



Reprinted
February 6, 2018

SENATE BILL No. 242

DIGEST OF SB 242 (Updated February 5, 2018 2:50 pm - DI 120)

Citations Affected: IC 4-30; IC 4-33; IC 6-1.1; IC 6-2.5; IC 6-3; 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. 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. (3) Hot mix asphalt plant
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Effective: Upon passage; 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.
February 5, 2018, read second time, amended, ordered engrossed.

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equipment. (4) Fuel used to operate trucks, pavers, or equipment. (5) Repair parts installed on trucks, pavers, or equipment. 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.



Reprinted
February 6, 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 UPON PASSAGE]: 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
16 admissions and supplemental wagering taxes collected that month. Any

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

40 (d) The licensed owner or operating agent shall remit the tax
 41 imposed by this chapter to the department ~~before the close of the~~
 42 ~~business day one (1) day before the last business on the twenty-fourth~~



1 **calendar** day of each month for the wagering taxes collected that
 2 month. Any taxes collected during the month but after the day on which
 3 the taxes 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 (e) The payment of the tax under this section must be an electronic
 6 funds transfer by automated clearinghouse.

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

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

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

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

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

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

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

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

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

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

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

42 (b) The statement of benefits may contain any other information



1 required by the commission. If the person is requesting or will be
 2 requesting the designation of a district, the statement of benefits must
 3 be submitted at the same time as the request for designation is
 4 submitted.

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

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

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

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

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

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

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

38 YEAR OF DEDUCTION	PERCENTAGE
39 6th	100%
40 7th	95%
41 8th	80%
42 9th	65%



- 1 10th 50%
- 2 11th and thereafter 0%
- 3 ~~(b)~~ **(c)** A deduction under this section is not allowed in the first year
- 4 the deduction is claimed for new manufacturing equipment to the
- 5 extent that it would cause the assessed value of all of the personal
- 6 property of the owner in the taxing district in which the equipment is
- 7 located to be less than the assessed value of all of the personal property
- 8 of the owner in that taxing district in the immediately preceding year.
- 9 ~~(c)~~ **(d)** If a deduction is not fully allowed under subsection ~~(b)~~ **(c)** in
- 10 the first year the deduction is claimed, then the percentages specified
- 11 in subsection ~~(a)~~ **(b)** apply in the subsequent years to the amount of
- 12 deduction that was allowed in the first year.
- 13 ~~(d)~~ **(e)** For purposes of subsection ~~(a)~~; **(b)**, the assessed value of new
- 14 manufacturing equipment that is part of an owner's assessable
- 15 depreciable personal property in a single taxing district subject to the
- 16 valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product
- 17 of:
- 18 (1) the assessed value of the equipment **(excluding equipment**
- 19 **installed after June 30, 2018)** determined without regard to the
- 20 valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9;
- 21 multiplied by
- 22 (2) the quotient of:
- 23 (A) the amount of the valuation limitation determined under 50
- 24 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable
- 25 personal property in the taxing district; divided by
- 26 (B) the total true tax value of all of the owner's depreciable
- 27 personal property in the taxing district that is subject to the
- 28 valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9
- 29 determined:
- 30 (i) under the depreciation schedules in the rules of the
- 31 department of local government finance before any
- 32 adjustment for abnormal obsolescence; and
- 33 (ii) without regard to the valuation limitation in 50
- 34 IAC 4.2-4-9 or 50 IAC 5.1-6-9.
- 35 SECTION 7. IC 6-1.1-40-15 IS ADDED TO THE INDIANA CODE
- 36 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 37 **1, 2018]: Sec. 15. This chapter expires January 1, 2032.**
- 38 SECTION 8. IC 6-2.5-5-3, AS AMENDED BY P.L.239-2017,
- 39 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 40 JULY 1, 2018]: Sec. 3. (a) For purposes of this section:
- 41 (1) the:
- 42 (A) retreading of tires; and



