to be remitted to the department under this section shall be considered to be the**



tax of the payor.

(3) The payor is liable to the state for the payment of the tax required to be deducted and retained under this section. The payor is not liable to any initial recipient or ultimate recipient for the amount deducted from the payment of prize money and paid to the department in compliance, or intended compliance, with this section.

(c) A payor shall remit to the department the amount required to be deducted and retained under subsection (b) not later than thirty (30) days after the end of the month in which the prize money is paid. At the time of the remittance, the payor shall provide to the department a list of all initial recipients and the amount withheld on behalf of each initial recipient on forms prescribed by the department.

(d) Not later than thirty (30) days after the end of the calendar year for which tax is withheld under this section, an initial recipient shall provide a statement to each ultimate recipient and to the department listing the amounts withheld under subsection (b) on behalf of the ultimate recipients. The statement must be made in the manner prescribed by the department. A statement from the initial recipient to the ultimate recipient is evidence of tax withheld by the payor in favor of the ultimate recipient unless the statement from the initial recipient is determined to be erroneous or fraudulent.

(e) This section does not impose a duty to withhold amounts from prize money on an entity other than a payor. However, an initial recipient or ultimate recipient may otherwise have a duty to withhold amounts from prize money under sections 8, 12, 13, or 15 of this chapter."

Page 49, line 23, strike "reports" and insert "schedules K-1 of form IT-41".

Page 49, line 23, strike "under".

Page 49, line 24, strike "section 15(b) of this chapter".

Page 49, delete lines 33 through 42.

Delete page 50.

Page 51, delete lines 1 through 8.

Page 53, between lines 26 and 27, begin a new paragraph and insert:
 "SECTION 34. IC 6-3.1-34-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 3.5. As used in this chapter, "mine reclamation site" means:**

(1) land that has been mined using surface mining methods or



underground mining methods, specifically and primarily for the removal of coal; and

(2) land that is contiguous to land described in subdivision (1).

SECTION 35. IC 6-3.1-34-6, AS ADDED BY P.L.158-2019, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. As used in this chapter, "qualified redevelopment site" means:

(1) land on which a vacant building or complex of buildings was placed in service at least fifteen (15) years before the date on which the application is filed with the corporation under this chapter;

(2) land on which a vacant building or complex of buildings:

(A) was placed in service at least fifteen (15) years before the date on which the demolition of the vacant building or complex of buildings was completed; and

(B) that was demolished in an effort to protect the health, safety, and welfare of the community;

(3) land on which a vacant building or complex of buildings:

(A) was placed in service at least fifteen (15) years before the date on which the demolition of the vacant building or complex of buildings was completed;

(B) was placed in service as a public building;

(C) was owned by a unit of local government; and

(D) has not been redeveloped since the building was taken out of service as a public building;

(4) vacant land; ~~or~~

(5) mine reclamation site; or

~~(5)~~ **(6) brownfields consisting of more than fifty (50) acres.**

For a complex of buildings to be considered a qualified redevelopment site under subdivision (1), (2) or (3), the buildings must have been located on a single parcel or contiguous parcels of land that were under common ownership at the time the site was placed in service.

SECTION 36. IC 6-3.1-34-10, AS ADDED BY P.L.158-2019, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. As used in this chapter, "taxpayer" means any person, corporation, limited liability company, partnership, or other entity that has any state tax liability. The term includes the owner or the developer of the qualified development site property, a pass through entity, and a ~~person~~ **an assignee** that is assigned part or all of a credit under section 14 of this chapter.

SECTION 37. IC 6-3.1-34-14, AS ADDED BY P.L.158-2019, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2020]: Sec. 14.(a) If a taxpayer is awarded a credit under this chapter before July 1, 2029, the taxpayer may assign any part of the credit that the taxpayer may claim under this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(b) If a taxpayer assigns a part of a credit during a taxable year, the assignee may not subsequently assign all or part of the credit to another ~~person~~. **taxpayer**. A taxpayer may make only one (1) assignment of a credit. Before a credit may be assigned, the taxpayer must notify the corporation of the assignment of the credit in the manner prescribed by the corporation. An assignment of a credit must be in writing, and both the taxpayer and assignee shall report the assignment on the taxpayer's and assignee's state tax returns for the year in which the assignment is made, in the manner prescribed by the department. A taxpayer may not receive value in connection with an assignment under this section that exceeds the value of that part of the credit assigned.

(c) The corporation shall collect and compile data on the assignments of tax credits under this chapter and determine the effectiveness of each assignment in getting projects completed. The corporation shall report its findings under this subsection to the legislative council in an electronic format under IC 5-14-6 before November 1, 2022."

