



March 25, 2021

ENGROSSED SENATE BILL No. 383

DIGEST OF SB 383 (Updated March 24, 2021 6:57 pm - DI 125)

Citations Affected: IC 4-31; IC 6-2.3; IC 6-2.5; IC 6-3; IC 6-3.6; IC 6-5.5; IC 6-6; IC 6-8.1; IC 9-18.1; IC 13-20; IC 22-4; IC 22-11; IC 36-6; IC 36-8; noncode.

Synopsis: Various tax matters. Requires a corporation with gross income of more than \$1,000,000 to file its corporate income tax return in an electronic manner specified by the department of state revenue (department). Provides a sales tax exemption for a utility scale battery energy storage system. Provides a sales tax exemption for public safety equipment and materials. Provides certain procedures for reporting federal partnership audit adjustments for purposes of the state adjusted gross income tax and financial institutions tax in order to conform with changes in federal law. Provides that the department of state revenue (department) may prescribe procedures: (1) by which a pass through entity remits tax; (2) for persons or entities that are otherwise subject to withholding but that may have circumstances such that standard tax computation may result in excess withholding; (3) for individuals and (Continued next page)

Effective: Upon passage; January 1, 2017 (retroactive); May 1, 2021 (retroactive); July 1, 2021.

Holdman, Buchanan

(HOUSE SPONSOR — BROWN T)

January 14, 2021, read first time and referred to Committee on Tax and Fiscal Policy.
February 16, 2021, amended, reported favorably — Do Pass.
February 18, 2021, read second time, amended, ordered engrossed.
February 19, 2021, engrossed.
February 22, 2021, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 4, 2021, read first time and referred to Committee on Ways and Means.
March 25, 2021, amended, reported — Do Pass.

ES 383—LS 7266/DI 120



trusts that are residents for part of the taxable year and nonresidents for part of the taxable year; and (4) by which an entity may request alternative withholding arrangements. Requires the daily pari-mutuel breakage on wagers to be paid to the department, instead of the auditor of state, for deposit in the appropriate breed development fund. Requires a utility provider to maintain records sufficient to document each one to one meter change. Allows a person to request that the department reissue an exemption certificate with a new meter number in the event of a one to one meter change. Removes duplicate provisions regarding electronic filing requirements for sales tax and withholding tax remittance. Removes certain unnecessary information currently required for employer withholding tax reporting forms. Specifies that the penalty provisions in current law for failure to make a payment by electronic funds transfer also apply to a failure to make a payment by any other electronic means. Clarifies that an individual's estimated income tax filing and payment requirements include local income taxes. Clarifies the penalty calculation for failure to make estimated tax payments, including estimated utility receipts tax and financial institutions tax payments. Provides that a taxpayer may elect to claim a tax credit against the taxpayer's Indiana adjusted gross income tax liability for the amount of tax that is imposed in a foreign country but not due from the taxpayer under the laws of that foreign country until a tax year after the tax year in which the income subject to the foreign country's tax is included in the taxpayer's Indiana adjusted gross income (provides for retroactive application to tax years beginning after December 31, 2016). Sets a floor on the periodic change in the gasoline tax and the special fuel tax rates each year of not less than the rates in the preceding year. Provides that the fee to register a trailer that is registered under the International Registration Plan (IRP) shall be prorated based on the Indiana mileage percentage of the registrant's trucks and tractors registered under the IRP. Allows the department to release the name and business address of a person that is issued a retail merchant's certificate for the purpose of reporting the status of the person's certificate. Provides that the provision in current law requiring an out-of-state merchant to collect sales tax on retail transactions made in Indiana if certain threshold conditions are met extends to the following: (1) The waste tire management fee. (2) The fireworks public safety fee. (3) The prepaid wireless service charge. Provides that the township trustee shall serve as an ex officio member of the township board for the purpose of casting the deciding vote to break a tie vote on the adoption of a township's budget and tax levies. Delays the expiration of provisions providing that a local income tax council for a county with a single voting bloc must vote as a whole in order to exercise its authority to increase (but not decrease) a local income tax rate in the county. Increases the amount the commissioner of workforce development shall release each year to Vincennes University for training provided to apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training, from \$1,000,000 to \$4,000,000. Makes technical corrections.



March 25, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 383

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 4-31-9-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 10. (a) At the close of
3 each day on which pari-mutuel wagering is conducted at a racetrack or
4 satellite facility, the permit holder or satellite facility operator shall pay
5 the breakage from each of the races on which wagers were taken on
6 that day to the ~~auditor of state~~ **department of state revenue** for deposit
7 in the appropriate breed development fund as determined by the rules
8 of the commission.
9 (b) Not later than March 15 of each year, each permit holder or
10 satellite facility operator shall pay to the commission the balance of the
11 outs tickets from the previous calendar year. The commission shall
12 distribute money received under this subsection to the appropriate
13 breed development fund as determined by the rules of the commission.
14 SECTION 2. IC 6-2.3-6-1, AS AMENDED BY P.L.211-2007,
15 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

ES 383—LS 7266/DI 120



1 JULY 1, 2021]: Sec. 1. (a) Except as provided in subsections (c)
2 through (e), a taxpayer shall file utility receipts tax returns with, and
3 pay the taxpayer's utility receipts tax liability to, the department by the
4 due date of the estimated return. A taxpayer who uses a taxable year
5 that ends on December 31 shall file the taxpayer's estimated utility
6 receipts tax returns and pay the tax to the department on or before April
7 20, June 20, September 20, and December 20 of the taxable year. If a
8 taxpayer uses a taxable year which does not end on December 31, the
9 due dates for filing estimated utility receipts tax returns and paying the
10 tax are on or before the twentieth day of the fourth, sixth, ninth, and
11 twelfth months of the taxpayer's taxable year.

12 (b) With each return filed, with each payment by cashier's check,
13 certified check, or money order delivered in person or by overnight
14 courier, and with each electronic funds transfer made, a taxpayer shall
15 pay to the department twenty-five percent (25%) of the estimated or the
16 exact amount of utility receipts tax that is due.

17 (c) If a taxpayer's estimated annual utility receipts tax liability does
18 not exceed two thousand five hundred dollars (\$2,500), the taxpayer is
19 not required to file an estimated utility receipts tax return.

20 (d) If the department determines that a taxpayer's:

21 (1) estimated quarterly utility receipts tax liability for the current
22 year; or

23 (2) average estimated quarterly utility receipts tax liability for the
24 preceding year;

25 exceeds five thousand dollars (\$5,000), the taxpayer shall pay the
26 estimated utility receipts taxes due by electronic funds transfer (as
27 defined in IC 4-8.1-2-7) or by delivering in person or by overnight
28 courier a payment by cashier's check, certified check, or money order
29 to the department. The transfer or payment shall be made on or before
30 the date the tax is due.

31 (e) If a taxpayer's utility receipts tax payment is made by electronic
32 funds transfer, the taxpayer is not required to file an estimated utility
33 receipts tax return.

34 (f) The penalty **in the amount** prescribed by IC 6-8.1-10-2.1(b)
35 shall be assessed by the department on taxpayers failing to make
36 payments as required in subsection (b) or (d). However, a penalty may
37 not be assessed as to any estimated payments of utility receipts tax that
38 equal or exceed:

39 (1) twenty percent (20%) of the final tax liability for the taxable
40 year; or

41 (2) twenty-five percent (25%) of the final tax liability for the
42 taxpayer's previous taxable year.



1 In addition, the penalty as to any underpayment of tax on an estimated
 2 return shall be assessed only on the difference between the actual
 3 amount paid by the taxpayer on the estimated return and ~~twenty-five~~
 4 ~~percent (25%) of the taxpayers's final utility receipts tax liability for the~~
 5 ~~taxable year: the lesser of the amounts under subdivision (1) or (2).~~
 6 **A payment required to be made in the manner prescribed in**
 7 **subsection (d), but not paid in such a prescribed manner, shall be**
 8 **subject to the penalty provided in IC 6-8.1-10-2.1(b)(5).**

9 SECTION 3. IC 6-2.5-1-5, AS AMENDED BY P.L.146-2020,
 10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b),
 12 "gross retail income" means the total amount of consideration,
 13 including cash, credit, property, and services, for which tangible
 14 personal property is sold, leased, or rented, valued in money, whether
 15 received in money or otherwise, without any deduction for:

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

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



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

3 (1) the value of any tangible personal property received in a like
4 kind exchange in the retail transaction, if the value of the property
5 given in exchange is separately stated on the invoice, bill of sale,
6 or similar document given to the purchaser;

7 (2) the receipts received in a retail transaction which constitute
8 interest, finance charges, or insurance premiums on either a
9 promissory note or an installment sales contract;

10 (3) discounts, including cash, terms, or coupons that are not
11 reimbursed by a third party that are allowed by a seller and taken
12 by a purchaser on a sale;

13 (4) interest, financing, and carrying charges from credit extended
14 on the sale of personal property if the amount is separately stated
15 on the invoice, bill of sale, or similar document given to the
16 purchaser;

17 (5) any taxes legally imposed directly on the consumer that are
18 separately stated on the invoice, bill of sale, or similar document
19 given to the purchaser, including an excise tax imposed under
20 IC 6-6-15;

21 (6) installation charges that are separately stated on the invoice,
22 bill of sale, or similar document given to the purchaser;

23 (7) telecommunications nonrecurring charges;

24 (8) postage charges that are separately stated on the invoice, bill
25 of sale, or similar document; or

26 (9) charges for serving or delivering food and food ingredients
27 furnished, prepared, or served for consumption at a location, or on
28 equipment, provided by the retail merchant, to the extent that the
29 charges for the serving or delivery are stated separately from the
30 price of the food and food ingredients when the purchaser pays
31 the charges.