- 1 (B) felling of trees for further use in production or for sale in
 2 the ordinary course of business;
 3 shall be treated as the processing of tangible personal property;
 4 and
 5 (2) commercial printing shall be treated as the production and
 6 manufacture of tangible personal property.
- 7 (b) Except as provided in subsection (d), transactions involving
 8 manufacturing machinery, tools, and equipment, including material
 9 handling equipment purchased for the purpose of transporting materials
 10 into activities described in this subsection from an onsite location, are
 11 exempt from the state gross retail tax if the person acquiring that
 12 property acquires it for direct use in the direct production, manufacture,
 13 fabrication, assembly, extraction, mining, processing, refining, or
 14 finishing of other tangible personal property.
- 15 (c) Except as provided in subsection (d), transactions involving
 16 manufacturing machinery, tools, and equipment, including material
 17 handling equipment purchased for the purpose of transporting materials
 18 into an industrial process from an onsite location, are exempt from the
 19 state gross retail tax if the person acquiring that property:
- 20 (1) acquires it for the person's direct use in an industrial
 21 processing service; and
 22 (2) is an industrial processor.
- 23 (d) The exemptions provided in subsections (b) and (c) do not apply
 24 to transactions involving distribution equipment or transmission
 25 equipment acquired by a public utility engaged in generating
 26 electricity.
- 27 **(e) The exemption provided in subsection (b) applies to the**
 28 **following equipment, fuel, and repair parts purchased and used by**
 29 **a person that manufactures hot mix asphalt at an asphalt plant:**
- 30 **(1) Trucks that are used to transport hot mix asphalt from**
 31 **that person's asphalt plant to a job site.**
 32 **(2) Pavers that are used to spread that person's hot mix**
 33 **asphalt.**
 34 **(3) Hot mix asphalt plant equipment.**
 35 **(4) Fuel used to operate trucks, pavers, or equipment**
 36 **described in subdivisions (1) through (3).**
 37 **(5) Repair parts installed on trucks, pavers, or equipment**
 38 **described in subdivisions (1) through (3).**
- 39 SECTION 9. IC 6-2.5-8-1, AS AMENDED BY P.L.245-2015,
 40 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JANUARY 1, 2019]: Sec. 1. (a) A retail merchant may not make a
 42 retail transaction in Indiana, unless the retail merchant has applied for



1 a registered retail merchant's certificate.

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

8 (c) The retail merchant shall list on the application the location
9 (including the township) of each place of business where the retail
10 merchant makes retail transactions. However, if the retail merchant
11 does not have a fixed place of business, the retail merchant shall list the
12 retail merchant's residence as the retail merchant's place of business. In
13 addition, a public utility may list only its principal Indiana office as its
14 place of business for sales of public utility commodities or service, but
15 the utility must also list on the application the places of business where
16 it makes retail transactions other than sales of public utility
17 commodities or service.

18 (d) Upon receiving a proper application, the correct fee, and the
19 security for payment, if required, the department shall issue to the retail
20 merchant a separate registered retail merchant's certificate for each
21 place of business listed on the application. Each certificate shall bear
22 a serial number and the location of the place of business for which it is
23 issued.

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

28 (f) Except as provided in subsection (h), a registered retail
29 merchant's certificate is valid for two (2) years after the date the
30 registered retail merchant's certificate is originally issued or renewed.
31 If the retail merchant has filed all returns and remitted all taxes the
32 retail merchant is currently obligated to file or remit, the department
33 shall renew the registered retail merchant's certificate within thirty (30)
34 days after the expiration date, at no cost to the retail merchant. **Before**
35 **issuing or renewing the registered retail merchant certification, the**
36 **department may require the following to be provided:**

37 (1) **The names and addresses of the retail merchant's**
38 **principal employees, agents, or representatives who engage in**
39 **Indiana in the solicitation or negotiation of the retail**
40 **transaction.**

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



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

2 (g) The department may not renew a registered retail merchant
3 certificate of a retail merchant who is delinquent in remitting
4 withholding taxes required to be remitted under IC 6-3-4 or sales or use
5 tax. The department, at least sixty (60) days before the date on which
6 a retail merchant's registered retail merchant's certificate expires, shall
7 notify a retail merchant who is delinquent in remitting withholding
8 taxes required to be remitted under IC 6-3-4 or sales or use tax that the
9 department will not renew the retail merchant's registered retail
10 merchant's certificate.

