



February 2, 2018

SENATE BILL No. 242

DIGEST OF SB 242 (Updated January 30, 2018 1:30 pm - DI 73)

Citations Affected: IC 4-30; IC 4-33; IC 6-1.1; IC 6-2.5; IC 6-3; IC 6-6; IC 6-8.1; IC 10-13.

Synopsis: Tax issues. Provides that the lottery commission must obtain a tax clearance statement from the department of state revenue (DOR) for a retailer before the lottery commission may enter into a contract with that retailer. (Current law requires the retailer to provide the tax clearance statement to the lottery commission.) Requires the riverboat supplemental wagering tax and wagering tax to be paid on the twenty-fourth calendar day of each month (rather than one day before the last business day of each month, under current law). Eliminates the maritime opportunity district property tax deduction for new manufacturing equipment installed in a district after June 30, 2018. Provides that the reduced tax rate for a corporation in a qualified military enhancement area (area) applies only to a corporation that locates all or part of its operations in an area before January 1, 2019. Extends the definition of a "facilitator" in the sales tax law to include transactions involving the rental of tangible personal property and the rental of vehicles subject to the state auto rental excise tax, the Vanderburgh County supplemental auto rental excise tax, and the Marion County supplemental auto rental excise tax. Specifies that a facilitator is a retail merchant making a retail transaction when the facilitator accepts payment for the rental or lease of tangible personal property to another person (other than for subrent or sublease), including the rental of a vehicle subject to the state auto rental excise tax, the Vanderburgh County supplemental auto rental excise tax, or the Marion County supplemental auto rental excise tax. Provides that
(Continued next page)

Effective: January 1, 2018 (retroactive); July 1, 2018; January 1, 2019.

Holdman, Randolph Lonnie M

January 3, 2018, read first time and referred to Committee on Tax and Fiscal Policy.
February 1, 2018, amended, reported favorably — Do Pass.

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each such rental or lease is a separate unitary transaction unless the facilitator provides an itemized statement separately stating the amounts charged for renting the tangible personal property or vehicles, the amount collected as tax, and the amount that is a fee, commission, or other charge of the facilitator. Provides that the "double direct" sales tax exemption for property acquired for direct use in the direct production or processing of other tangible personal property applies to the following equipment purchased and used by a person that manufactures hot mix asphalt at an asphalt plant: (1) Trucks that are used to transport hot mix asphalt from that person's asphalt plant to a job site. (2) Pavers that are used to spread that person's hot mix asphalt. Provides that the DOR may require that certain information be provided or updated before the issuance or renewal of a registered retail merchant's certificate. Specifies that if for any taxable year a taxpayer is subject to different corporate income tax rates, the calculation is based on the number of days (rather than months, under current law) that each of the different tax rates is in effect. Provides that if the due date for a federal income tax return is extended by the Internal Revenue Service to a date that is later than the date otherwise required for a state income tax return, the DOR may extend the due date of the state return to the due date permitted for the federal return. Authorizes the DOR to issue refunds in certain circumstances without a taxpayer filing a refund claim. Requires state and local employees whose duties include access to confidential tax information to submit to a fingerprint based criminal history background check of both national and state records data bases before being granted access to the confidential tax information, and requires these employees to submit to such criminal history background checks at least once every 10 years thereafter. Requires each contractor or subcontractor whose contract or subcontract grants access to confidential tax information to submit to a fingerprint based criminal history background check of both national and state records data bases at least once every 10 years before being granted access to the confidential tax information. Provides that: (1) an income tax return preparer may not provide tax preparation services for income tax returns unless the income tax return preparer provides a preparer tax identification number (PTIN) when submitting and signing an income tax return; and (2) the DOR shall require each income tax return preparer to include the income tax return preparer's PTIN on any income tax return that the income tax return preparer prepares and files with the DOR. Specifies that the DOR: (1) may develop and implement a program using PTINs as an oversight mechanism; and (2) may establish formal and regular communication protocols with the Commissioner of the Internal Revenue Service to share and exchange PTIN information for income tax return preparers who are suspected of fraud, who have been disciplined, or who are barred from filing tax returns with the DOR or the Internal Revenue Service. Provides that the DOR may establish additional communication protocols with other states to exchange similar enforcement or discipline information. Provides that the DOR may impose a penalty on any income tax return preparer who fails to provide a PTIN. Provides that the DOR: (1) may investigate the actions of any income tax return preparer filing income tax returns; and (2) after a hearing, may bar or suspend an income tax return preparer from filing returns with the department for good cause.



February 2, 2018

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 242

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 4-30-9-7 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2019]: Sec. 7. Before the commission may
3 enter into a contract with a retailer, the ~~retailer must provide~~
4 **commission must obtain** a tax clearance statement from the
5 department of state revenue that certifies that the retailer does not owe
6 delinquent state taxes.

7 SECTION 2. IC 4-33-12-4, AS AMENDED BY P.L.268-2017,
8 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JANUARY 1, 2019]: Sec. 4. (a) A licensed owner must report the
10 admissions and supplemental wagering taxes collected to the
11 department. The licensed owner must report the taxes collected each
12 day for the preceding day's admissions.

13 (b) A licensed owner shall pay the admissions and supplemental
14 wagering taxes collected to the department ~~one (1) day before the last~~
15 **business on the twenty-fourth calendar** day of each month for the

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1 admissions and supplemental wagering taxes collected that month. Any
 2 taxes collected during the month but after the day on which the taxes
 3 are required to be paid to the department shall be paid to the
 4 department at the same time the following month's taxes are due.

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

7 (d) The payment of the tax under this section must be an electronic
 8 funds transfer by automated clearinghouse.

9 SECTION 3. IC 4-33-13-1.5, AS AMENDED BY P.L.268-2017,
 10 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JANUARY 1, 2019]: Sec. 1.5. (a) This subsection applies only to a
 12 riverboat that received at least seventy-five million dollars
 13 (\$75,000,000) of adjusted gross receipts during the preceding state
 14 fiscal year. A graduated tax is imposed on the adjusted gross receipts
 15 received from gambling games authorized under this article as follows:

16 (1) Fifteen percent (15%) of the first twenty-five million dollars
 17 (\$25,000,000) of adjusted gross receipts received during the
 18 period beginning July 1 of each year and ending June 30 of the
 19 following year.

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

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

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

35 (5) Thirty-five percent (35%) of all adjusted gross receipts in
 36 excess of one hundred fifty million dollars (\$150,000,000) but not
 37 exceeding six hundred million dollars (\$600,000,000) received
 38 during the period beginning July 1 of each year and ending June
 39 30 of the following year.

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



1 following year.

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

7 (1) Five percent (5%) of the first twenty-five million dollars
8 (\$25,000,000) of adjusted gross receipts received during the
9 period beginning July 1 of each year and ending June 30 of the
10 following year.

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

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

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

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

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

35 (c) The licensed owner or operating agent of a riverboat taxed under
36 subsection (b) shall pay an additional tax of two million five hundred
37 thousand dollars (\$2,500,000) in any state fiscal year in which the
38 riverboat's adjusted gross receipts exceed seventy-five million dollars
39 (\$75,000,000). The additional tax imposed under this subsection is due
40 before July 1 of the following state fiscal year.

41 (d) The licensed owner or operating agent shall remit the tax
42 imposed by this chapter to the department ~~before the close of the~~



1 ~~business day one~~ ~~(1) day before the last business on the twenty-fourth~~
 2 **calendar** day of each month for the wagering taxes collected that
 3 month. Any taxes collected during the month but after the day on which
 4 the taxes are required to be paid to the department shall be paid to the
 5 department at the same time the following month's taxes are due.

6 (e) The payment of the tax under this section must be an electronic
 7 funds transfer by automated clearinghouse.

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

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

14 SECTION 4. IC 6-1.1-40-4, AS AMENDED BY P.L.154-2006,
 15 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2018]: Sec. 4. As used in this chapter, "new manufacturing
 17 equipment" means any tangible personal property that an applicant for
 18 the deduction under section 11 of this chapter:

19 (1) installs in a district **before July 1, 2018;**

20 (2) uses in the direct production, manufacture, fabrication,
 21 assembly, extraction, mining, processing, refining, or finishing of
 22 other tangible personal property;

23 (3) acquires in an arms length transaction from an entity that is
 24 not an affiliate of the applicant for use as described in subdivision
 25 (2); and

26 (4) never used for any purpose in Indiana before the installation
 27 described in subdivision (1).