32 (c) Notwithstanding subsection (b)(5):

33 (1) in the case of retail sales of special fuel (as defined in
34 IC 6-6-2.5-22), the gross retail income is the total sales price of
35 the special fuel minus the part of that price attributable to tax
36 imposed under IC 6-6-2.5 or Section 4041 or Section 4081 of the
37 Internal Revenue Code; and

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

41 (d) Gross retail income is only taxable under this article to the
42 extent that the income represents:

ES 383—LS 7266/DI 120



1 (1) the price of the property transferred, without the rendition of
2 any services; and

3 (2) except as provided in subsection (b), any bona fide ~~changes~~
4 **charges** which are made for preparation, fabrication, alteration,
5 modification, finishing, completion, delivery, or other service
6 performed in respect to the property transferred before its transfer
7 and which are separately stated on the transferor's records. For
8 purposes of this subdivision, a transfer is considered to have
9 occurred after the delivery of the property to the purchaser.

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

14 SECTION 4. IC 6-2.5-5-10.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2021 (RETROACTIVE)]: **Sec. 10.5. (a)**
16 **Transactions occurring on or after May 1, 2021, involving tangible**
17 **personal property are exempt from the state gross retail tax, if:**

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

20 (2) the person acquiring the property is:

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

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

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

28 (b) As used in this section, a "utility scale battery energy storage
29 system" means a system capable of storing and releasing greater
30 than 1MW of electrical energy for a minimum of one (1) hour
31 utilizing an AC inverter and DC storage, but does not include
32 foundations or property used to directly or indirectly connect to
33 the AC inverter or DC storage of such system to electrical energy
34 production equipment or the customer's meter.

35 SECTION 5. IC 6-2.5-5-55 IS ADDED TO THE INDIANA CODE
36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 2021]: **Sec. 55. (a) As used in this section, "public safety**
38 **equipment and materials" means equipment and materials used at**
39 **the site of a public works project or projects that directly**
40 **contribute to the safety of the general public or workers of the**
41 **public works project or serve to inform them of the associated**
42



1 dangers. The term includes:

- 2 (1) concrete or metal barriers;
 3 (2) barrels;
 4 (3) barricades;
 5 (4) temporary pavement markings;
 6 (5) materials to construct temporary traffic lanes, roads, and
 7 bridges;
 8 (6) erosion control and drainage materials;
 9 (7) aggregates used to set grades;
 10 (8) cones;
 11 (9) rumble stripes;
 12 (10) temporary curbs or speed bumps; and
 13 (11) static and electronic signage and signals.

14 The term does not include hard hats, safety glasses, safety vests,
 15 pest control, or other personal protective equipment used or worn
 16 by employees of the construction contractor or subcontractors.

17 (b) Transactions involving public safety equipment and
 18 materials are exempt from the state gross retail tax if the
 19 equipment or material is predominately used by the purchaser to
 20 protect the general public and workers during the purchaser's
 21 performance of public works construction or maintenance.
 22 However, transactions involving hard hats, safety glasses, safety
 23 vests, pest control, or other personal protective equipment used or
 24 worn by employees of the construction contractor or
 25 subcontractors are not exempt from the state gross retail tax under
 26 this section.

27 SECTION 6. IC 6-2.5-6-1, AS AMENDED BY P.L.137-2012,
 28 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2021]: Sec. 1. (a) Except as otherwise provided in this section,
 30 each person liable for collecting the state gross retail or use tax shall
 31 file a return for each calendar month and pay the state gross retail and
 32 use taxes that the person collects during that month. A person shall file
 33 the person's return for a particular month with the department and make
 34 the person's tax payment for that month to the department not more
 35 than thirty (30) days after the end of that month, if that person's average
 36 monthly liability for collections of state gross retail and use taxes under
 37 this section as determined by the department for the preceding calendar
 38 year did not exceed one thousand dollars (\$1,000). If a person's average
 39 monthly liability for collections of state gross retail and use taxes under
 40 this section as determined by the department for the preceding calendar
 41 year exceeded one thousand dollars (\$1,000), that person shall file the
 42 person's return for a particular month and make the person's tax



1 payment for that month to the department not more than twenty (20)
2 days after the end of that month.

3 (b) Instead of the twelve (12) monthly reporting periods required by
4 subsection (a), the department may permit a person to divide a year into
5 a different number of reporting periods. The return and payment for
6 each reporting period is due not more than twenty (20) days after the
7 end of the period.

8 (c) Instead of the reporting periods required under subsection (a),
9 the department may permit a retail merchant to report and pay the
10 merchant's state gross retail and use taxes for a period covering a
11 calendar year, if the retail merchant's state gross retail and use tax
12 liability in the previous calendar year does not exceed one thousand
13 dollars (\$1,000). A retail merchant using a reporting period allowed
14 under this subsection must file the merchant's return and pay the
15 merchant's tax for a reporting period not later than the last day of the
16 month immediately following the close of that reporting period.

17 (d) If a retail merchant reports the merchant's adjusted gross income
18 tax, or the tax the merchant pays in place of the adjusted gross income
19 tax, over a fiscal year not corresponding to the calendar year, the
20 merchant may, without prior departmental approval, report and pay the
21 merchant's state gross retail and use taxes over the merchant's fiscal
22 year that corresponds to the calendar year the merchant is permitted to
23 use under subsection (c). However, the department may, at any time,
24 require the retail merchant to stop using the fiscal reporting period.

25 (e) If the department determines that a person's:

26 (1) estimated monthly gross retail and use tax liability for the
27 current year; or

28 (2) average monthly gross retail and use tax liability for the
29 preceding year;

30 exceeds five thousand dollars (\$5,000); the person shall pay the
31 monthly gross retail and use taxes due by electronic funds transfer (as
32 defined in IC 4-8.1-2-7) or by delivering in person or by overnight
33 courier a payment by cashier's check, certified check, or money order
34 to the department. The transfer or payment shall be made on or before
35 the date the tax is due:

36 (f) (e) A retail merchant shall report and remit state gross retail and
37 use taxes through the department's online tax filing program.

38 (g) (f) A person:

39 (1) who has voluntarily registered as a seller under the
40 Streamlined Sales and Use Tax Agreement;

41 (2) who is not a Model 1, Model 2, or Model 3 seller (as defined
42 in the Streamlined Sales and Use Tax Agreement); and



1 (3) whose liability for collections of state gross retail and use
2 taxes under this section for the preceding calendar year as
3 determined by the department does not exceed one thousand
4 dollars (\$1,000);

5 is not required to file a monthly gross retail and use tax return.

6 SECTION 7. IC 6-2.5-8-8, AS AMENDED BY P.L.242-2015,
7 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2021]: Sec. 8. (a) A person, authorized under subsection (b),
9 who makes a purchase in a transaction which is exempt from the state
10 gross retail and use taxes, may issue an exemption certificate to the
11 seller instead of paying the tax. The person shall issue the certificate on
12 forms and in the manner prescribed by the department. A seller
13 accepting a proper exemption certificate under this section has no duty
14 to collect or remit the state gross retail or use tax on that purchase.

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

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

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

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

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

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

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

35 (1) a fully completed exemption certificate; or

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

37 within ninety (90) days after the sale.