11 (h) If:

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

15 (2) the retail merchant pays the outstanding liability before the
16 expiration of the retail merchant's registered retail merchant's
17 certificate;

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

20 (i) A retail merchant engaged in business in Indiana as defined in
21 IC 6-2.5-3-1(c) who makes retail transactions that are only subject to
22 the use tax must obtain a registered retail merchant's certificate before
23 making those transactions. The retail merchant may obtain the
24 certificate by following the same procedure as a retail merchant under
25 subsections (b) and (c), except that the retail merchant must also
26 include on the application:

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

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

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

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

35 (j) The department may permit an out-of-state retail merchant to
36 collect the use tax. However, before the out-of-state retail merchant
37 may collect the tax, the out-of-state retail merchant must obtain a
38 registered retail merchant's certificate in the manner provided by this
39 section. Upon receiving the certificate, the out-of-state retail merchant
40 becomes subject to the same conditions and duties as an Indiana retail
41 merchant and must then collect the use tax due on all sales of tangible
42 personal property that the out-of-state retail merchant knows is



1 intended for use in Indiana.

2 (k) Except as provided in subsection (l), the department shall submit

3 to the township assessor, or the county assessor if there is no township

4 assessor for the township, before March 15 of each year:

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

6 registered retail merchant's certificate during the preceding year

7 for a place of business located in the township or county; and

8 (2) the address of each place of business of the taxpayer in the

9 township or county.

10 (l) If the duties of the township assessor have been transferred to the

11 county assessor as described in IC 6-1.1-1-24, the department shall

12 submit the information listed in subsection (k) to the county assessor.

13 SECTION 10. IC 6-3-2-1, AS AMENDED BY P.L.80-2014,

14 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

15 JANUARY 1, 2018 (RETROACTIVE)]: Sec. 1. (a) Each taxable year,

16 a tax at the following rate of adjusted gross income is imposed upon the

17 adjusted gross income of every resident person, and on that part of the

18 adjusted gross income derived from sources within Indiana of every

19 nonresident person:

20 (1) For taxable years beginning before January 1, 2015, three and

21 four-tenths percent (3.4%).

22 (2) For taxable years beginning after December 31, 2014, and

23 before January 1, 2017, three and three-tenths percent (3.3%).

24 (3) For taxable years beginning after December 31, 2016, three

25 and twenty-three hundredths percent (3.23%).

26 (b) Except as provided in section 1.5 of this chapter (**before its**

27 **expiration**), each taxable year, a tax at the following rate of adjusted

28 gross income is imposed on that part of the adjusted gross income

29 derived from sources within Indiana of every corporation:

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

31 (2) After June 30, 2012, and before July 1, 2013, eight percent

32 (8.0%).

33 (3) After June 30, 2013, and before July 1, 2014, seven and

34 five-tenths percent (7.5%).

35 (4) After June 30, 2014, and before July 1, 2015, seven percent

36 (7.0%).

37 (5) After June 30, 2015, and before July 1, 2016, six and

38 five-tenths percent (6.5%).

39 (6) After June 30, 2016, and before July 1, 2017, six and

40 twenty-five hundredths percent (6.25%).

41 (7) After June 30, 2017, and before July 1, 2018, six percent

42 (6.0%).



- 1 (8) After June 30, 2018, and before July 1, 2019, five and
- 2 seventy-five hundredths percent (5.75%).
- 3 (9) After June 30, 2019, and before July 1, 2020, five and
- 4 five-tenths percent (5.5%).
- 5 (10) After June 30, 2020, and before July 1, 2021, five and
- 6 twenty-five hundredths percent (5.25%).
- 7 (11) After June 30, 2021, four and nine-tenths percent (4.9%).