28 SECTION 5. IC 6-1.1-40-9, AS AMENDED BY P.L.146-2008,
 29 SECTION 299, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2018]: Sec. 9. (a) Before a person acquires new
 31 manufacturing equipment for which the person wishes to claim a
 32 deduction under this chapter, the person must submit to the
 33 commission a statement of benefits, in a form prescribed by the
 34 department of local government finance. The statement of benefits
 35 must include the following information:

36 (1) A description of the new manufacturing equipment that the
 37 person proposes to acquire.

38 (2) An estimate of the number of individuals who will be
 39 employed or whose employment will be retained by the person as
 40 a result of the installation of the new manufacturing equipment
 41 and an estimate of the annual salaries of these individuals.

42 (3) An estimate of the cost of the new manufacturing equipment.



1 (b) The statement of benefits may contain any other information
 2 required by the commission. If the person is requesting or will be
 3 requesting the designation of a district, the statement of benefits must
 4 be submitted at the same time as the request for designation is
 5 submitted.

6 (c) The commission shall review the statement of benefits if
 7 required under subsection (b) **and subject to subsection (d)**. The
 8 commission shall make findings determining whether the estimate of:

- 9 (1) the number of individuals who will be employed or whose
 10 employment will be retained;
 11 (2) the annual salaries of those individuals;
 12 (3) the value of the new manufacturing equipment; and
 13 (4) any other benefits about which the commission requires
 14 information;

15 are benefits that can be reasonably expected to result from the
 16 installation of the new manufacturing equipment.

17 **(d) The commission shall not review a statement of benefits for**
 18 **new manufacturing equipment installed in a district after June 30,**
 19 **2018.**

20 SECTION 6. IC 6-1.1-40-10, AS AMENDED BY P.L.146-2008,
 21 SECTION 300, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2018]: Sec. 10. **(a) The deduction under this**
 23 **section applies only to new manufacturing equipment installed**
 24 **before July 1, 2018.**

25 ~~(a)~~ **(b)** Subject to subsection ~~(d)~~; **(e)**, an owner of new
 26 manufacturing equipment whose statement of benefits is approved is
 27 entitled to a deduction from the assessed value of that equipment for a
 28 period of ten (10) years. Except as provided in subsections ~~(b)~~ **and** ~~(c)~~
 29 **and (d)**, and subject to subsection ~~(d)~~ **(e)** and section 14 of this chapter,
 30 for the first five (5) years, the amount of the deduction for new
 31 manufacturing equipment that an owner is entitled to for a particular
 32 year equals the assessed value of the new manufacturing equipment.
 33 Subject to subsection ~~(d)~~ **(e)** and section 14 of this chapter, for the sixth
 34 through the tenth year, the amount of the deduction equals the product
 35 of:

- 36 (1) the assessed value of the new manufacturing equipment;
 37 multiplied by
 38 (2) the percentage prescribed in the following table:

39 YEAR OF DEDUCTION	PERCENTAGE
40 6th	100%
41 7th	95%
42 8th	80%



1	9th	65%
2	10th	50%
3	11th and thereafter	0%

4 ~~(b)~~ (c) A deduction under this section is not allowed in the first year
5 the deduction is claimed for new manufacturing equipment to the
6 extent that it would cause the assessed value of all of the personal
7 property of the owner in the taxing district in which the equipment is
8 located to be less than the assessed value of all of the personal property
9 of the owner in that taxing district in the immediately preceding year.

10 ~~(c)~~ (d) If a deduction is not fully allowed under subsection ~~(b)~~ (c) in
11 the first year the deduction is claimed, then the percentages specified
12 in subsection ~~(a)~~ (b) apply in the subsequent years to the amount of
13 deduction that was allowed in the first year.

14 ~~(d)~~ (e) For purposes of subsection ~~(a)~~; (b), the assessed value of new
15 manufacturing equipment that is part of an owner's assessable
16 depreciable personal property in a single taxing district subject to the
17 valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product
18 of:

19 (1) the assessed value of the equipment (**excluding equipment**
20 **installed after June 30, 2018**) determined without regard to the
21 valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9;
22 multiplied by

23 (2) the quotient of:

24 (A) the amount of the valuation limitation determined under 50
25 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable
26 personal property in the taxing district; divided by

27 (B) the total true tax value of all of the owner's depreciable
28 personal property in the taxing district that is subject to the
29 valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9
30 determined:

31 (i) under the depreciation schedules in the rules of the
32 department of local government finance before any
33 adjustment for abnormal obsolescence; and

34 (ii) without regard to the valuation limitation in 50 IAC
35 4.2-4-9 or 50 IAC 5.1-6-9.

36 SECTION 7. IC 6-1.1-40-15 IS ADDED TO THE INDIANA CODE
37 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
38 1, 2018]: **Sec. 15. This chapter expires January 1, 2032.**

39 SECTION 8. IC 6-2.5-1-19.5, AS ADDED BY P.L.181-2016,
40 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2018]: Sec. 19.5. "Facilitator" means a person who:

42 (1) contracts or otherwise enters into an agreement:



- 1 (A) with a person who rents or furnishes rooms, lodgings, ~~or~~
 2 accommodations, **or tangible personal property** for
 3 consideration; and
 4 (B) to market the rooms, lodgings, ~~or~~ accommodations, **or**
 5 **tangible personal property** through the Internet; and
 6 (2) accepts payment from the consumer for the room, lodging, ~~or~~
 7 accommodation, **or tangible personal property**.
- 8 The term does not include a licensee (as defined in IC 25-34.1-1-2(6))
 9 under the real estate broker licensing act (IC 25-34.1) or the owner of
 10 the room, lodging, ~~or~~ accommodation, **or tangible personal property**.
- 11 SECTION 9. IC 6-2.5-4-4.2, AS ADDED BY P.L.181-2016,
 12 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2018]: Sec. 4.2. (a) A person or a facilitator who is a retail
 14 merchant making a retail transaction described in section 4 **or 10(a)** of
 15 this chapter, **subject to section 10(c) of this chapter**, shall give to the
 16 consumer of the room, lodging, ~~or~~ accommodation, **or tangible**
 17 **personal property** an itemized statement separately stating all the
 18 following:
- 19 (1) The part of the gross retail income that is charged by the
 20 person for renting or furnishing the room, lodging, ~~or~~
 21 accommodation, **or tangible personal property**.
 22 (2) Any amount collected by the person renting or furnishing the
 23 room, lodging, ~~or~~ accommodation, **or tangible personal**
 24 **property** for:
- 25 (A) the state gross retail or use tax; ~~and~~
 26 (B) any innkeeper's tax due under IC 6-9;
 27 (C) **any auto rental excise tax due under IC 6-6-9;**
 28 (D) **any Vanderburgh County supplemental auto rental**
 29 **excise tax due under IC 6-6-9.5; and**
 30 (E) **any Marion County supplemental auto rental excise tax**
 31 **due under IC 6-6-9.7;**
 32 **as applicable.**
- 33 (3) Any part of the gross retail income that is a fee, commission,
 34 or other charge of a facilitator.
- 35 (b) A penalty of twenty-five dollars (\$25) is imposed for each
 36 transaction described in subsection (a) in which a facilitator fails to
 37 separately state the information required to be separately stated by
 38 subsection (a).
- 39 SECTION 10. IC 6-2.5-4-10 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. (a) A person, other
 41 than a public utility, is a retail merchant making a retail transaction
 42 when ~~he~~ **the person** rents or leases tangible personal property to



1 another person other than for subrent or sublease.

2 (b) A person is a retail merchant making a retail transaction when
3 the person sells any tangible personal property which has been rented
4 or leased in the regular course of the person's rental or leasing business.

5 (c) Notwithstanding subsection (a), a person is not a retail merchant
6 making a retail transaction when the person rents or leases motion
7 picture film, audio tape, or video tape to another person. However, this
8 exclusion only applies if:

9 (1) the person who pays to rent or lease the film charges
10 admission to those who view the film; or

11 (2) the person who pays to rent or lease the film or tape
12 broadcasts the film or tape for home viewing or listening.