Page 53, line 40, delete "IS REPEALED" and insert ", AS AMENDED BY P.L.234-2019, SECTION 18, IS AMENDED TO READ AS FOLLOWS".

Page 53, line 41, after "2020]" delete "." and insert ":",

Page 56, delete lines 23 through 42.

Page 57, delete lines 1 through 16.

Page 57, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 40. IC 6-8.1-3-7.1, AS AMENDED BY P.L.108-2019, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7.1. (a) **As used in this section, "fiscal officer" has the meaning set forth means:**

- (1) a fiscal officer (as defined in IC 36-1-2-7); and**
- (2) in the case of a county, the county treasurer.**

(b) The department shall enter into an agreement with the fiscal officer of an entity that has adopted an innkeeper's tax, a food and beverage tax, or an admissions tax under IC 6-9 to furnish the fiscal officer annually with:

- (1) the name of each business collecting the taxes listed in this subsection; and
- (2) the amount of money collected from each business.

For an innkeeper's tax or food and beverage tax remitted through a



marketplace facilitator, the information must include the name of each business and the amount of money collected from each business by a marketplace facilitator acting on behalf of the business.

(c) The agreement must provide that the department must provide the information in an electronic format that the fiscal officer can use. ~~as well as a paper copy.~~

(d) The agreement must include a provision that, unless in accordance with a judicial order, the fiscal officer, employees of the fiscal officer, former employees of the fiscal officer, counsel of the fiscal officer, agents of the fiscal officer, or any other person may not divulge the names of the businesses, the amount of taxes paid by the businesses, or any other information disclosed to the fiscal officer by the department.

(e) The department shall also enter into an agreement with the fiscal officer of a capital improvement board of managers:

- (1) created under IC 36-10-8 or IC 36-10-9; and
- (2) that is responsible for expenditure of funds from:
 - (A) an innkeeper's tax, a food and beverage tax, or an admissions tax under IC 6-9;
 - (B) the supplemental auto rental excise tax under IC 6-6-9.7;
 - or
 - (C) the state gross retail taxes allocated to a professional sports development area fund, a sports and convention facilities operating fund, or other fund under IC 36-7-31 or IC 36-7-31.3;

to furnish the fiscal officer annually with the name of each business collecting the taxes listed in this subsection, and the amount of money collected from each business. An agreement with a fiscal officer under this subsection must include a nondisclosure provision the same as is required for a fiscal officer under subsection (d).

SECTION 41. IC 6-8.1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. **(a)** The department may prescribe qualifications a person must have to represent a taxpayer before the department. However, a person may not represent a taxpayer before the department, unless:

- (1) the taxpayer is present at all times when the representation occurs; or
- (2) the person representing the taxpayer has a properly executed power of attorney authorizing ~~him~~ **the person** to represent the taxpayer.

(b) Notwithstanding any other law, the department may require a power of attorney relating to a listed tax to be completed on a



form prescribed by the department.

(c) The department may accept a power of attorney that names an entity as a representative of a taxpayer, subject to rules adopted under IC 4-22-2, including emergency rules adopted in the manner provided in IC 4-22-2-37.1. Notwithstanding this article or IC 30-5, the department may adopt rules under IC 4-22-2, including emergency rules adopted in manner provided in IC 4-22-2-37.1, allowing a change of individuals acting on behalf of the entity without requiring a new or amended power of attorney to be completed by the taxpayer."

Page 59, line 24, delete "The appropriate county officer, as designated" and insert "**The appropriate county officer, as designated by the county executive, in each county shall, before September 1, 2021, and before September 1 of every year thereafter, submit parcel level data, in a standard developed by the state GIS officer pursuant to IC 4-23-7.3-14, to the state GIS officer. This data may be used by the department's tax systems to identify each taxing unit within which each taxpayer's residence is located.**".

Page 59, delete lines 25 through 29.

Page 59, line 31, delete "codes" and insert "**data**".

Page 59, line 32, delete "under IC 4-23-7.3-14(16)".

Page 59, line 34, delete "department and state GIS officer" and insert "**department, consulting with the state GIS officer,**".

Page 61, delete lines 20 through 21, begin a new paragraph and insert:

"(f) Except as provided in subsection (e), for purposes of:

(1) IC 6-8.1-5-1;

(2) IC 6-8.1-9-1; or

(3) an appeal related to subdivision (1) or (2);

an adjustment described in subsection (a) or the result of the department's secondary review under subsection (d) does not constitute a final determination and may not be construed to treat any adjustment as finally determined."