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

42 (1) obtain a fully completed exemption certificate; or



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

3 (f) A power subsidiary (as defined in IC 6-2.5-4-5) or a person
4 selling the services or commodities listed in IC 6-2.5-4-5(b) who
5 accepts an exemption certificate issued by the department to a person
6 who is exempt from the state gross retail tax under IC 6-2.5-4-5 is
7 relieved from the duty to collect state gross retail or use tax on the sale
8 of the services or commodities listed in IC 6-2.5-4-5(b) until notified
9 by the department that the exemption certificate has expired or has
10 been revoked. If the department notifies a power subsidiary or a person
11 selling the services or commodities listed in IC 6-2.5-4-5(b) that a
12 person's exemption certificate has expired or has been revoked, the
13 power subsidiary or person selling the services or commodities listed
14 in IC 6-2.5-4-5(b) shall begin collecting state gross retail tax on the sale
15 of the services or commodities listed in IC 6-2.5-4-5(b) to the person
16 whose exemption certificate has expired or been revoked not later than
17 thirty (30) days after the date of the department's notice. An exemption
18 certificate issued by the department to a person who is exempt from the
19 state gross retail tax under IC 6-2.5-4-5 remains valid for that person
20 regardless of any subsequent one (1) for one (1) meter number changes
21 with respect to that person that are required, made, or initiated by a
22 power subsidiary or a person selling the services or commodities listed
23 in IC 6-2.5-4-5(b), **unless the department revokes the exemption**
24 **certificate.** Within thirty (30) days after the final day of each calendar
25 year quarter, a power subsidiary or a person selling the services or
26 commodities listed in IC 6-2.5-4-5(b) shall report to the department any
27 meter number changes made during the immediately preceding
28 calendar year quarter and distinguish between the one (1) for one (1)
29 meter changes and the one (1) for multiple meter changes made during
30 the calendar year quarter. **A power subsidiary or a person selling the**
31 **services or commodities listed in IC 6-2.5-4-5(b) shall maintain**
32 **records sufficient to document each one (1) to one (1) meter**
33 **change. A person may request the department to reissue an**
34 **exemption certificate with a new meter number in the event of a**
35 **one (1) to one (1) meter change.** Except for a person to whom a
36 blanket utility exemption applies, any meter number changes not
37 involving a one (1) to one (1) relationship will no longer be exempt and
38 will require the person to submit a new utility exemption application
39 for the new meters. Until an application for a new meter is approved,
40 the new meter is subject to the state gross retail tax and the power
41 subsidiary or the person selling the services or commodities listed in
42 IC 6-2.5-4-5(b) is required to collect the state gross retail tax from the



- 1 date of the meter change.
- 2 SECTION 8. IC 6-3-1-3.5, AS AMENDED BY P.L.146-2020,
 3 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2021]: Sec. 3.5. When used in this article, the term "adjusted
 5 gross income" shall mean the following:
- 6 (a) In the case of all individuals, "adjusted gross income" (as
 7 defined in Section 62 of the Internal Revenue Code), modified as
 8 follows:
- 9 (1) Subtract income that is exempt from taxation under this article
 10 by the Constitution and statutes of the United States.
- 11 (2) Except as provided in subsection (c), add an amount equal to
 12 any deduction or deductions allowed or allowable pursuant to
 13 Section 62 of the Internal Revenue Code for taxes based on or
 14 measured by income and levied at the state level by any state of
 15 the United States.
- 16 (3) Subtract one thousand dollars (\$1,000), or in the case of a
 17 joint return filed by a husband and wife, subtract for each spouse
 18 one thousand dollars (\$1,000).
- 19 (4) Subtract one thousand dollars (\$1,000) for:
- 20 (A) each of the exemptions provided by Section 151(c) of the
 21 Internal Revenue Code (as effective January 1, 2017);
- 22 (B) each additional amount allowable under Section 63(f) of
 23 the Internal Revenue Code; and
- 24 (C) the spouse of the taxpayer if a separate return is made by
 25 the taxpayer and if the spouse, for the calendar year in which
 26 the taxable year of the taxpayer begins, has no gross income
 27 and is not the dependent of another taxpayer.
- 28 (5) Subtract:
- 29 (A) one thousand five hundred dollars (\$1,500) for each of the
 30 exemptions allowed under Section 151(c)(1)(B) of the Internal
 31 Revenue Code (as effective January 1, 2004);
- 32 (B) one thousand five hundred dollars (\$1,500) for each
 33 exemption allowed under Section 151(c) of the Internal
 34 Revenue Code (as effective January 1, 2017) for an individual:
- 35 (i) who is less than nineteen (19) years of age or is a
 36 full-time student who is less than twenty-four (24) years of
 37 age;
- 38 (ii) for whom the taxpayer is the legal guardian; and
- 39 (iii) for whom the taxpayer does not claim an exemption
 40 under clause (A); and
- 41 (C) five hundred dollars (\$500) for each additional amount
 42 allowable under Section 63(f)(1) of the Internal Revenue Code



- 1 if the federal adjusted gross income of the taxpayer, or the
2 taxpayer and the taxpayer's spouse in the case of a joint return,
3 is less than forty thousand dollars (\$40,000). In the case of a
4 married individual filing a separate return, the qualifying
5 income amount in this clause is equal to twenty thousand
6 dollars (\$20,000).
- 7 This amount is in addition to the amount subtracted under
8 subdivision (4).
- 9 (6) Subtract any amounts included in federal adjusted gross
10 income under Section 111 of the Internal Revenue Code as a
11 recovery of items previously deducted as an itemized deduction
12 from adjusted gross income.
- 13 (7) Subtract any amounts included in federal adjusted gross
14 income under the Internal Revenue Code which amounts were
15 received by the individual as supplemental railroad retirement
16 annuities under 45 U.S.C. 231 and which are not deductible under
17 subdivision (1).
- 18 (8) Subtract an amount equal to the amount of federal Social
19 Security and Railroad Retirement benefits included in a taxpayer's
20 federal gross income by Section 86 of the Internal Revenue Code.
- 21 (9) In the case of a nonresident taxpayer or a resident taxpayer
22 residing in Indiana for a period of less than the taxpayer's entire
23 taxable year, the total amount of the deductions allowed pursuant
24 to subdivisions (3), (4), and (5) shall be reduced to an amount
25 which bears the same ratio to the total as the taxpayer's income
26 taxable in Indiana bears to the taxpayer's total income.
- 27 (10) In the case of an individual who is a recipient of assistance
28 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
29 subtract an amount equal to that portion of the individual's
30 adjusted gross income with respect to which the individual is not
31 allowed under federal law to retain an amount to pay state and
32 local income taxes.
- 33 (11) In the case of an eligible individual, subtract the amount of
34 a Holocaust victim's settlement payment included in the
35 individual's federal adjusted gross income.
- 36 (12) Subtract an amount equal to the portion of any premiums
37 paid during the taxable year by the taxpayer for a qualified long
38 term care policy (as defined in IC 12-15-39.6-5) for the taxpayer
39 or the taxpayer's spouse if the taxpayer and the taxpayer's spouse
40 file a joint income tax return or the taxpayer is otherwise entitled
41 to a deduction under this subdivision for the taxpayer's spouse, or
42 both.



- 1 (13) Subtract an amount equal to the lesser of:
2 (A) two thousand five hundred dollars (\$2,500), or one
3 thousand two hundred fifty dollars (\$1,250) in the case of a
4 married individual filing a separate return; or
5 (B) the amount of property taxes that are paid during the
6 taxable year in Indiana by the individual on the individual's
7 principal place of residence.
- 8 (14) Subtract an amount equal to the amount of a September 11
9 terrorist attack settlement payment included in the individual's
10 federal adjusted gross income.
- 11 (15) Add or subtract the amount necessary to make the adjusted
12 gross income of any taxpayer that owns property for which bonus
13 depreciation was allowed in the current taxable year or in an
14 earlier taxable year equal to the amount of adjusted gross income
15 that would have been computed had an election not been made
16 under Section 168(k) of the Internal Revenue Code to apply bonus
17 depreciation to the property in the year that it was placed in
18 service.
- 19 (16) Add an amount equal to any deduction allowed under
20 Section 172 of the Internal Revenue Code (concerning net
21 operating losses).
- 22 (17) Add or subtract the amount necessary to make the adjusted
23 gross income of any taxpayer that placed Section 179 property (as
24 defined in Section 179 of the Internal Revenue Code) in service
25 in the current taxable year or in an earlier taxable year equal to
26 the amount of adjusted gross income that would have been
27 computed had an election for federal income tax purposes not
28 been made for the year in which the property was placed in
29 service to take deductions under Section 179 of the Internal
30 Revenue Code in a total amount exceeding the sum of:
31 (A) twenty-five thousand dollars (\$25,000) to the extent
32 deductions under Section 179 of the Internal Revenue Code
33 were not elected as provided in clause (B); and
34 (B) for taxable years beginning after December 31, 2017, the
35 deductions elected under Section 179 of the Internal Revenue
36 Code on property acquired in an exchange if:
37 (i) the exchange would have been eligible for
38 nonrecognition of gain or loss under Section 1031 of the
39 Internal Revenue Code in effect on January 1, 2017;
40 (ii) the exchange is not eligible for nonrecognition of gain or
41 loss under Section 1031 of the Internal Revenue Code; and
42 (iii) the taxpayer made an election to take deductions under