13 **(d) Except as provided in subsection (c), a facilitator is a retail**
14 **merchant making a retail transaction when the facilitator accepts**
15 **payment for the rental or lease of tangible personal property to**
16 **another person to which subsection (a) applies, other than for**
17 **subrent or sublease. Each rental or lease of tangible personal**
18 **property to another person to which subsection (a) applies, other**
19 **than for subrent or sublease, is a separate unitary transaction**
20 **unless the facilitator provides the itemized statement described in**
21 **section 4.2(a) of this chapter.**

22 SECTION 11. IC 6-2.5-5-3, AS AMENDED BY P.L.239-2017,
23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2018]: Sec. 3. (a) For purposes of this section:

25 (1) the:

26 (A) retreading of tires; and

27 (B) felling of trees for further use in production or for sale in
28 the ordinary course of business;

29 shall be treated as the processing of tangible personal property;
30 and

31 (2) commercial printing shall be treated as the production and
32 manufacture of tangible personal property.

33 (b) Except as provided in subsection (d), transactions involving
34 manufacturing machinery, tools, and equipment, including material
35 handling equipment purchased for the purpose of transporting materials
36 into activities described in this subsection from an onsite location, are
37 exempt from the state gross retail tax if the person acquiring that
38 property acquires it for direct use in the direct production, manufacture,
39 fabrication, assembly, extraction, mining, processing, refining, or
40 finishing of other tangible personal property.

41 (c) Except as provided in subsection (d), transactions involving
42 manufacturing machinery, tools, and equipment, including material



1 handling equipment purchased for the purpose of transporting materials
 2 into an industrial process from an onsite location, are exempt from the
 3 state gross retail tax if the person acquiring that property:

- 4 (1) acquires it for the person's direct use in an industrial
 5 processing service; and
 6 (2) is an industrial processor.

7 (d) The exemptions provided in subsections (b) and (c) do not apply
 8 to transactions involving distribution equipment or transmission
 9 equipment acquired by a public utility engaged in generating
 10 electricity.

11 **(e) The exemption provided in subsection (b) applies to the**
 12 **following equipment purchased and used by a person that**
 13 **manufactures hot mix asphalt at an asphalt plant:**

- 14 **(1) Trucks that are used to transport hot mix asphalt from**
 15 **that person's asphalt plant to a job site.**
 16 **(2) Pavers that are used to spread that person's hot mix**
 17 **asphalt.**

18 SECTION 12. IC 6-2.5-8-1, AS AMENDED BY P.L.245-2015,
 19 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JANUARY 1, 2019]: Sec. 1. (a) A retail merchant may not make a
 21 retail transaction in Indiana, unless the retail merchant has applied for
 22 a registered retail merchant's certificate.

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

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

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



1 a serial number and the location of the place of business for which it is
2 issued.

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

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

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

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

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

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

32 (h) If:

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

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

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

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



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

- 6 (1) the names and addresses of the retail merchant's principal
 7 employees, agents, or representatives who engage in Indiana in
 8 the solicitation or negotiation of the retail transactions;
- 9 (2) the location of all of the retail merchant's places of business in
 10 Indiana, including offices and distribution houses; and
- 11 (3) any other information that the department requests.

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

14 (j) The department may permit an out-of-state retail merchant to
 15 collect the use tax. However, before the out-of-state retail merchant
 16 may collect the tax, the out-of-state retail merchant must obtain a
 17 registered retail merchant's certificate in the manner provided by this
 18 section. Upon receiving the certificate, the out-of-state retail merchant
 19 becomes subject to the same conditions and duties as an Indiana retail
 20 merchant and must then collect the use tax due on all sales of tangible
 21 personal property that the out-of-state retail merchant knows is
 22 intended for use in Indiana.

23 (k) Except as provided in subsection (l), the department shall submit
 24 to the township assessor, or the county assessor if there is no township
 25 assessor for the township, before March 15 of each year:

- 26 (1) the name of each retail merchant that has newly obtained a
 27 registered retail merchant's certificate during the preceding year
 28 for a place of business located in the township or county; and
- 29 (2) the address of each place of business of the taxpayer in the
 30 township or county.

31 (l) If the duties of the township assessor have been transferred to the
 32 county assessor as described in IC 6-1.1-1-24, the department shall
 33 submit the information listed in subsection (k) to the county assessor.

34 SECTION 13. IC 6-3-2-1, AS AMENDED BY P.L.80-2014,
 35 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JANUARY 1, 2018 (RETROACTIVE)]: Sec. 1. (a) Each taxable year,
 37 a tax at the following rate of adjusted gross income is imposed upon the
 38 adjusted gross income of every resident person, and on that part of the
 39 adjusted gross income derived from sources within Indiana of every
 40 nonresident person:

- 41 (1) For taxable years beginning before January 1, 2015, three and
 42 four-tenths percent (3.4%).

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1 (2) For taxable years beginning after December 31, 2014, and
2 before January 1, 2017, three and three-tenths percent (3.3%).

3 (3) For taxable years beginning after December 31, 2016, three
4 and twenty-three hundredths percent (3.23%).

5 (b) Except as provided in section 1.5 of this chapter (**before its**
6 **expiration**), each taxable year, a tax at the following rate of adjusted
7 gross income is imposed on that part of the adjusted gross income
8 derived from sources within Indiana of every corporation:

9 (1) Before July 1, 2012, eight and five-tenths percent (8.5%).

10 (2) After June 30, 2012, and before July 1, 2013, eight percent
11 (8.0%).

12 (3) After June 30, 2013, and before July 1, 2014, seven and
13 five-tenths percent (7.5%).

14 (4) After June 30, 2014, and before July 1, 2015, seven percent
15 (7.0%).

16 (5) After June 30, 2015, and before July 1, 2016, six and
17 five-tenths percent (6.5%).

18 (6) After June 30, 2016, and before July 1, 2017, six and
19 twenty-five hundredths percent (6.25%).

20 (7) After June 30, 2017, and before July 1, 2018, six percent
21 (6.0%).

22 (8) After June 30, 2018, and before July 1, 2019, five and
23 seventy-five hundredths percent (5.75%).

24 (9) After June 30, 2019, and before July 1, 2020, five and
25 five-tenths percent (5.5%).

26 (10) After June 30, 2020, and before July 1, 2021, five and
27 twenty-five hundredths percent (5.25%).

28 (11) After June 30, 2021, four and nine-tenths percent (4.9%).

29 (c) If for any taxable year a taxpayer is subject to different tax rates
30 under subsection (b), the taxpayer's tax rate for that taxable year is the
31 rate determined in the last STEP of the following STEPS:

32 STEP ONE: Multiply the number of ~~months~~ **days** in the taxpayer's
33 taxable year that precede the ~~month~~ **day** the rate changed by the
34 rate in effect before the rate change.

35 STEP TWO: Multiply the number of ~~months~~ **days** in the
36 taxpayer's taxable year that follow the ~~month~~ **day** before the rate
37 changed by the rate in effect after the rate change.

38 STEP THREE: Divide the sum of the amounts determined under
39 STEPS ONE and TWO by ~~twelve (12)~~: **the number of days in**
40 **the taxpayer's tax period.**

41 However, the rate determined under this subsection shall be rounded
42 to the nearest one-hundredth of one percent (0.01%).



1 SECTION 14. IC 6-3-2-1.5, AS AMENDED BY P.L.288-2013,
 2 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2018]: Sec. 1.5. (a) As used in this section, "qualified area"
 4 means:

- 5 (1) a military base (as defined in IC 36-7-30-1(c));
- 6 (2) a military base reuse area established under IC 36-7-30;
- 7 (3) the part of an economic development area established under
 8 IC 36-7-14.5-12.5 that is or formerly was a military base (as
 9 defined in IC 36-7-30-1(c)); or
- 10 (4) a qualified military base enhancement area established under
 11 IC 36-7-34.

12 (b) Except as provided in ~~subsection (e)~~, **subsections (e) and (h)**,
 13 a tax at the rate of five percent (5%) of adjusted gross income is
 14 imposed on that part of the adjusted gross income of a corporation that
 15 is derived from sources within a qualified area if the corporation
 16 locates all or part of its operations in a qualified area during the taxable
 17 year, as determined under subsection (g). The tax rate under this
 18 section applies to the taxable year in which the corporation locates its
 19 operations in the qualified area and to the next succeeding four (4)
 20 taxable years.