Page 68, between lines 29 and 30, begin a new paragraph and insert:

"(u) Information related to a listed tax regarding a taxpayer may be disclosed to an individual without a power of attorney under IC 6-8.1-3-8(a)(2) if:

(1) the individual is authorized to file returns and remit payments for one (1) or more listed taxes on behalf of the taxpayer through the department's online tax system before September 8, 2020;



- (2) the information relates to a listed tax described in subdivision (1) for which the individual is authorized to file returns and remit payments;
- (3) the taxpayer has been notified by the department of the individual's ability to access the taxpayer's information for the listed taxes described in subdivision (1) and the taxpayer has not objected to the individual's access;
- (4) the individual's authorization or right to access the taxpayer's information for a listed tax described in subdivision (1) has not been withdrawn by the taxpayer; and
- (5) disclosure of the information to the individual is not prohibited by federal law.

Except as otherwise provided by this article, this subsection does not authorize the disclosure of any correspondence from the department that is mailed or otherwise delivered to the taxpayer relating to the specified listed taxes for which the individual was given authorization by the taxpayer. The department shall establish a date, which may be earlier but not later than September 1, 2023, after which a taxpayer's information concerning returns and remittances for a listed tax may not be disclosed to an individual without a power of attorney under IC 6-8.1-3-8(a)(2) by providing notice to the affected taxpayers and previously authorized individuals, including notification published on the department's Internet web site. After the earlier of the date established by the department or September 1, 2023, the department may not disclose a taxpayer's information concerning returns and remittances for a listed tax to an individual unless the individual has a power of attorney under IC 6-8.1-3-8(a)(2) or the disclosure is otherwise allowed under this article."

Page 75, line 27, delete "For purposes of" and insert "As used in".

Page 75, line 27, delete "shall" and insert "means:".

Page 75, delete line 28.

Page 76, line 4, delete "makes" and insert "made".

Page 76, line 9, delete "shall be" and insert "is equal to".

Page 76, between lines 20 and 21, begin a new line block indented and insert:

"(3) If a penalty under this subsection is reduced to the amount specified in subsection (b)(2), the department may issue a new assessment for the penalty within thirty (30) days after the final determination of the penalty reduction."

Page 76, line 26, delete "shall be" and insert "is".

Page 76, line 28, delete "(b)(2) or (c)." and insert "(b)(2).".



Page 77, line 23, delete "its" and insert "the".

Page 77, line 25, after "reduction" insert "**of a penalty under subsection (c) to the amount specified in subsection (b)(2), the determination is not subject to administrative or judicial review.**".

Page 77, delete lines 26 through 27.

Page 79, between lines 32 and 33, begin a new paragraph and insert:
"SECTION 53. IC 36-7-14-0.5, AS AMENDED BY P.L.235-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 0.5. (a) The definitions in this section apply throughout this chapter.

(b) "Obligation" means any bond, note, warrant, lease, or other instrument under which money is borrowed.

(c) "Public funds" means all fees, payments, tax receipts, and funds of whatever kind or character coming into the possession of a:

- (1) redevelopment commission; or
- (2) department of redevelopment.

(d) "Residential housing" means housing or workforce housing that consists of single family dwelling units sufficient to secure quality housing in reasonable proximity to employment. **The term includes condominiums and townhouses located within an economic development target area that is designated under IC 6-1.1-12.1-7.**

(e) "Residential housing development program" means a residential housing development program for the:

- (1) construction of new residential housing; or
- (2) renovation of existing residential housing;

established by a commission under section 53 of this chapter.

(f) "Workforce housing" means housing that is affordable for households with earned income that is sufficient to secure quality housing in reasonable proximity to employment.

SECTION 54. IC 36-7-14-53, AS ADDED BY P.L.235-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 53. (a) Subject to subsection (g), a commission may establish a residential housing development program by resolution for the construction of new residential housing or the renovation of existing residential housing if:

- (1) for a commission established by a county, the average of new, single family residential houses constructed in the unincorporated area of the county during the preceding three (3) calendar years is less than one percent (1%) of the total number of single family residential houses within the unincorporated area of the county on January 1 of the year in which the resolution is adopted; or
- (2) for a commission established by a municipality, the average



of new, single family residential houses constructed within the municipal boundaries during the preceding three (3) calendar years is less than one percent (1%) of the total number of single family residential houses within the boundaries of the municipality on January 1 of the year in which the resolution is adopted.

However, the calculations described in subdivisions (1) and (2) and the provisions of subsection (f) do not apply for purposes of establishing a residential housing development program within an economic development target area designated under IC 6-1.1-12.1-7.