- 1 Section 179 of the Internal Revenue Code with regard to the
 2 acquired property in the year that the property was placed
 3 into service.
- 4 The amount of deductions allowable for an item of property
 5 under this clause may not exceed the amount of adjusted gross
 6 income realized on the property that would have been deferred
 7 under the Internal Revenue Code in effect on January 1, 2017.
- 8 (18) Subtract an amount equal to the amount of the taxpayer's
 9 qualified military income that was not excluded from the
 10 taxpayer's gross income for federal income tax purposes under
 11 Section 112 of the Internal Revenue Code.
- 12 (19) Subtract income that is:
- 13 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
 14 derived from patents); and
- 15 (B) included in the individual's federal adjusted gross income
 16 under the Internal Revenue Code.
- 17 (20) Add an amount equal to any income not included in gross
 18 income as a result of the deferral of income arising from business
 19 indebtedness discharged in connection with the reacquisition after
 20 December 31, 2008, and before January 1, 2011, of an applicable
 21 debt instrument, as provided in Section 108(i) of the Internal
 22 Revenue Code. Subtract the amount necessary from the adjusted
 23 gross income of any taxpayer that added an amount to adjusted
 24 gross income in a previous year to offset the amount included in
 25 federal gross income as a result of the deferral of income arising
 26 from business indebtedness discharged in connection with the
 27 reacquisition after December 31, 2008, and before January 1,
 28 2011, of an applicable debt instrument, as provided in Section
 29 108(i) of the Internal Revenue Code.
- 30 (21) Add the amount excluded from federal gross income under
 31 Section 103 of the Internal Revenue Code for interest received on
 32 an obligation of a state other than Indiana, or a political
 33 subdivision of such a state, that is acquired by the taxpayer after
 34 December 31, 2011.
- 35 (22) Subtract an amount as described in Section 1341(a)(2) of the
 36 Internal Revenue Code to the extent, if any, that the amount was
 37 previously included in the taxpayer's adjusted gross income for a
 38 prior taxable year.
- 39 (23) For taxable years beginning after December 25, 2016, add an
 40 amount equal to the deduction for deferred foreign income that
 41 was claimed by the taxpayer for the taxable year under Section
 42 965(c) of the Internal Revenue Code.



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

11 (25) Subtract the amount that would have been excluded from
12 gross income but for the enactment of Section 118(b)(2) of the
13 Internal Revenue Code for taxable years ending after December
14 22, 2017.

15 (26) Subtract any other amounts the taxpayer is entitled to deduct
16 under IC 6-3-2.

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

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

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

25 (3) Except as provided in subsection (c), add an amount equal to
26 any deduction or deductions allowed or allowable pursuant to
27 Section 63 of the Internal Revenue Code for taxes based on or
28 measured by income and levied at the state level by any state of
29 the United States.

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

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

41 (6) Add an amount equal to any deduction allowed under Section
42 172 of the Internal Revenue Code (concerning net operating



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



- 1 been allowable under Section 163 of the Internal Revenue
2 Code if the limitation under Section 163(j)(1) of the Internal
3 Revenue Code did not exist.
- 4 (9) Add an amount equal to any deduction for dividends paid (as
5 defined in Section 561 of the Internal Revenue Code) to
6 shareholders of a captive real estate investment trust (as defined
7 in section 34.5 of this chapter).
- 8 (10) Subtract income that is:
- 9 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
10 derived from patents); and
- 11 (B) included in the corporation's taxable income under the
12 Internal Revenue Code.
- 13 (11) Add an amount equal to any income not included in gross
14 income as a result of the deferral of income arising from business
15 indebtedness discharged in connection with the reacquisition after
16 December 31, 2008, and before January 1, 2011, of an applicable
17 debt instrument, as provided in Section 108(i) of the Internal
18 Revenue Code. Subtract from the adjusted gross income of any
19 taxpayer that added an amount to adjusted gross income in a
20 previous year the amount necessary to offset the amount included
21 in federal gross income as a result of the deferral of income
22 arising from business indebtedness discharged in connection with
23 the reacquisition after December 31, 2008, and before January 1,
24 2011, of an applicable debt instrument, as provided in Section
25 108(i) of the Internal Revenue Code.
- 26 (12) Add the amount excluded from federal gross income under
27 Section 103 of the Internal Revenue Code for interest received on
28 an obligation of a state other than Indiana, or a political
29 subdivision of such a state, that is acquired by the taxpayer after
30 December 31, 2011.
- 31 (13) For taxable years beginning after December 25, 2016:
- 32 (A) for a corporation other than a real estate investment trust,
33 add:
- 34 (i) an amount equal to the amount reported by the taxpayer
35 on IRC 965 Transition Tax Statement, line 1; or
- 36 (ii) if the taxpayer deducted an amount under Section 965(c)
37 of the Internal Revenue Code in determining the taxpayer's
38 taxable income for purposes of the federal income tax, the
39 amount deducted under Section 965(c) of the Internal
40 Revenue Code; and
- 41 (B) for a real estate investment trust, add an amount equal to
42 the deduction for deferred foreign income that was claimed by



- 1 the taxpayer for the taxable year under Section 965(c) of the
 2 Internal Revenue Code, but only to the extent that the taxpayer
 3 included income pursuant to Section 965 of the Internal
 4 Revenue Code in its taxable income for federal income tax
 5 purposes or is required to add back dividends paid under
 6 subdivision (9).
- 7 (14) Add an amount equal to the deduction that was claimed by
 8 the taxpayer for the taxable year under Section 250(a)(1)(B) of the
 9 Internal Revenue Code (attributable to global intangible
 10 low-taxed income). The taxpayer shall separately specify the
 11 amount of the reduction under Section 250(a)(1)(B)(i) of the
 12 Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the
 13 Internal Revenue Code.
- 14 (15) Subtract any interest expense paid or accrued in the current
 15 taxable year but not deducted as a result of the limitation imposed
 16 under Section 163(j)(1) of the Internal Revenue Code. Add any
 17 interest expense paid or accrued in a previous taxable year but
 18 allowed as a deduction under Section 163 of the Internal Revenue
 19 Code in the current taxable year. For purposes of this subdivision,
 20 an interest expense is considered paid or accrued only in the first
 21 taxable year the deduction would have been allowable under
 22 Section 163 of the Internal Revenue Code if the limitation under
 23 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 24 (16) Subtract the amount that would have been excluded from
 25 gross income but for the enactment of Section 118(b)(2) of the
 26 Internal Revenue Code for taxable years ending after December
 27 22, 2017.
- 28 (17) Add or subtract any other amounts the taxpayer is:
 29 (A) required to add or subtract; or
 30 (B) entitled to deduct;
 31 under IC 6-3-2.
- 32 (c) The following apply to taxable years beginning after December
 33 31, 2018, for purposes of the add back of any deduction allowed on the
 34 taxpayer's federal income tax return for wagering taxes, as provided in
 35 subsection (a)(2) if the taxpayer is an individual or subsection (b)(3) if
 36 the taxpayer is a corporation:
- 37 (1) For taxable years beginning after December 31, 2018, and
 38 before January 1, 2020, a taxpayer is required to add back under
 39 this section eighty-seven and five-tenths percent (87.5%) of any
 40 deduction allowed on the taxpayer's federal income tax return for
 41 wagering taxes.
 42 (2) For taxable years beginning after December 31, 2019, and



- 1 before January 1, 2021, a taxpayer is required to add back under
 2 this section seventy-five percent (75%) of any deduction allowed
 3 on the taxpayer's federal income tax return for wagering taxes.
- 4 (3) For taxable years beginning after December 31, 2020, and
 5 before January 1, 2022, a taxpayer is required to add back under
 6 this section sixty-two and five-tenths percent (62.5%) of any
 7 deduction allowed on the taxpayer's federal income tax return for
 8 wagering taxes.
- 9 (4) For taxable years beginning after December 31, 2021, and
 10 before January 1, 2023, a taxpayer is required to add back under
 11 this section fifty percent (50%) of any deduction allowed on the
 12 taxpayer's federal income tax return for wagering taxes.
- 13 (5) For taxable years beginning after December 31, 2022, and
 14 before January 1, 2024, a taxpayer is required to add back under
 15 this section thirty-seven and five-tenths percent (37.5%) of any
 16 deduction allowed on the taxpayer's federal income tax return for
 17 wagering taxes.
- 18 (6) For taxable years beginning after December 31, 2023, and
 19 before January 1, 2025, a taxpayer is required to add back under
 20 this section twenty-five percent (25%) of any deduction allowed
 21 on the taxpayer's federal income tax return for wagering taxes.
- 22 (7) For taxable years beginning after December 31, 2024, and
 23 before January 1, 2026, a taxpayer is required to add back under
 24 this section twelve and five-tenths percent (12.5%) of any
 25 deduction allowed on the taxpayer's federal income tax return for
 26 wagering taxes.
- 27 (8) For taxable years beginning after December 31, 2025, a
 28 taxpayer is not required to add back under this section any amount
 29 of a deduction allowed on the taxpayer's federal income tax return
 30 for wagering taxes.
- 31 (d) In the case of life insurance companies (as defined in Section
 32 816(a) of the Internal Revenue Code) that are organized under Indiana
 33 law, the same as "life insurance company taxable income" (as defined
 34 in Section 801 of the Internal Revenue Code), adjusted as follows:
- 35 (1) Subtract income that is exempt from taxation under this article
 36 by the Constitution and statutes of the United States.
- 37 (2) Add an amount equal to any deduction allowed or allowable
 38 under Section 170 of the Internal Revenue Code (concerning
 39 charitable contributions).
- 40 (3) Add an amount equal to a deduction allowed or allowable
 41 under Section 805 or Section 832(c) of the Internal Revenue Code
 42 for taxes based on or measured by income and levied at the state