21 (c) In the case of a corporation that locates all or part of its
 22 operations in a qualified military base enhancement area established
 23 under IC 36-7-34-4(1), the tax rate imposed under this section applies
 24 to the corporation only if the corporation meets at least one (1) of the
 25 following criteria:

- 26 (1) The corporation is a participant in the technology transfer
 27 program conducted by the qualified military base (as defined in
 28 IC 36-7-34-3).
- 29 (2) The corporation is a United States Department of Defense
 30 contractor.
- 31 (3) The corporation and the qualified military base have a
 32 mutually beneficial relationship evidenced by a memorandum of
 33 understanding between the corporation and the United States
 34 Department of Defense.

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

- 39 (1) The business is a participant in the technology transfer
 40 program conducted by the qualified military base (as defined in
 41 IC 36-7-34-3).
- 42 (2) The business and the qualified military base have a mutually



1 beneficial relationship evidenced by a memorandum of
2 understanding between the business and the qualified military
3 base (as defined in IC 36-7-34-3).

4 (e) A taxpayer is not entitled to the tax rate described in subsection
5 (b) to the extent that the taxpayer substantially reduces or ceases its
6 operations at another location in Indiana in order to relocate its
7 operations within the qualified area, unless:

- 8 (1) the taxpayer had existing operations in the qualified area; and
9 (2) the operations relocated to the qualified area are an expansion
10 of the taxpayer's operations in the qualified area.

11 (f) A determination under subsection (e) that a taxpayer is not
12 entitled to the tax rate provided by this section as a result of a
13 substantial reduction or cessation of operations applies to the taxable
14 year in which the substantial reduction or cessation occurs and in all
15 subsequent years. Determinations under this section shall be made by
16 the department of state revenue.

17 (g) The department of state revenue:

- 18 (1) shall adopt rules under IC 4-22-2 to establish a procedure for
19 determining the part of a corporation's adjusted gross income that
20 was derived from sources within a qualified area; and
21 (2) may adopt other rules that the department considers necessary
22 for the implementation of this chapter.

23 **(h) The tax rate under this section applies only to a corporation**
24 **that locates all or part of its operations in a qualified area before**
25 **January 1, 2019. However, this subsection may not be construed to**
26 **prevent the tax rate from applying to succeeding taxable years of**
27 **a corporation after December 31, 2018, if the corporation locates**
28 **all or part of its operations in a qualified area before January 1,**
29 **2019.**

30 **(i) This section expires January 1, 2025.**

31 SECTION 15. IC 6-3-2-13, AS AMENDED BY P.L.250-2015,
32 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JANUARY 1, 2019]: Sec. 13. (a) As used in this section, "export
34 income" means the gross receipts from the sale, transfer, or exchange
35 of tangible personal property destined for international markets that is:

- 36 (1) manufactured at a plant located within a maritime opportunity
37 district established under IC 6-1.1-40 **(before its expiration)**; and
38 (2) shipped through a port operated by the state.

39 (b) As used in this section, "export sales ratio" means the quotient
40 of:

- 41 (1) the taxpayer's export income; divided by
42 (2) the taxpayer's gross receipts from the sale, transfer, or



1 exchange of tangible personal property, regardless of its
 2 destination.
 3 (c) As used in this section, "taxpayer" means a person or corporation
 4 that has export income.
 5 (d) The ports of Indiana established by IC 8-10-1-3 shall notify the
 6 department when a maritime opportunity district is established under
 7 IC 6-1.1-40 (**before its expiration**). The notice must include:
 8 (1) the resolution passed by the commission to establish the
 9 district; and
 10 (2) a list of all taxpayers located in the district.
 11 (e) The ports of Indiana shall also notify the department of any
 12 subsequent changes in the list of taxpayers located in the district.
 13 (f) A taxpayer is entitled to a deduction from the taxpayer's adjusted
 14 gross income in an amount equal to the lesser of:
 15 (1) the taxpayer's adjusted gross income; or
 16 (2) the product of the export sales ratio multiplied by the
 17 percentage set forth in subsection (g).
 18 (g) The percentage to be used in determining the amount a taxpayer
 19 is entitled to deduct under this section depends upon the number of
 20 years that the taxpayer could have taken a deduction under this section.
 21 The percentage to be used in subsection (f) is as follows:
 22

YEAR OF DEDUCTION	PERCENTAGE
23 1st through 4th	100%
24 5th	80%
25 6th	60%
26 7th	40%
27 8th	20%
28 9th and thereafter	0%

29 (h) The department shall determine, for each taxpayer claiming a
 30 deduction under this section, the taxpayer's export sales ratio for
 31 purposes of IC 6-1.1-40. The department shall certify the amount of the
 32 ratio to the department of local government finance.
 33 (i) A taxpayer is not entitled to a deduction under this section based
 34 on export income received by the taxpayer after December 31, 2015.
 35 (j) This section expires January 1, 2025.
 36 SECTION 16. IC 6-3-4-3, AS AMENDED BY P.L.172-2011,
 37 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JANUARY 1, 2019]: Sec. 3. Returns required to be made pursuant to
 39 section 1 of this chapter shall be filed with the department on or before
 40 the later of the following:
 41 (1) The 15th day of the fourth month following the close of the
 42 taxable year.



1 (2) For a corporation whose federal tax return is due on or after
 2 the date set forth in subdivision (1), as determined without regard
 3 to any extensions, weekends, or holidays, the 15th day of the
 4 month following the due date of the federal tax return.

5 **However, if the due date for a federal income tax return is**
 6 **extended by the Internal Revenue Service to a date that is later**
 7 **than the date specified in subdivision (1) or (2) (as applicable), the**
 8 **department may extend the due date of a return required to be**
 9 **made under section 1 of this chapter to the due date permitted for**
 10 **the federal income tax return.**

11 SECTION 17. IC 6-6-9-1.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2018]: **Sec. 1.5. As used in this chapter, "facilitator" has the**
 14 **meaning set forth in IC 6-2.5-1-19.5.**

15 SECTION 18. IC 6-6-9-7 IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) An excise tax, known as the
 17 auto rental excise tax, is imposed upon the rental of passenger motor
 18 vehicles and trucks in Indiana for periods of less than thirty (30) days.

19 (b) The auto rental excise tax imposed upon the rental of a
 20 passenger motor vehicle or truck equals four percent (4%) of the gross
 21 retail income received by the retail merchant for the rental.

22 (c) **A facilitator who accepts payment for the rental of a**
 23 **passenger motor vehicle or truck to which subsection (a) applies is**
 24 **a retail merchant who shall register with the department and**
 25 **collect the tax imposed under subsection (a) as an agent of the**
 26 **state. Each rental or lease of a passenger motor vehicle or truck to**
 27 **which subsection (a) applies is a separate unitary transaction**
 28 **unless the facilitator provides the itemized statement described in**
 29 **IC 6-2.5-4-4.2(a).**

30 SECTION 19. IC 6-6-9.5-2.5 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2018]: **Sec. 2.5. As used in this chapter,**
 33 **"facilitator" has the meaning set forth in IC 6-2.5-1-19.5.**

34 SECTION 20. IC 6-6-9.5-7, AS ADDED BY P.L.214-2005,
 35 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2018]: Sec. 7. (a) The legislative body of the most populous
 37 city in the county may adopt an ordinance to impose an excise tax,
 38 known as the county supplemental auto rental excise tax, upon the
 39 rental of passenger motor vehicles in the county for periods of less than
 40 thirty (30) days. The ordinance must specify that the tax expires
 41 December 31, 2036.

42 (b) The county supplemental auto rental excise tax that may be



1 imposed upon the rental of a passenger motor vehicle is two percent
 2 (2%) of the gross retail income received by the retail merchant for the
 3 rental.

4 (c) If the city legislative body adopts an ordinance under subsection
 5 (a), the city legislative body shall immediately send a certified copy of
 6 the ordinance to the commissioner of the department.

7 (d) If the city legislative body adopts an ordinance under subsection
 8 (a) before June 1 of a year, the county supplemental auto rental excise
 9 tax applies to auto rentals after June 30 of the year in which the
 10 ordinance is adopted. If the city legislative body adopts an ordinance
 11 under subsection (a) on or after June 1 of a year, the county
 12 supplemental auto rental excise tax applies to auto rentals after the last
 13 day of the month in which the ordinance is adopted.