(b) The program, which may include any relevant elements the commission considers appropriate, may be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 39 and 56 of this chapter for the accomplishment of the program. The program must be approved by the municipal legislative body or county executive as specified in section 17 of this chapter.

(c) The notice and hearing provisions of sections 17 and 17.5 of this chapter, including notice under section 17(c) of this chapter to a taxing unit that is wholly or partly located within an allocation area, apply to the resolution adopted under subsection (b). Judicial review of the resolution may be made under section 18 of this chapter.

(d) Before formal submission of any residential housing development program to the commission, the department of redevelopment shall:

- (1) consult with persons interested in or affected by the proposed program;
- (2) provide the affected neighborhood associations, residents, and township assessors with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program; and
- (3) hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

(e) A residential housing development program established under this section must terminate not later than twenty (20) years after the date the program is established under subsection (b).

(f) The department of local government finance, in cooperation with either the appropriate county agency or the appropriate municipal agency, or both, shall determine whether a county or municipality meets the requirements under subsection (a). A county or municipality may request from the department of local government finance a report,



if it exists, describing the effect of current assessed value allocated to tax increment financing allocation areas on the amount of the tax levy or proceeds and the credit for excessive property taxes under IC 6-1.1-20.6 for the taxing units within the boundaries of the residential housing development program.

(g) A program established under subsection (a) may not take effect until the governing body of each school corporation affected by the program passes a resolution approving the program.

SECTION 55. IC 36-7-32-8, AS AMENDED BY P.L.158-2019, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. As used in this chapter, "income tax base period amount" means the following:

~~(1) Except as provided in subdivision (2), the aggregate amount of the following taxes paid by employees employed in the territory comprising a certified technology park with respect to wages and salary earned for work in the certified technology park for the state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter:~~

~~(A) (1) The adjusted gross income tax.~~

~~(B) (2) The local income tax (IC 6-3.6).~~

~~(2) In the case of a certified technology park for which the amount limit under section 22(c) or 22(d) of this chapter has been exceeded, the aggregate amount of adjusted gross income taxes and local income taxes (IC 6-3.6) paid by employees employed in the territory comprising a certified technology park with respect to wages and salary earned for work in the certified technology park for:~~

~~(A) the state fiscal year in which the total deposits in the incremental tax financing fund for the certified technology park first exceeded the amount limit under section 22(c) or 22(d) of this chapter; or~~

~~(B) the state fiscal year beginning July 1, 2019, and ending June 30, 2020; in the case of a certified technology park for which the amount limit under section 22(c) or 22(d) of this chapter was exceeded before July 1, 2020.~~

SECTION 56. IC 36-7-32-8.5, AS AMENDED BY P.L.158-2019, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8.5. As used in this chapter, "income tax incremental amount" means the following:

(1) Except as provided in subdivision (2), the remainder of:

(A) the total amount of state adjusted gross income taxes and local income taxes paid by employees employed in the



territory comprising the certified technology park with respect to wages and salary earned for work in the territory comprising the certified technology park for a particular state fiscal year; minus

(B) the sum of the:

(i) income tax base period amount as defined in section ~~8(1)~~ **8** of this chapter; and

(ii) tax credits awarded by the Indiana economic development corporation under IC 6-3.1-13 to businesses operating in a certified technology park as the result of wages earned for work in the certified technology park for the state fiscal year;

as determined by the department of state revenue.

(2) In the case of a certified technology park for which the amount limit under section 22(c) or 22(d) of this chapter has been exceeded, the remainder of:

(A) the total amount of state adjusted gross income taxes and local income taxes paid by employees employed in the territory comprising the certified technology park with respect to wages and salary earned for work in the territory comprising the certified technology park for a particular state fiscal year; minus

(B) the sum of the:

(i) income tax base period amount as defined in section ~~8(2)~~ **8** of this chapter; and

(ii) tax credits awarded by the Indiana economic development corporation under IC 6-3.1-13 to businesses operating in a certified technology park as the result of wages earned for work in the certified technology park for the state fiscal year;

as determined by the department of state revenue."

Page 79, delete lines 33 through 38.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 408 as reprinted February 4, 2020.)

BROWN T

Committee Vote: yeas 17, nays 0.

ES 408—LS 6787/DI 120



HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 408 be amended to read as follows:

Page 2, delete lines 32 through 34.

Page 2, line 35, delete "(e)" and insert "**(d)**".

Page 2, line 38, delete "(f)" and insert "**(e)**".

Page 3, line 3, delete "(g)" and insert "**(f)**".

Page 3, line 8, delete "(h)" and insert "**(g)**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 408 as printed February 28, 2020.)

HARRIS