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



- 1 under the Internal Revenue Code in effect on January 1, 2017.
- 2 (8) Subtract income that is:
- 3 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
- 4 derived from patents); and
- 5 (B) included in the insurance company's taxable income under
- 6 the Internal Revenue Code.
- 7 (9) Add an amount equal to any income not included in gross
- 8 income as a result of the deferral of income arising from business
- 9 indebtedness discharged in connection with the reacquisition after
- 10 December 31, 2008, and before January 1, 2011, of an applicable
- 11 debt instrument, as provided in Section 108(i) of the Internal
- 12 Revenue Code. Subtract from the adjusted gross income of any
- 13 taxpayer that added an amount to adjusted gross income in a
- 14 previous year the amount necessary to offset the amount included
- 15 in federal gross income as a result of the deferral of income
- 16 arising from business indebtedness discharged in connection with
- 17 the reacquisition after December 31, 2008, and before January 1,
- 18 2011, of an applicable debt instrument, as provided in Section
- 19 108(i) of the Internal Revenue Code.
- 20 (10) Add an amount equal to any exempt insurance income under
- 21 Section 953(e) of the Internal Revenue Code that is active
- 22 financing income under Subpart F of Subtitle A, Chapter 1,
- 23 Subchapter N of the Internal Revenue Code.
- 24 (11) Add the amount excluded from federal gross income under
- 25 Section 103 of the Internal Revenue Code for interest received on
- 26 an obligation of a state other than Indiana, or a political
- 27 subdivision of such a state, that is acquired by the taxpayer after
- 28 December 31, 2011.
- 29 (12) For taxable years beginning after December 25, 2016, add:
- 30 (A) an amount equal to the amount reported by the taxpayer on
- 31 IRC 965 Transition Tax Statement, line 1; or
- 32 (B) if the taxpayer deducted an amount under Section 965(c)
- 33 of the Internal Revenue Code in determining the taxpayer's
- 34 taxable income for purposes of the federal income tax, the
- 35 amount deducted under Section 965(c) of the Internal Revenue
- 36 Code.
- 37 (13) Add an amount equal to the deduction that was claimed by
- 38 the taxpayer for the taxable year under Section 250(a)(1)(B) of the
- 39 Internal Revenue Code (attributable to global intangible
- 40 low-taxed income). The taxpayer shall separately specify the
- 41 amount of the reduction under Section 250(a)(1)(B)(i) of the
- 42 Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the



- 1 Internal Revenue Code.
- 2 (14) Subtract any interest expense paid or accrued in the current
- 3 taxable year but not deducted as a result of the limitation imposed
- 4 under Section 163(j)(1) of the Internal Revenue Code. Add any
- 5 interest expense paid or accrued in a previous taxable year but
- 6 allowed as a deduction under Section 163 of the Internal Revenue
- 7 Code in the current taxable year. For purposes of this subdivision,
- 8 an interest expense is considered paid or accrued only in the first
- 9 taxable year the deduction would have been allowable under
- 10 Section 163 of the Internal Revenue Code if the limitation under
- 11 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 12 (15) Subtract the amount that would have been excluded from
- 13 gross income but for the enactment of Section 118(b)(2) of the
- 14 Internal Revenue Code for taxable years ending after December
- 15 22, 2017.
- 16 (16) Add or subtract any other amounts the taxpayer is:
- 17 (A) required to add or subtract; or
- 18 (B) entitled to deduct;
- 19 under IC 6-3-2.
- 20 (e) In the case of insurance companies subject to tax under Section
- 21 831 of the Internal Revenue Code and organized under Indiana law, the
- 22 same as "taxable income" (as defined in Section 832 of the Internal
- 23 Revenue Code), adjusted as follows:
- 24 (1) Subtract income that is exempt from taxation under this article
- 25 by the Constitution and statutes of the United States.
- 26 (2) Add an amount equal to any deduction allowed or allowable
- 27 under Section 170 of the Internal Revenue Code (concerning
- 28 charitable contributions).
- 29 (3) Add an amount equal to a deduction allowed or allowable
- 30 under Section 805 or Section 832(c) of the Internal Revenue Code
- 31 for taxes based on or measured by income and levied at the state
- 32 level by any state.
- 33 (4) Subtract an amount equal to the amount included in the
- 34 company's taxable income under Section 78 of the Internal
- 35 Revenue Code (concerning foreign tax credits).
- 36 (5) Add or subtract the amount necessary to make the adjusted
- 37 gross income of any taxpayer that owns property for which bonus
- 38 depreciation was allowed in the current taxable year or in an
- 39 earlier taxable year equal to the amount of adjusted gross income
- 40 that would have been computed had an election not been made
- 41 under Section 168(k) of the Internal Revenue Code to apply bonus
- 42 depreciation to the property in the year that it was placed in



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



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



- 1 (15) Subtract the amount that would have been excluded from
 2 gross income but for the enactment of Section 118(b)(2) of the
 3 Internal Revenue Code for taxable years ending after December
 4 22, 2017.
- 5 (16) Add or subtract any other amounts the taxpayer is:
 6 (A) required to add or subtract; or
 7 (B) entitled to deduct;
 8 under IC 6-3-2.
- 9 (f) In the case of trusts and estates, "taxable income" (as defined for
 10 trusts and estates in Section 641(b) of the Internal Revenue Code)
 11 adjusted as follows:
- 12 (1) Subtract income that is exempt from taxation under this article
 13 by the Constitution and statutes of the United States.
- 14 (2) Subtract an amount equal to the amount of a September 11
 15 terrorist attack settlement payment included in the federal
 16 adjusted gross income of the estate of a victim of the September
 17 11 terrorist attack or a trust to the extent the trust benefits a victim
 18 of the September 11 terrorist attack.
- 19 (3) Add or subtract the amount necessary to make the adjusted
 20 gross income of any taxpayer that owns property for which bonus
 21 depreciation was allowed in the current taxable year or in an
 22 earlier taxable year equal to the amount of adjusted gross income
 23 that would have been computed had an election not been made
 24 under Section 168(k) of the Internal Revenue Code to apply bonus
 25 depreciation to the property in the year that it was placed in
 26 service.
- 27 (4) Add an amount equal to any deduction allowed under Section
 28 172 of the Internal Revenue Code (concerning net operating
 29 losses).
- 30 (5) Add or subtract the amount necessary to make the adjusted
 31 gross income of any taxpayer that placed Section 179 property (as
 32 defined in Section 179 of the Internal Revenue Code) in service
 33 in the current taxable year or in an earlier taxable year equal to
 34 the amount of adjusted gross income that would have been
 35 computed had an election for federal income tax purposes not
 36 been made for the year in which the property was placed in
 37 service to take deductions under Section 179 of the Internal
 38 Revenue Code in a total amount exceeding the sum of:
- 39 (A) twenty-five thousand dollars (\$25,000) to the extent
 40 deductions under Section 179 of the Internal Revenue Code
 41 were not elected as provided in clause (B); and
 42 (B) for taxable years beginning after December 31, 2017, the