14 (e) **A facilitator who accepts payment for the rental of a**
 15 **passenger motor vehicle to which an ordinance adopted under**
 16 **subsection (a) applies is a retail merchant who shall register with**
 17 **the department and collect the tax imposed under subsection (a) as**
 18 **an agent of the state. Each rental or lease of a passenger motor**
 19 **vehicle to which an ordinance adopted under subsection (a) applies**
 20 **is a separate unitary transaction unless the facilitator provides the**
 21 **itemized statement described in IC 6-2.5-4-4.2(a).**

22 SECTION 21. IC 6-6-9.7-2.5 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2018]: **Sec. 2.5. As used in this chapter,**
 25 **"facilitator" has the meaning set forth in IC 6-2.5-1-19.5.**

26 SECTION 22. IC 6-6-9.7-7, AS AMENDED BY P.L.205-2013,
 27 SECTION 127, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) The city-county council of a
 29 county that contains a consolidated city may adopt an ordinance to
 30 impose an excise tax, known as the county supplemental auto rental
 31 excise tax, upon the rental of passenger motor vehicles and trucks in
 32 the county for periods of less than thirty (30) days. The ordinance must
 33 specify that the tax expires December 31, 2027.

34 (b) Except as provided in subsection (c), the county supplemental
 35 auto rental excise tax that may be imposed upon the rental of a
 36 passenger motor vehicle or truck equals two percent (2%) of the gross
 37 retail income received by the retail merchant for the rental.

38 (c) On or before June 30, 2005, the city-county council may, by
 39 ordinance adopted by a majority of the members elected to the
 40 city-county council, increase the tax imposed under subsection (a) from
 41 two percent (2%) to four percent (4%). The ordinance must specify
 42 that:



1 (1) if on December 31, 2027, there are obligations owed by the
 2 capital improvement board of managers to the Indiana stadium
 3 and convention building authority or any state agency under
 4 IC 5-1-17-26, the original two percent (2%) rate imposed under
 5 subsection (a) continues to be levied after its original expiration
 6 date set forth in subsection (a) and through December 31, 2040;
 7 and

8 (2) the additional rate authorized under this subsection expires on:

9 (A) January 1, 2041;

10 (B) January 1, 2010, if on that date there are no obligations
 11 owed by the capital improvement board of managers to the
 12 Indiana stadium and convention building authority or to any
 13 state agency under IC 5-1-17-26; or

14 (C) October 1, 2005, if on that date there are no obligations
 15 owed by the capital improvement board of managers to the
 16 Indiana stadium and convention building authority or to any
 17 state agency under a lease or a sublease of an existing capital
 18 improvement entered into under IC 5-1-17, unless waived by
 19 the budget director.

20 (d) The amount collected from that portion of county supplemental
 21 auto rental excise tax imposed under:

22 (1) subsection (b) and collected after December 31, 2027; and

23 (2) under subsection (c);

24 shall, in the manner provided by section 11 of this chapter, be
 25 distributed to the capital improvement board of managers operating in
 26 a consolidated city or its designee. So long as there are any current or
 27 future obligations owed by the capital improvement board of managers
 28 to the Indiana stadium and convention building authority created by
 29 IC 5-1-17 or any state agency pursuant to a lease or other agreement
 30 entered into between the capital improvement board of managers and
 31 the Indiana stadium and convention building authority or any state
 32 agency under IC 5-1-17-26, the capital improvement board of managers
 33 or its designee shall deposit the revenues received under this
 34 subsection in a special fund, which may be used only for the payment
 35 of the obligations described in this subsection.

36 (e) After January 1, 2013, and before March 1, 2013, the city-county
 37 council may, by ordinance adopted by a majority of the members
 38 elected to the city-county council, increase the tax rate imposed under
 39 subsection (a) by not more than two percent (2%). The amount
 40 collected from an increase adopted under this subsection shall be
 41 deposited in the sports and convention facilities operating fund
 42 established by IC 36-7-31-16. An increase in the tax rate under this



1 subsection continues in effect unless the increase is rescinded.
 2 However, any increase in the tax rate under this subsection may not
 3 continue in effect after February 28, 2023.

4 (f) If a city-county council adopts an ordinance under subsection (a),
 5 (c), or (e), the city-county council shall immediately send a certified
 6 copy of the ordinance to the commissioner of the department of state
 7 revenue.

8 (g) If a city-county council adopts an ordinance under subsection
 9 (a), (c), or (e) on or before the fifteenth day of a month, the county
 10 supplemental auto rental excise tax applies to auto rentals after the last
 11 day of the month in which the ordinance is adopted. If the city-county
 12 council adopts an ordinance under subsection (a), (c), or (e) after the
 13 fifteenth day of a month, the county supplemental auto rental excise tax
 14 applies to auto rentals after the last day of the month following the
 15 month in which the ordinance is adopted.

16 **(h) A facilitator who accepts payment for the rental of a**
 17 **passenger motor vehicle or truck to which an ordinance adopted**
 18 **under subsection (a), (c), or (e) applies is a retail merchant who**
 19 **shall register with the department and collect the tax imposed**
 20 **under subsection (a), (c), or (e) as an agent of the state. Each rental**
 21 **of a passenger motor vehicle or truck to which an ordinance**
 22 **adopted under subsection (a), (c), or (e) applies is a separate**
 23 **unitary transaction unless the facilitator provides the itemized**
 24 **statement described in IC 6-2.5-4-4.2(a).**

25 SECTION 23. IC 6-8.1-9-1.5 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JANUARY 1, 2019]: **Sec. 1.5. (a) The department may**
 28 **issue a refund or credit without a taxpayer filing a refund claim in**
 29 **the event of:**

- 30 (1) an error by the department;
 31 (2) an error determined by the department; or
 32 (3) a taxpayer's overpayment determined by the department
 33 under an audit or investigation.

34 **(b) The department shall prescribe rules or guidelines to govern**
 35 **the circumstances under which the department may issue a refund**
 36 **or credit under this section.**

37 **(c) The department may not issue a refund or credit under this**
 38 **section if the period for filing a refund claim under this article has**
 39 **expired before the issuance of the refund or credit.**

40 **(d) If the department issues a refund or credit without a refund**
 41 **claim being filed by the taxpayer, no interest on the refund or**
 42 **credit is due from the department under section 2 of this chapter.**



1 (e) A taxpayer may not appeal the issuance of a refund or credit
2 under this section.

3 (f) Nothing in this section shall constitute a requirement that the
4 department issue a refund or credit for an overpayment.

5 SECTION 24. IC 6-8.1-16 IS ADDED TO THE INDIANA CODE
6 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
7 JANUARY 1, 2019]:

8 **Chapter 16. Income Tax Return Preparers; Preparer Tax**
9 **Identification Numbers**

10 **Sec. 1. As used in this chapter, "income tax return" means any**
11 **of the following:**

- 12 (1) An individual income tax return under IC 6-3.
13 (2) A corporate income tax return under IC 6-3.
14 (3) A financial institutions tax return under IC 6-5.5.
15 (4) A utility receipts tax return under IC 6-2.3.
16 (5) A claim for refund of any tax described in subdivisions (1)
17 through (4).

18 **Sec. 2. (a) As used in this chapter, "income tax return preparer"**
19 **means any of the following:**

- 20 (1) A person who prepares ten (10) or more income tax
21 returns for compensation in a calendar year.
22 (2) A person who employs one (1) or more persons to prepare
23 ten (10) or more income tax returns for compensation in a
24 calendar year.

25 (b) A person is not an income tax return preparer if the person
26 performs only the following acts:

- 27 (1) Furnishes typing, reproducing, or other mechanical
28 assistance.
29 (2) Prepares returns or claims for refunds for:
30 (A) the employer by whom the person is regularly and
31 continuously employed; or
32 (B) an affiliate of that employer.
33 (3) Prepares, as a fiduciary, any returns or claims for refunds
34 for a person.
35 (4) Prepares claims for refund for a taxpayer in response to:
36 (A) a notice of deficiency issued to the taxpayer; or
37 (B) a waiver of restriction after the commencement of an
38 audit of:
39 (i) the taxpayer; or
40 (ii) another taxpayer, if a determination in the audit of the
41 other taxpayer directly or indirectly affects the tax
42 liability of the taxpayer whose claim for refund the person



1 is preparing.

2 **Sec. 3.** As used in this chapter, "PTIN" means the preparer tax
3 identification number that the Internal Revenue Service issues to
4 identify tax return preparers under 26 U.S.C. 6109.