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

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

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

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

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

22 SECTION 11. IC 6-3-2-1.5, AS AMENDED BY P.L.288-2013,
 23 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2018]: Sec. 1.5. (a) As used in this section, "qualified area"
 25 means:

- 26 (1) a military base (as defined in IC 36-7-30-1(c));
- 27 (2) a military base reuse area established under IC 36-7-30;
- 28 (3) the part of an economic development area established under
- 29 IC 36-7-14.5-12.5 that is or formerly was a military base (as
- 30 defined in IC 36-7-30-1(c)); or
- 31 (4) a qualified military base enhancement area established under
- 32 IC 36-7-34.

33 (b) Except as provided in ~~subsection (e)~~; **subsections (e) and (h)**,
 34 a tax at the rate of five percent (5%) of adjusted gross income is
 35 imposed on that part of the adjusted gross income of a corporation that
 36 is derived from sources within a qualified area if the corporation
 37 locates all or part of its operations in a qualified area during the taxable
 38 year, as determined under subsection (g). The tax rate under this
 39 section applies to the taxable year in which the corporation locates its
 40 operations in the qualified area and to the next succeeding four (4)
 41 taxable years.

42 (c) In the case of a corporation that locates all or part of its



1 operations in a qualified military base enhancement area established
2 under IC 36-7-34-4(1), the tax rate imposed under this section applies
3 to the corporation only if the corporation meets at least one (1) of the
4 following criteria:

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

8 (2) The corporation is a United States Department of Defense
9 contractor.

10 (3) The corporation and the qualified military base have a
11 mutually beneficial relationship evidenced by a memorandum of
12 understanding between the corporation and the United States
13 Department of Defense.

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

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

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

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

29 (1) the taxpayer had existing operations in the qualified area; and

30 (2) the operations relocated to the qualified area are an expansion
31 of the taxpayer's operations in the qualified area.

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

38 (g) The department of state revenue:

39 (1) shall adopt rules under IC 4-22-2 to establish a procedure for
40 determining the part of a corporation's adjusted gross income that
41 was derived from sources within a qualified area; and

42 (2) may adopt other rules that the department considers necessary



1 for the implementation of this chapter.

2 **(h) The tax rate under this section applies only to a corporation**
 3 **that locates all or part of its operations in a qualified area before**
 4 **January 1, 2019. However, this subsection may not be construed to**
 5 **prevent the tax rate from applying to succeeding taxable years of**
 6 **a corporation after December 31, 2018, if the corporation locates**
 7 **all or part of its operations in a qualified area before January 1,**
 8 **2019.**

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

10 SECTION 12. IC 6-3-2-13, AS AMENDED BY P.L.250-2015,
 11 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JANUARY 1, 2019]: Sec. 13. (a) As used in this section, "export
 13 income" means the gross receipts from the sale, transfer, or exchange
 14 of tangible personal property destined for international markets that is:

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

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

- 20 (1) the taxpayer's export income; divided by
- 21 (2) the taxpayer's gross receipts from the sale, transfer, or
 22 exchange of tangible personal property, regardless of its
 23 destination.

24 (c) As used in this section, "taxpayer" means a person or corporation
 25 that has export income.

26 (d) The ports of Indiana established by IC 8-10-1-3 shall notify the
 27 department when a maritime opportunity district is established under
 28 IC 6-1.1-40 **(before its expiration)**. The notice must include:

- 29 (1) the resolution passed by the commission to establish the
 30 district; and
- 31 (2) a list of all taxpayers located in the district.

32 (e) The ports of Indiana shall also notify the department of any
 33 subsequent changes in the list of taxpayers located in the district.

34 (f) A taxpayer is entitled to a deduction from the taxpayer's adjusted
 35 gross income in an amount equal to the lesser of:

- 36 (1) the taxpayer's adjusted gross income; or
- 37 (2) the product of the export sales ratio multiplied by the
 38 percentage set forth in subsection (g).

39 (g) The percentage to be used in determining the amount a taxpayer
 40 is entitled to deduct under this section depends upon the number of
 41 years that the taxpayer could have taken a deduction under this section.
 42 The percentage to be used in subsection (f) is as follows:

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1	YEAR OF DEDUCTION	PERCENTAGE
2	1st through 4th	100%
3	5th	80%
4	6th	60%
5	7th	40%
6	8th	20%
7	9th and thereafter	0%

8 (h) The department shall determine, for each taxpayer claiming a
9 deduction under this section, the taxpayer's export sales ratio for
10 purposes of IC 6-1.1-40. The department shall certify the amount of the
11 ratio to the department of local government finance.