- 1 deductions elected under Section 179 of the Internal Revenue
 2 Code on property acquired in an exchange if:
- 3 (i) the exchange would have been eligible for
 - 4 nonrecognition of gain or loss under Section 1031 of the
 - 5 Internal Revenue Code in effect on January 1, 2017;
 - 6 (ii) the exchange is not eligible for nonrecognition of gain or
 - 7 loss under Section 1031 of the Internal Revenue Code; and
 - 8 (iii) the taxpayer made an election to take deductions under
 - 9 Section 179 of the Internal Revenue Code with regard to the
 - 10 acquired property in the year that the property was placed
 - 11 into service.
- 12 The amount of deductions allowable for an item of property
 13 under this clause may not exceed the amount of adjusted gross
 14 income realized on the property that would have been deferred
 15 under the Internal Revenue Code in effect on January 1, 2017.
- 16 (6) Subtract income that is:
 - 17 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
 - 18 derived from patents); and
 - 19 (B) included in the taxpayer's taxable income under the
 - 20 Internal Revenue Code.
 - 21 (7) Add an amount equal to any income not included in gross
 22 income as a result of the deferral of income arising from business
 23 indebtedness discharged in connection with the reacquisition after
 24 December 31, 2008, and before January 1, 2011, of an applicable
 25 debt instrument, as provided in Section 108(i) of the Internal
 26 Revenue Code. Subtract from the adjusted gross income of any
 27 taxpayer that added an amount to adjusted gross income in a
 28 previous year the amount necessary to offset the amount included
 29 in federal gross income as a result of the deferral of income
 30 arising from business indebtedness discharged in connection with
 31 the reacquisition after December 31, 2008, and before January 1,
 32 2011, of an applicable debt instrument, as provided in Section
 33 108(i) of the Internal Revenue Code.
 - 34 (8) Add the amount excluded from federal gross income under
 35 Section 103 of the Internal Revenue Code for interest received on
 36 an obligation of a state other than Indiana, or a political
 37 subdivision of such a state, that is acquired by the taxpayer after
 38 December 31, 2011.
 - 39 (9) For taxable years beginning after December 25, 2016, add an
 40 amount equal to:
 - 41 (A) the amount reported by the taxpayer on IRC 965
 - 42 Transition Tax Statement, line 1;



- 1 (B) if the taxpayer deducted an amount under Section 965(c)
 2 of the Internal Revenue Code in determining the taxpayer's
 3 taxable income for purposes of the federal income tax, the
 4 amount deducted under Section 965(c) of the Internal Revenue
 5 Code; and
 6 (C) with regard to any amounts of income under Section 965
 7 of the Internal Revenue Code distributed by the taxpayer, the
 8 deduction under Section 965(c) of the Internal Revenue Code
 9 attributable to such distributed amounts and not reported to the
 10 beneficiary.
- 11 For purposes of this article, the amount required to be added back
 12 under clause (B) is not considered to be distributed or
 13 distributable to a beneficiary of the estate or trust for purposes of
 14 Sections 651 and 661 of the Internal Revenue Code.
- 15 (10) Subtract any interest expense paid or accrued in the current
 16 taxable year but not deducted as a result of the limitation imposed
 17 under Section 163(j)(1) of the Internal Revenue Code. Add any
 18 interest expense paid or accrued in a previous taxable year but
 19 allowed as a deduction under Section 163 of the Internal Revenue
 20 Code in the current taxable year. For purposes of this subdivision,
 21 an interest expense is considered paid or accrued only in the first
 22 taxable year the deduction would have been allowable under
 23 Section 163 of the Internal Revenue Code if the limitation under
 24 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 25 (11) Add an amount equal to the deduction for qualified business
 26 income that was claimed by the taxpayer for the taxable year
 27 under Section 199A of the Internal Revenue Code.
- 28 (12) Subtract the amount that would have been excluded from
 29 gross income but for the enactment of Section 118(b)(2) of the
 30 Internal Revenue Code for taxable years ending after December
 31 22, 2017.
- 32 (13) Add or subtract any other amounts the taxpayer is:
 33 (A) required to add or subtract; or
 34 (B) entitled to deduct;
 35 under IC 6-3-2.
- 36 (g) Subsections (a)(26), (b)(17), (d)(16), (e)(16), or (f)(13) may not
 37 be construed to require an add back or allow a deduction or exemption
 38 more than once for a particular add back, deduction, or exemption.
- 39 (h) For taxable years beginning after December 25, 2016, if:
 40 (1) a taxpayer is a shareholder, either directly or indirectly, in a
 41 corporation that is an E&P deficit foreign corporation as defined
 42 in Section 965(b)(3)(B) of the Internal Revenue Code, and the



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

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

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

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

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

32 SECTION 9. IC 6-3-1-19 IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2021]: Sec. 19. (a) The term "partnership"
 34 includes a syndicate, group, pool, joint venture, or other unincorporated
 35 organization through or by means of which any business, financial
 36 operation, or venture is carried on, and which is not, within the
 37 meaning of this chapter, a corporation or a trust or an estate. The term
 38 also includes a limited liability company that is treated as a partnership
 39 for federal income tax purposes: **means an entity subject to the**
 40 **requirements of Subchapter K of the Internal Revenue Code.**

41 (b) The term "partner" means a member of a partnership.

42 SECTION 10. IC 6-3-1-35, AS ADDED BY P.L.182-2009(ss),



1 SECTION 190, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2021]: Sec. 35. As used in this article, "pass
 3 through entity" means:

- 4 (1) a corporation that is exempt from the adjusted gross income
 5 tax under IC 6-3-2-2.8(2);
 6 (2) a partnership;
 7 (3) a trust;
 8 **(4) an estate;**
 9 ~~(4) (5)~~ a limited liability company; or
 10 ~~(5) (6)~~ a limited liability partnership.

11 SECTION 11. IC 6-3-3-3 IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: Sec. 3. (a)
 13 Whenever a resident person has become liable for tax to another state
 14 upon all or any part of ~~his~~ **the person's** income for a taxable year
 15 derived from sources without this state and subject to taxation under
 16 IC 6-3-2, the amount of tax paid by ~~him~~ **the person** to the other state
 17 shall be credited against the amount of the tax payable by ~~him~~ **the**
 18 **person**. Such credit shall be allowed upon the production to the
 19 department of satisfactory evidence of the fact of such payment, except
 20 that such application for credit shall not operate to reduce the tax
 21 payable under IC 6-3-2 to an amount less than would have been
 22 payable were the income from the other state ignored. The credit
 23 provided for by this subsection shall not be granted to a taxpayer when
 24 the laws of the other state, under which the adjusted gross income in
 25 question is subject to taxation, provides for a credit to the taxpayer
 26 substantially similar to that granted by subsection (b).

27 (b) Whenever a nonresident person has become liable for tax to the
 28 state where ~~he~~ **the person** resides upon ~~his~~ **the person's** income for the
 29 taxable year derived from sources within this state and subject to
 30 taxation under IC 6-3-2, the proportion of tax paid by ~~him~~ **the person**
 31 to the state where ~~he~~ **the person** resides that ~~his~~ **the person's** income
 32 subject to taxation under IC 6-3-2 bears to ~~his~~ **the person's** income
 33 upon which the tax so payable to the other state was imposed shall be
 34 credited against the tax payable by ~~him~~ **the person** under IC 6-3-2, but
 35 only if the laws of the other state grant a substantially similar credit to
 36 residents of this state subject to income tax under the laws of such
 37 other state, or impose a tax upon the income of its residents derived
 38 from sources in this state and exempt from taxation the income of
 39 residents of this state. No credit shall be allowed against the amount of
 40 the tax on any adjusted gross income taxable under IC 6-3-2 that is
 41 exempt from taxation under the laws of the other state.

42 **(c) Notwithstanding subsection (a), if a resident person will be**



1 **liable for income tax to a foreign country upon the person's income**
 2 **included under the Internal Revenue Code, the income is**
 3 **considered from sources outside the United States under the**
 4 **Internal Revenue Code, and the income is included in the person's**
 5 **Indiana adjusted gross income due solely to an acceleration of the**
 6 **income inclusion for federal income tax purposes, the person may**
 7 **claim the credit allowable under this section by providing evidence**
 8 **to the department of the following:**

9 **(1) The foreign country in which the income is subject to tax.**

10 **(2) The amount of income included in Indiana adjusted gross**
 11 **income that is derived from the foreign country.**

12 **(3) The amount of tax that will be imposed in the foreign**
 13 **country upon the individual's realization of the income under**
 14 **the laws of the foreign country, including any withholding tax**
 15 **or composite tax.**

16 **(4) Any other information required by the department.**

17 **The department may impose limitations and conditions on the**
 18 **claim under this subsection, including reporting requirements on**
 19 **the part of the person and extensions of statutes of limitations**
 20 **under IC 6-8.1-5-2.**

21 SECTION 12. IC 6-3-4-4.1, AS AMENDED BY P.L.197-2016,
 22 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2021]: Sec. 4.1. (a) Any individual required by the Internal
 24 Revenue Code **or this section** to file estimated tax returns and to make
 25 payments on account of such estimated tax shall file estimated tax
 26 returns and make payments of the tax imposed by this article to the
 27 department at the time or times and in the installments as provided by
 28 Section 6654 of the Internal Revenue Code. However, the following
 29 apply to estimated tax returns filed and payments made under this
 30 subsection:

31 (1) In applying Section 6654 of the Internal Revenue Code for the
 32 purposes of this article, "estimated tax" means the amount which
 33 the individual estimates as **the sum of** the amount of the adjusted
 34 gross income tax imposed by this article for the taxable year **and**
 35 **the sum of the amount of local income tax under IC 6-3.6,**
 36 minus the amount which the individual estimates as the sum of
 37 any credits against the tax provided by IC 6-3-3, **IC 6-3.1, and**
 38 **IC 6-3.6, other than the amounts of tax withheld under this**
 39 **chapter.**

40 (2) Estimated tax for a nonresident alien (as defined in Section
 41 7701 of the Internal Revenue Code) must be computed by
 42 applying not more than one (1) exclusion under IC 6-3-1-3.5(a)(3)



1 and IC 6-3-1-3.5(a)(4), regardless of the total number of
 2 exclusions that IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4) permit
 3 the taxpayer to apply on the taxpayer's final return for the taxable
 4 year.