5 **Sec. 4.** For purposes of this chapter, the preparation of a
6 substantial portion of an income tax return shall be treated as the
7 preparation of that income tax return.

8 **Sec. 5.** For taxable years beginning after December 31, 2018, an
9 income tax return preparer may not provide tax preparation
10 services for income tax returns unless the income tax return
11 preparer provides a PTIN when the income tax return preparer
12 submits an income tax return to the department and signs the
13 income tax return as a paid preparer.

14 **Sec. 6.** For taxable years beginning after December 31, 2018, the
15 department shall require each income tax return preparer to
16 include the income tax return preparer's PTIN on any income tax
17 return that the income tax return preparer prepares and files with
18 the department.

19 **Sec. 7. (a)** Except as provided in subsection (b) and in addition
20 to any other penalties provided by law, the department may impose
21 on any income tax return preparer who violates this chapter by
22 failing to provide the income tax return preparer's PTIN a penalty
23 of fifty dollars (\$50) for each violation, but not to exceed
24 twenty-five thousand dollars (\$25,000) in a calendar year.

25 **(b)** The department may not impose a penalty under this section
26 if the income tax return preparer's failure to provide the income
27 tax return preparer's PTIN is due to reasonable cause and is not
28 due to willful neglect, as determined by the department.

29 **Sec. 8.** The department may develop and by rule implement a
30 program using PTINs as an oversight mechanism to assess returns
31 to identify high error rates, patterns of suspected fraud, and
32 unsubstantiated basis for tax positions by income tax return
33 preparers.

34 **Sec. 9. (a)** The department:

35 (1) may investigate the actions of any income tax return
36 preparer filing income tax returns; and

37 (2) after a hearing, may bar or suspend an income tax return
38 preparer from filing returns with the department for good
39 cause.

40 **(b)** Notwithstanding IC 4-21.5-2-4, the department shall conduct
41 a hearing described in subsection (a)(2) under IC 4-21.5-3, and
42 judicial review of an adverse decision in a hearing described in



1 subsection (a)(2) shall be in accordance with IC 4-21.5-5.

2 **Sec. 10. The department may establish formal and regular**
 3 **communication protocols with the Commissioner of the Internal**
 4 **Revenue Service to share and exchange PTIN information for**
 5 **income tax return preparers who are suspected of fraud, who have**
 6 **been disciplined, or who are barred from filing tax returns with the**
 7 **department or the Internal Revenue Service. The department may**
 8 **establish additional communication protocols with other states to**
 9 **exchange similar enforcement or discipline information.**

10 **Sec. 11. The department may adopt rules for the administration**
 11 **and enforcement of this chapter.**

12 SECTION 25. IC 10-13-3-38.5, AS AMENDED BY P.L.155-2011,
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JANUARY 1, 2019]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat.
 15 1115), the department may use an individual's fingerprints submitted
 16 by the individual for the following purposes:

17 (1) Determining the individual's suitability for employment with
 18 the state, or as an employee of a contractor of the state, in a
 19 position:

20 (A) that has a job description that includes contact with, care of,
 21 or supervision over a person less than eighteen (18) years of
 22 age;

23 (B) that has a job description that includes contact with, care of,
 24 or supervision over an endangered adult (as defined in
 25 IC 12-10-3-2), except the individual is not required to meet the
 26 standard for harmed or threatened with harm set forth in
 27 IC 12-10-3-2(a)(3);

28 (C) at a state institution managed by the office of the secretary
 29 of family and social services or state department of health;

30 (D) at the Indiana School for the Deaf established by
 31 IC 20-22-2-1;

32 (E) at the Indiana School for the Blind and Visually Impaired
 33 established by IC 20-21-2-1;

34 (F) at a juvenile detention facility;

35 (G) with the Indiana gaming commission under IC 4-33-3-16;

36 (H) with the department of financial institutions under
 37 IC 28-11-2-3; or

38 (I) that has a job description that includes access to or
 39 supervision over state financial or personnel data, including
 40 state warrants, banking codes, or payroll information pertaining
 41 to state employees.

42 **(2) Determining the individual's suitability for employment**



1 **with state or local government, or as an employee of a**
 2 **contractor of state or local government, in a position in which**
 3 **the individual's duties include access to confidential tax**
 4 **information obtained from the United States Internal**
 5 **Revenue Service under Section 6103(d) of the Internal**
 6 **Revenue Code or from an authorized secondary source.**

7 ~~(2)~~ **(3)** Identification in a request related to an application for a
 8 teacher's license submitted to the department of education
 9 established by IC 20-19-3-1.

10 ~~(3)~~ **(4)** Use by the gaming commission established under
 11 IC 4-33-3-1 for licensure of a promoter (as defined in
 12 IC 4-33-22-6) under IC 4-33-22.

13 ~~(4)~~ **(5)** Use by the Indiana board of pharmacy in determining the
 14 individual's suitability for a position or employment with a
 15 wholesale drug distributor, as specified in IC 25-26-14-16(b),
 16 IC 25-26-14-16.5(b), IC 25-26-14-17.8(c), and IC 25-26-14-20.

17 ~~(5)~~ **(6)** Identification in a request related to an individual applying
 18 for or renewing a license or certificate described in IC 25-1-1.1-4
 19 and a conviction described in IC 25-1-1.1-2 or IC 25-1-1.1-3.

20 An applicant shall submit the fingerprints in an appropriate format or
 21 on forms provided for the employment, license, or certificate
 22 application. The department shall charge each applicant the fee
 23 established under section 28 of this chapter and by federal authorities
 24 to defray the costs associated with a search for and classification of the
 25 applicant's fingerprints. The department may forward fingerprints
 26 submitted by an applicant to the Federal Bureau of Investigation or any
 27 other agency for processing. The state personnel department, the
 28 Indiana professional licensing agency, or the agency to which the
 29 applicant is applying for employment or a license may receive the
 30 results of all fingerprint investigations.

31 (b) An applicant who is an employee of the state may not be charged
 32 under subsection (a).

33 (c) Subsection (a)(1) does not apply to an employee of a contractor
 34 of the state if the contract involves the construction or repair of a
 35 capital project or other public works project of the state.

36 **(d) Each current or new state or local government employee**
 37 **whose duties include access to confidential tax information**
 38 **described in subsection (a)(2) must submit to a fingerprint based**
 39 **criminal history background check of both national and state**
 40 **records data bases before being granted access to the confidential**
 41 **tax information. In addition to the initial criminal history**
 42 **background checks, each state or local government employee**



1 whose duties include access to confidential tax information
 2 described in subsection (a)(2) must submit to such criminal history
 3 background checks at least once every ten (10) years thereafter.
 4 The appointing authority of such a state or local government
 5 employee may pay any fee charged for the cost of fingerprinting or
 6 conducting the criminal history background checks for the state or
 7 local government employee. The state or local government agency
 8 in its capacity as the individual's employer or to which the
 9 applicant is applying for employment or a license may receive the
 10 results of all fingerprint investigations.

11 (e) Each current or new contractor or subcontractor whose
 12 contract or subcontract grants access to confidential tax
 13 information described in subsection (a)(2) must submit to a
 14 fingerprint based criminal history background check of both
 15 national and state records data bases at least once every ten (10)
 16 years before being granted access to the confidential tax
 17 information.

18 (f) Each contract entered into by the state in which access to
 19 confidential tax information described in subsection (a)(2) is
 20 granted to a contractor or a subcontractor shall include:

- 21 (1) terms regarding which party is responsible for payment of
 22 any fee charged for the cost of the fingerprinting or the
 23 criminal history background checks; and
 24 (2) terms regarding the consequences if one (1) or more
 25 disqualifying records are discovered through the criminal
 26 history background checks.

27 ~~(d)~~ (g) The department:

- 28 (1) may permanently retain an applicant's fingerprints submitted
 29 under this section; and
 30 (2) shall retain the applicant's fingerprints separately from
 31 fingerprints collected under section 24 of this chapter.

32 SECTION 26. 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. 242, 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, line 14, delete "four (4) days".

Page 1, line 15, strike "before the last business" and insert "**on the twenty-fourth calendar**".

Page 3, line 42, strike "before the close of the".

Page 4, line 1, strike "business day".

Page 4, line 1, delete "four (4) days".

Page 4, line 1, strike "before the last business" and insert "**on the twenty-fourth calendar**".

Page 4, delete lines 14 through 42.