12 (i) A taxpayer is not entitled to a deduction under this section based
13 on export income received by the taxpayer after December 31, 2015.

14 (j) This section expires January 1, 2025.

15 SECTION 13. IC 6-3-4-3, AS AMENDED BY P.L.172-2011,
16 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JANUARY 1, 2019]: Sec. 3. Returns required to be made pursuant to
18 section 1 of this chapter shall be filed with the department on or before
19 the later of the following:

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

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

26 **However, if the due date for a federal income tax return is**
27 **extended by the Internal Revenue Service to a date that is later**
28 **than the date specified in subdivision (1) or (2) (as applicable), the**
29 **department may extend the due date of a return required to be**
30 **made under section 1 of this chapter to the due date permitted for**
31 **the federal income tax return.**

32 SECTION 14. IC 6-8.1-9-1.5 IS ADDED TO THE INDIANA
33 CODE AS A NEW SECTION TO READ AS FOLLOWS
34 [EFFECTIVE JANUARY 1, 2019]: **Sec. 1.5. (a) The department may**
35 **issue a refund or credit without a taxpayer filing a refund claim in**
36 **the event of:**

37 (1) **an error by the department;**
38 (2) **an error determined by the department; or**
39 (3) **a taxpayer's overpayment determined by the department**
40 **under an audit or investigation.**

41 (b) **The department shall prescribe rules or guidelines to govern**
42 **the circumstances under which the department may issue a refund**



1 or credit under this section.

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

5 (d) Nothing in this section shall constitute a requirement that
6 the department issue a refund or credit for an overpayment.

7 SECTION 15. IC 6-8.1-16 IS ADDED TO THE INDIANA CODE
8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 JANUARY 1, 2019]:

10 **Chapter 16. Income Tax Return Preparers; Preparer Tax**
11 **Identification Numbers**

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

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

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

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

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

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



1 other taxpayer directly or indirectly affects the tax
2 liability of the taxpayer whose claim for refund the person
3 is preparing.

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

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

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

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

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

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

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

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

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

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

42 **(b)** Notwithstanding IC 4-21.5-2-4, the department shall conduct



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

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

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

14 SECTION 16. IC 10-13-3-38.5, AS AMENDED BY P.L.155-2011,
 15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JANUARY 1, 2019]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat.
 17 1115), the department may use an individual's fingerprints submitted
 18 by the individual for the following purposes:

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

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

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

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

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

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

36 (F) at a juvenile detention facility;

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

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

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



1 to state employees.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

34 SECTION 17. 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.

SENATE MOTION

Madam President: I move that Senate Bill 242 be amended to read as follows:

Page 1, line 9, delete "JANUARY 1, 2019]:" and insert "UPON PASSAGE]:".

Page 2, line 11, delete "JANUARY 1, 2019]:" and insert "UPON PASSAGE]:".

Page 6, delete lines 39 through 42.

Delete page 7.

Page 8, delete lines 1 through 21.

Page 9, line 12, after "equipment" insert ", **fuel, and repair parts**".

Page 9, between lines 17 and 18, begin a new line block indented and insert:

"(3) Hot mix asphalt plant equipment.

(4) Fuel used to operate trucks, pavers, or equipment described in subdivisions (1) through (3).

(5) Repair parts installed on trucks, pavers, or equipment described in subdivisions (1) through (3)."

Page 16, delete lines 11 through 42.

Delete pages 17 through 18.

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Page 19, delete lines 1 through 24.

Page 19, delete lines 40 through 42.

Page 20, delete lines 1 through 2.

Page 20, line 3, delete "(f)" and insert "**(d)**".

Renumber all SECTIONS consecutively.

(Reference is to SB 242 as printed February 2, 2018.)

HOLDMAN