5 (b) Every individual who has adjusted gross income subject to the
 6 tax imposed by this article and from which tax is not withheld under
 7 the requirements of ~~section 8~~ of this chapter shall make a declaration
 8 of estimated tax for the taxable year. However, no such declaration
 9 shall be required if the estimated tax can reasonably be expected to be
 10 less than one thousand dollars (\$1,000). In the case of an underpayment
 11 of the estimated tax as provided in Section 6654 of the Internal
 12 Revenue Code, there shall be added to the tax a penalty in an amount
 13 prescribed by IC 6-8.1-10-2.1(b).

14 (c) Every corporation subject to the adjusted gross income tax
 15 liability imposed by this article shall be required to report and pay an
 16 estimated tax equal to the lesser of:

17 (1) twenty-five percent (25%) of such corporation's estimated
 18 adjusted gross income tax liability for the taxable year; or

19 (2) the annualized income installment calculated in the manner
 20 provided by Section 6655(e) of the Internal Revenue Code as
 21 applied to the corporation's liability for adjusted gross income tax.

22 A taxpayer who uses a taxable year that ends on December 31 shall file
 23 the taxpayer's estimated adjusted gross income tax returns and pay the
 24 tax to the department on or before April 20, June 20, September 20,
 25 and December 20 of the taxable year. If a taxpayer uses a taxable year
 26 that does not end on December 31, the due dates for filing estimated
 27 adjusted gross income tax returns and paying the tax are on or before
 28 the twentieth day of the fourth, sixth, ninth, and twelfth months of the
 29 taxpayer's taxable year. The department shall prescribe the manner and
 30 forms for such reporting and payment.

31 (d) The penalty **in the amount** prescribed by IC 6-8.1-10-2.1(b)
 32 shall be assessed by the department on corporations failing to make
 33 payments as required in subsection (c) or (f). However, no penalty shall
 34 be assessed as to any estimated payments of adjusted gross income tax
 35 which equal or exceed:

36 (1) the ~~annualized income installment~~ **amount** calculated under
 37 subsection (c); or

38 (2) twenty-five percent (25%) of the final tax liability for the
 39 taxpayer's previous taxable year.

40 In addition, the penalty as to any underpayment of tax on an estimated
 41 return shall only be assessed on the difference between the actual
 42 amount paid by the corporation on such estimated return and



1 twenty-five percent (25%) of the corporation's final adjusted gross
 2 income tax liability for such taxable year. **A payment required to be**
 3 **made in the manner prescribed in subsection (f), but not paid in**
 4 **such a prescribed manner, shall be subject to the penalty provided**
 5 **in IC 6-8.1-10-2.1(b)(5).**

6 (e) The provisions of subsection (c) requiring the reporting and
 7 estimated payment of adjusted gross income tax shall be applicable
 8 only to corporations having an adjusted gross income tax liability
 9 which, after application of the credit allowed by IC 6-3-3-2 (repealed),
 10 shall exceed two thousand five hundred dollars (\$2,500) for its taxable
 11 year.

12 (f) If the department determines that a corporation's:

13 (1) estimated quarterly adjusted gross income tax liability for the
 14 current year; or

15 (2) average estimated quarterly adjusted gross income tax liability
 16 for the preceding year;

17 exceeds five thousand dollars (\$5,000), after the credit allowed by
 18 IC 6-3-3-2 (repealed), the corporation shall pay the estimated adjusted
 19 gross income taxes due by electronic funds transfer (as defined in
 20 IC 4-8.1-2-7) or by delivering in person or overnight by courier a
 21 payment by cashier's check, certified check, or money order to the
 22 department. The transfer or payment shall be made on or before the
 23 date the tax is due.

24 (g) If a corporation's adjusted gross income tax payment is made by
 25 electronic funds transfer, the corporation is not required to file an
 26 estimated adjusted gross income tax return.

27 (h) An individual filing an estimated tax return and making an
 28 estimated tax payment under this section must designate:

29 (1) the portion of the estimated tax payment that represents
 30 estimated state adjusted gross income tax liability; and

31 (2) the portion of the estimated tax payment that represents
 32 estimated local income tax liability under IC 6-3.6.

33 The department shall adopt guidelines and issue instructions as
 34 necessary to assist individuals in making the designations required by
 35 this subsection.

36 **(i) For a corporation required to make estimated payments**
 37 **under this section:**

38 **(1) if a corporation has a current taxable year or a previous**
 39 **taxable year that is less than twelve (12) months, the penalty**
 40 **under this section shall be computed in a manner consistent**
 41 **with Section 6655 of the Internal Revenue Code, including**
 42 **regulations promulgated thereunder; and**



1 **(2) the department may adopt rules or issue guidelines related**
 2 **to the application of payments withheld on behalf of the**
 3 **corporation under this chapter or IC 6-5.5-2-8.**

4 SECTION 13. IC 6-3-4-6, AS AMENDED BY P.L.242-2015,
 5 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2021]: Sec. 6. (a) Any taxpayer, upon request by the
 7 department, shall furnish to the department a true and correct copy of
 8 any tax return which the taxpayer has filed with the United States
 9 Internal Revenue Service which copy shall be certified to by the
 10 taxpayer under penalties of perjury.

11 (b) Each taxpayer shall notify the department of any modification as
 12 provided in subsection (c) of:

13 (1) a federal income tax return filed by the taxpayer after January
 14 1, 1978; or

15 (2) the taxpayer's federal income tax liability for a taxable year
 16 which begins after December 31, 1977.

17 The taxpayer shall file the notice on the form prescribed by the
 18 department within one hundred twenty (120) days after the
 19 modification is made if the modification was made before January 1,
 20 2011, and one hundred eighty (180) days after the modification is made
 21 if the modification is made after December 31, 2010.

22 (c) For purposes of subsection (b), a modification occurs on the date
 23 on which a:

24 (1) taxpayer files an amended federal income tax return;

25 (2) final determination is made concerning an assessment of
 26 deficiency;

27 (3) final determination is made concerning a claim for a refund;

28 (4) taxpayer waives the restrictions on assessment and collection
 29 of all, or any part, of an underpayment of federal income tax by
 30 signing a federal Form 870, or any other Form prescribed by the
 31 Internal Revenue Service for that purpose. For purposes of this
 32 subdivision:

33 (A) a final determination does not occur with respect to any
 34 part of the underpayment that is not covered by the waiver;
 35 and

36 (B) if the signature of an authorized representative of the
 37 Internal Revenue Service is required to execute a waiver, the
 38 date of the final determination is the date of signing by the
 39 authorized representative of the Internal Revenue Service **or**
 40 **by the taxpayer, whichever is later;**

41 (5) taxpayer enters into a closing agreement with the Internal
 42 Revenue Service concerning the taxpayer's tax liability under



1 Section 7121 of the Internal Revenue Code that is a final
 2 determination. The date the taxpayer enters into a closing
 3 agreement under this subdivision is the date the closing
 4 agreement is signed by an authorized representative of the
 5 Internal Revenue Service **or by the taxpayer, whichever is**
 6 **later;** or

7 (6) modification or alteration in an amount of tax, **adjusted gross**
 8 **income, taxable income, credit, or other tax attribute** is
 9 otherwise made that is a final determination;

10 for a taxable year, regardless of whether a modification results in a
 11 underpayment or overpayment of tax. **In the case of a taxpayer that**
 12 **files a consolidated return under section 14 of this chapter or either**
 13 **files or is required to be included by the department in a combined**
 14 **return under IC 6-3-2-2, the date on which the alteration or**
 15 **modification is made shall be considered to be the last day on**
 16 **which an alteration or modification occurs for any entity filing as**
 17 **part of the consolidated or combined return.**

18 (d) For purposes of subsection (c)(2) through (c)(6), a final
 19 determination means an action or decision by a taxpayer, the Internal
 20 Revenue Service (including the Appeals Division), the United States
 21 Tax Court, or any other United States federal court concerning any
 22 disputed tax issue that:

23 (1) is final and conclusive; and

24 (2) cannot be reopened or appealed by a taxpayer or the Internal
 25 Revenue Service as a matter of law.