Delete pages 5 through 8.

Page 9, delete lines 1 through 2.

Page 11, between lines 28 and 29, begin a new paragraph and insert: "SECTION 7. IC 6-2.5-1-19.5, AS ADDED BY P.L.181-2016, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 19.5. "Facilitator" means a person who:

(1) contracts or otherwise enters into an agreement:

(A) with a person who rents or furnishes rooms, lodgings, ~~or~~ accommodations, **or tangible personal property** for consideration; and

(B) to market the rooms, lodgings, ~~or~~ accommodations, **or tangible personal property** through the Internet; and

(2) accepts payment from the consumer for the room, lodging, ~~or~~ accommodation, **or tangible personal property**.

The term does not include a licensee (as defined in IC 25-34.1-1-2(6)) under the real estate broker licensing act (IC 25-34.1) or the owner of the room, lodging, ~~or~~ accommodation, **or tangible personal property**.

SECTION 8. IC 6-2.5-4-4.2, AS ADDED BY P.L.181-2016, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4.2. (a) A person or a facilitator who is a retail merchant making a retail transaction described in section 4 **or 10(a)** of this chapter, **subject to section 10(c) of this chapter**, shall give to the consumer of the room, lodging, ~~or~~ accommodation, **or tangible personal property** an itemized statement separately stating all the following:

(1) The part of the gross retail income that is charged by the person for renting or furnishing the room, lodging, ~~or~~



accommodation, **or tangible personal property.**

(2) Any amount collected by the person renting or furnishing the room, lodging, ~~or~~ accommodation, **or tangible personal property** for:

- (A) the state gross retail or use tax; ~~and~~
- (B) any innkeeper's tax due under IC 6-9;
- (C) any auto rental excise tax due under IC 6-6-9;**
- (D) any Vanderburgh County supplemental auto rental excise tax due under IC 6-6-9.5; and**
- (E) any Marion County supplemental auto rental excise tax due under IC 6-6-9.7;**

as applicable.

(3) Any part of the gross retail income that is a fee, commission, or other charge of a facilitator.

(b) A penalty of twenty-five dollars (\$25) is imposed for each transaction described in subsection (a) in which a facilitator fails to separately state the information required to be separately stated by subsection (a).

SECTION 9. IC 6-2.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. (a) A person, other than a public utility, is a retail merchant making a retail transaction when ~~he~~ **the person** rents or leases tangible personal property to another person other than for subrent or sublease.

(b) A person is a retail merchant making a retail transaction when the person sells any tangible personal property which has been rented or leased in the regular course of the person's rental or leasing business.

(c) Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when the person rents or leases motion picture film, audio tape, or video tape to another person. However, this exclusion only applies if:

- (1) the person who pays to rent or lease the film charges admission to those who view the film; or
- (2) the person who pays to rent or lease the film or tape broadcasts the film or tape for home viewing or listening.

(d) Except as provided in subsection (c), a facilitator is a retail merchant making a retail transaction when the facilitator accepts payment for the rental or lease of tangible personal property to another person to which subsection (a) applies, other than for subrent or sublease. Each rental or lease of tangible personal property to another person to which subsection (a) applies, other than for subrent or sublease, is a separate unitary transaction unless the facilitator provides the itemized statement described in



section 4.2(a) of this chapter.

SECTION 10. IC 6-2.5-5-3, AS AMENDED BY P.L.239-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) For purposes of this section:

(1) the:

(A) retreading of tires; and

(B) felling of trees for further use in production or for sale in the ordinary course of business;

shall be treated as the processing of tangible personal property; and

(2) commercial printing shall be treated as the production and manufacture of tangible personal property.

(b) Except as provided in subsection (d), transactions involving manufacturing machinery, tools, and equipment, including material handling equipment purchased for the purpose of transporting materials into activities described in this subsection from an onsite location, are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

(c) Except as provided in subsection (d), transactions involving manufacturing machinery, tools, and equipment, including material handling equipment purchased for the purpose of transporting materials into an industrial process from an onsite location, are exempt from the state gross retail tax if the person acquiring that property:

(1) acquires it for the person's direct use in an industrial processing service; and

(2) is an industrial processor.

(d) The exemptions provided in subsections (b) and (c) do not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity.

(e) The exemption provided in subsection (b) applies to the following equipment purchased and used by a person that manufactures hot mix asphalt at an asphalt plant:

(1) Trucks that are used to transport hot mix asphalt from that person's asphalt plant to a job site.

(2) Pavers that are used to spread that person's hot mix asphalt."

Page 14, delete lines 3 through 42.

Delete pages 15 through 23.

Page 24, delete lines 1 through 40.



Page 27, delete lines 38 through 42.

Delete pages 28 through 30.

Page 31, delete lines 1 through 14.

Page 32, delete lines 20 through 42.

Delete page 33.

Page 34, delete lines 1 through 16.

Page 34, delete lines 34 through 42.

Page 35, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 16. IC 6-6-9-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2018]: **Sec. 1.5. As used in this chapter, "facilitator" has the meaning set forth in IC 6-2.5-1-19.5.**

SECTION 17. IC 6-6-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) An excise tax, known as the auto rental excise tax, is imposed upon the rental of passenger motor vehicles and trucks in Indiana for periods of less than thirty (30) days.

(b) The auto rental excise tax imposed upon the rental of a passenger motor vehicle or truck equals four percent (4%) of the gross retail income received by the retail merchant for the rental.

(c) A facilitator who accepts payment for the rental of a passenger motor vehicle or truck to which subsection (a) applies is a retail merchant who shall register with the department and collect the tax imposed under subsection (a) as an agent of the state. Each rental or lease of a passenger motor vehicle or truck to which subsection (a) applies is a separate unitary transaction unless the facilitator provides the itemized statement described in IC 6-2.5-4-4.2(a).

SECTION 18. IC 6-6-9.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2018]: **Sec. 2.5. As used in this chapter, "facilitator" has the meaning set forth in IC 6-2.5-1-19.5.**

SECTION 19. IC 6-6-9.5-7, AS ADDED BY P.L.214-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) The legislative body of the most populous city in the county may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2036.

(b) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle is two percent



(2%) of the gross retail income received by the retail merchant for the rental.

(c) If the city legislative body adopts an ordinance under subsection (a), the city legislative body shall immediately send a certified copy of the ordinance to the commissioner of the department.

(d) If the city legislative body adopts an ordinance under subsection (a) before June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city legislative body adopts an ordinance under subsection (a) on or after June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

(e) A facilitator who accepts payment for the rental of a passenger motor vehicle to which an ordinance adopted under subsection (a) applies is a retail merchant who shall register with the department and collect the tax imposed under subsection (a) as an agent of the state. Each rental or lease of a passenger motor vehicle to which an ordinance adopted under subsection (a) applies is a separate unitary transaction unless the facilitator provides the itemized statement described in IC 6-2.5-4-4.2(a).

SECTION 20. IC 6-6-9.7-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 2.5. As used in this chapter, "facilitator" has the meaning set forth in IC 6-2.5-1-19.5.**

SECTION 21. IC 6-6-9.7-7, AS AMENDED BY P.L.205-2013, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 7. (a) The city-county council of a county that contains a consolidated city may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles and trucks in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2027.**

(b) Except as provided in subsection (c), the county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle or truck equals two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax imposed under subsection (a) from two percent (2%) to four percent (4%). The ordinance must specify that:

(1) if on December 31, 2027, there are obligations owed by the



capital improvement board of managers to the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the original two percent (2%) rate imposed under subsection (a) continues to be levied after its original expiration date set forth in subsection (a) and through December 31, 2040; and

(2) the additional rate authorized under this subsection expires on:

(A) January 1, 2041;

(B) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26; or

(C) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

(d) The amount collected from that portion of county supplemental auto rental excise tax imposed under:

(1) subsection (b) and collected after December 31, 2027; and

(2) under subsection (c);

shall, in the manner provided by section 11 of this chapter, be distributed to the capital improvement board of managers operating in a consolidated city or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

(e) After January 1, 2013, and before March 1, 2013, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax rate imposed under subsection (a) by not more than two percent (2%). The amount collected from an increase adopted under this subsection shall be deposited in the sports and convention facilities operating fund established by IC 36-7-31-16. An increase in the tax rate under this subsection continues in effect unless the increase is rescinded.



However, any increase in the tax rate under this subsection may not continue in effect after February 28, 2023.

(f) If a city-county council adopts an ordinance under subsection (a), (c), or (e), the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(g) If a city-county council adopts an ordinance under subsection (a), (c), or (e) on or before the fifteenth day of a month, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a), (c), or (e) after the fifteenth day of a month, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month following the month in which the ordinance is adopted.

(h) A facilitator who accepts payment for the rental of a passenger motor vehicle or truck to which an ordinance adopted under subsection (a), (c), or (e) applies is a retail merchant who shall register with the department and collect the tax imposed under subsection (a), (c), or (e) as an agent of the state. Each rental of a passenger motor vehicle or truck to which an ordinance adopted under subsection (a), (c), or (e) applies is a separate unitary transaction unless the facilitator provides the itemized statement described in IC 6-2.5-4-4.2(a)."

Page 36, delete lines 6 through 42.

Delete pages 37 through 42.

Page 43, delete lines 1 through 6, begin a new paragraph and insert:
"SECTION 23. IC 6-8.1-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]:

Chapter 16. Income Tax Return Preparers; Preparer Tax Identification Numbers

Sec. 1. As used in this chapter, "income tax return" means any of the following:

- (1) An individual income tax return under IC 6-3.**
- (2) A corporate income tax return under IC 6-3.**
- (3) A financial institutions tax return under IC 6-5.5.**
- (4) A utility receipts tax return under IC 6-2.3.**
- (5) A claim for refund of any tax described in subdivisions (1) through (4).**

Sec. 2. (a) As used in this chapter, "income tax return preparer" means any of the following:

- (1) A person who prepares ten (10) or more income tax**



returns for compensation in a calendar year.

(2) A person who employs one (1) or more persons to prepare ten (10) or more income tax returns for compensation in a calendar year.

(b) A person is not an income tax return preparer if the person performs only the following acts:

(1) Furnishes typing, reproducing, or other mechanical assistance.

(2) Prepares returns or claims for refunds for:

(A) the employer by whom the person is regularly and continuously employed; or

(B) an affiliate of that employer.

(3) Prepares, as a fiduciary, any returns or claims for refunds for a person.

(4) Prepares claims for refund for a taxpayer in response to:

(A) a notice of deficiency issued to the taxpayer; or

(B) a waiver of restriction after the commencement of an audit of:

(i) the taxpayer; or

(ii) another taxpayer, if a determination in the audit of the other taxpayer directly or indirectly affects the tax liability of the taxpayer whose claim for refund the person is preparing.

Sec. 3. As used in this chapter, "PTIN" means the preparer tax identification number that the Internal Revenue Service issues to identify tax return preparers under 26 U.S.C. 6109.

Sec. 4. For purposes of this chapter, the preparation of a substantial portion of an income tax return shall be treated as the preparation of that income tax return.

Sec. 5. For taxable years beginning after December 31, 2018, an income tax return preparer may not provide tax preparation services for income tax returns unless the income tax return preparer provides a PTIN when the income tax return preparer submits an income tax return to the department and signs the income tax return as a paid preparer.

Sec. 6. For taxable years beginning after December 31, 2018, the department shall require each income tax return preparer to include the income tax return preparer's PTIN on any income tax return that the income tax return preparer prepares and files with the department.

Sec. 7. (a) Except as provided in subsection (b) and in addition to any other penalties provided by law, the department may impose



on any income tax return preparer who violates this chapter by failing to provide the income tax return preparer's PTIN a penalty of fifty dollars (\$50) for each violation, but not to exceed twenty-five thousand dollars (\$25,000) in a calendar year.

(b) The department may not impose a penalty under this section if the income tax return preparer's failure to provide the income tax return preparer's PTIN is due to reasonable cause and is not due to willful neglect, as determined by the department.

Sec. 8. The department may develop and by rule implement a program using PTINs as an oversight mechanism to assess returns to identify high error rates, patterns of suspected fraud, and unsubstantiated basis for tax positions by income tax return preparers.

Sec. 9. (a) The department:

- (1) may investigate the actions of any income tax return preparer filing income tax returns; and
- (2) after a hearing, may bar or suspend an income tax return preparer from filing returns with the department for good cause.

(b) Notwithstanding IC 4-21.5-2-4, the department shall conduct a hearing described in subsection (a)(2) under IC 4-21.5-3, and judicial review of an adverse decision in a hearing described in subsection (a)(2) shall be in accordance with IC 4-21.5-5.

Sec. 10. The department may establish formal and regular communication protocols with the Commissioner of the Internal Revenue Service to share and exchange PTIN information for income tax return preparers who are suspected of fraud, who have been disciplined, or who are barred from filing tax returns with the department or the Internal Revenue Service. The department may establish additional communication protocols with other states to exchange similar enforcement or discipline information.

Sec. 11. The department may adopt rules for the administration and enforcement of this chapter.

SECTION 24. IC 10-13-3-38.5, AS AMENDED BY P.L.155-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat. 1115), the department may use an individual's fingerprints submitted by the individual for the following purposes:

- (1) Determining the individual's suitability for employment with the state, or as an employee of a contractor of the state, in a position:
 - (A) that has a job description that includes contact with, care of,



or supervision over a person less than eighteen (18) years of age;

(B) that has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for harmed or threatened with harm set forth in IC 12-10-3-2(a)(3);

(C) at a state institution managed by the office of the secretary of family and social services or state department of health;

(D) at the Indiana School for the Deaf established by IC 20-22-2-1;

(E) at the Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1;

(F) at a juvenile detention facility;

(G) with the Indiana gaming commission under IC 4-33-3-16;

(H) with the department of financial institutions under IC 28-11-2-3; or

(I) that has a job description that includes access to or supervision over state financial or personnel data, including state warrants, banking codes, or payroll information pertaining to state employees.

(2) Determining the individual's suitability for employment with state or local government, or as an employee of a contractor of state or local government, in a position in which the individual's duties include access to confidential tax information obtained from the United States Internal Revenue Service under Section 6103(d) of the Internal Revenue Code or from an authorized secondary source.

~~(2)~~ **(3)** Identification in a request related to an application for a teacher's license submitted to the department of education established by IC 20-19-3-1.

~~(3)~~ **(4)** Use by the gaming commission established under IC 4-33-3-1 for licensure of a promoter (as defined in IC 4-33-22-6) under IC 4-33-22.

~~(4)~~ **(5)** Use by the Indiana board of pharmacy in determining the individual's suitability for a position or employment with a wholesale drug distributor, as specified in IC 25-26-14-16(b), IC 25-26-14-16.5(b), IC 25-26-14-17.8(c), and IC 25-26-14-20.

~~(5)~~ **(6)** Identification in a request related to an individual applying for or renewing a license or certificate described in IC 25-1-1.1-4 and a conviction described in IC 25-1-1.1-2 or IC 25-1-1.1-3.

An applicant shall submit the fingerprints in an appropriate format or



on forms provided for the employment, license, or certificate application. The department shall charge each applicant the fee established under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department, the Indiana professional licensing agency, or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state.

(d) Each current or new state or local government employee whose duties include access to confidential tax information described in subsection (a)(2) must submit to a fingerprint based criminal history background check of both national and state records data bases before being granted access to the confidential tax information. In addition to the initial criminal history background checks, each state or local government employee whose duties include access to confidential tax information described in subsection (a)(2) must submit to such criminal history background checks at least once every ten (10) years thereafter. The appointing authority of such a state or local government employee may pay any fee charged for the cost of fingerprinting or conducting the criminal history background checks for the state or local government employee. The state or local government agency in its capacity as the individual's employer or to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(e) Each current or new contractor or subcontractor whose contract or subcontract grants access to confidential tax information described in subsection (a)(2) must submit to a fingerprint based criminal history background check of both national and state records data bases at least once every ten (10) years before being granted access to the confidential tax information.

(f) Each contract entered into by the state in which access to confidential tax information described in subsection (a)(2) is granted to a contractor or a subcontractor shall include:



(1) terms regarding which party is responsible for payment of any fee charged for the cost of the fingerprinting or the criminal history background checks; and

(2) terms regarding the consequences if one (1) or more disqualifying records are discovered through the criminal history background checks.

~~(d)~~ (g) The department:

(1) may permanently retain an applicant's fingerprints submitted under this section; and

(2) shall retain the applicant's fingerprints separately from fingerprints collected under section 24 of this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 242 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