26 (e) If the federal modification results in a change in the taxpayer's
 27 federal or Indiana adjusted gross income, the taxpayer shall file an
 28 Indiana amended return within one hundred twenty (120) days after the
 29 modification is made if the modification was made before January 1,
 30 2011, and one hundred eighty (180) days after the modification is made
 31 if the modification is made after December 31, 2010.

32 SECTION 14. IC 6-3-4-8, AS AMENDED BY P.L.197-2016,
 33 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2021]: Sec. 8. (a) Except as provided in subsection (d), every
 35 employer making payments of wages subject to tax under this article,
 36 regardless of the place where such payment is made, who is required
 37 under the provisions of the Internal Revenue Code to withhold, collect,
 38 and pay over income tax on wages paid by such employer to such
 39 employee, shall, at the time of payment of such wages, deduct and
 40 retain therefrom the amount prescribed in withholding instructions
 41 issued by the department. The department shall base its withholding
 42 instructions on the adjusted gross income tax rate for persons, on the



1 total local income tax rate that the taxpayer is subject to under IC 6-3.6,
 2 and on the total amount of exclusions the taxpayer is entitled to under
 3 IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4). However, the withholding
 4 instructions on the adjusted gross income of a nonresident alien (as
 5 defined in Section 7701 of the Internal Revenue Code) are to be based
 6 on applying not more than one (1) withholding exclusion, regardless of
 7 the total number of exclusions that IC 6-3-1-3.5(a)(3) and
 8 IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final
 9 return for the taxable year. Such employer making payments of any
 10 wages:

11 (1) shall be liable to the state of Indiana for the payment of the tax
 12 required to be deducted and withheld under this section and shall
 13 not be liable to any individual for the amount deducted from the
 14 individual's wages and paid over in compliance or intended
 15 compliance with this section; and

16 (2) shall make return of and payment to the department monthly
 17 of the amount of tax which under this article and IC 6-3.6 the
 18 employer is required to withhold.

19 (b) An employer shall pay taxes withheld under subsection (a)
 20 during a particular month to the department no later than thirty (30)
 21 days after the end of that month. However, in place of monthly
 22 reporting periods, the department may permit an employer to report and
 23 pay the tax for a calendar year reporting period, if the average monthly
 24 amount of all tax required to be withheld by the employer in the
 25 previous calendar year does not exceed one thousand dollars (\$1,000).
 26 An employer using a reporting period (other than a monthly reporting
 27 period) must file the employer's return and pay the tax for a reporting
 28 period no later than the last day of the month immediately following
 29 the close of the reporting period.

30 (c) For purposes of determining whether an employee is subject to
 31 taxation under IC 6-3.6, an employer is entitled to rely on the statement
 32 of an employee as to the employee's county of residence as represented
 33 by the statement of address in forms claiming exemptions for purposes
 34 of withholding, regardless of when the employee supplied the forms.
 35 Every employee shall notify the employee's employer within five (5)
 36 days after any change in the employee's county of residence.

37 (d) A county that makes payments of wages subject to tax under this
 38 article:

39 (1) to a precinct election officer (as defined in IC 3-5-2-40.1); and

40 (2) for the performance of the duties of the precinct election
 41 officer imposed by IC 3 that are performed on election day;

42 is not required, at the time of payment of the wages, to deduct and



1 retain from the wages the amount prescribed in withholding
2 instructions issued by the department.

3 (e) Every employer shall, at the time of each payment made by the
4 employer to the department, deliver to the department a return upon the
5 form prescribed by the department showing, **with regard to wages**
6 **paid to the employer's employees:**

7 ~~(1)~~ the total amount of wages paid to the employer's employees;

8 ~~(2)~~ the amount deducted therefrom in accordance with the
9 provisions of the Internal Revenue Code;

10 ~~(3)~~ **(1)** the amount of adjusted gross income tax deducted
11 therefrom in accordance with the provisions of this section;

12 ~~(4)~~ **(2)** the amount of income tax, if any, imposed under IC 6-3.6
13 and deducted therefrom in accordance with this section; and

14 ~~(5)~~ **(3)** any other information the department may require.

15 Every employer making a declaration of withholding as provided in this
16 section shall furnish the employer's employees annually, but not later
17 than thirty (30) days after the end of the calendar year, a record of the
18 total amount of adjusted gross income tax and the amount of each
19 income tax, if any, imposed under IC 6-3.6, withheld from the
20 employees, on the forms prescribed by the department. In addition, the
21 employer shall file Form WH-3 annual withholding tax reports with the
22 department not later than thirty-one (31) days after the end of the
23 calendar year.

24 (f) All money deducted and withheld by an employer shall
25 immediately upon such deduction be the money of the state, and every
26 employer who deducts and retains any amount of money under the
27 provisions of this article shall hold the same in trust for the state of
28 Indiana and for payment thereof to the department in the manner and
29 at the times provided in this article. Any employer may be required to
30 post a surety bond in the sum the department determines to be
31 appropriate to protect the state with respect to money withheld pursuant
32 to this section.

33 (g) The provisions of IC 6-8.1 relating to additions to tax in case of
34 delinquency and penalties shall apply to employers subject to the
35 provisions of this section, and for these purposes any amount deducted
36 or required to be deducted and remitted to the department under this
37 section shall be considered to be the tax of the employer, and with
38 respect to such amount the employer shall be considered the taxpayer.
39 In the case of a corporate or partnership employer, every officer,
40 employee, or member of such employer, who, as such officer,
41 employee, or member is under a duty to deduct and remit such taxes,
42 shall be personally liable for such taxes, penalties, and interest.



1 (h) Amounts deducted from wages of an employee during any
 2 calendar year in accordance with the provisions of this section shall be
 3 considered to be in part payment of the tax imposed on such employee
 4 for the employee's taxable year which begins in such calendar year, and
 5 a return made by the employer under subsection (b) shall be accepted
 6 by the department as evidence in favor of the employee of the amount
 7 so deducted from the employee's wages. Where the total amount so
 8 deducted exceeds the amount of tax on the employee as computed
 9 under this article and IC 6-3.6, the department shall, after examining
 10 the return or returns filed by the employee in accordance with this
 11 article and IC 6-3.6, refund the amount of the excess deduction.
 12 However, under rules promulgated by the department, the excess or any
 13 part thereof may be applied to any taxes or other claim due from the
 14 taxpayer to the state of Indiana or any subdivision thereof. In the event
 15 that the excess tax deducted is less than one dollar (\$1), no refund shall
 16 be made.

17 (i) This section shall in no way relieve any taxpayer from the
 18 taxpayer's obligation of filing a return or returns at the time required
 19 under this article and IC 6-3.6, and, should the amount withheld under
 20 the provisions of this section be insufficient to pay the total tax of such
 21 taxpayer, such unpaid tax shall be paid at the time prescribed by
 22 section 5 of this chapter.

23 (j) Notwithstanding subsection (b), an employer of a domestic
 24 service employee that enters into an agreement with the domestic
 25 service employee to withhold federal income tax under Section 3402
 26 of the Internal Revenue Code may withhold Indiana income tax on the
 27 domestic service employee's wages on the employer's Indiana
 28 individual income tax return in the same manner as allowed by Section
 29 3510 of the Internal Revenue Code.

30 (k) To the extent allowed by Section 1137 of the Social Security
 31 Act, an employer of a domestic service employee may report and remit
 32 state unemployment insurance contributions on the employee's wages
 33 on the employer's Indiana individual income tax return in the same
 34 manner as allowed by Section 3510 of the Internal Revenue Code.

35 (l) A person who knowingly fails to remit trust fund money as set
 36 forth in this section commits a Level 6 felony.

37 SECTION 15. IC 6-3-4-8.1, AS AMENDED BY P.L.137-2012,
 38 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2021]: Sec. 8.1. (a) Any entity that is required to file a
 40 monthly return and make a monthly remittance of taxes under sections
 41 8, 12, 13, and 15 of this chapter shall file those returns and make those
 42 remittances twenty (20) days (rather than thirty (30) days) after the end



1 of each month for which those returns and remittances are filed, if that
 2 entity's average monthly remittance for the immediately preceding
 3 calendar year exceeds one thousand dollars (\$1,000).

4 (b) The department may require any entity to make the entity's
 5 monthly remittance and file the entity's monthly return twenty (20) days
 6 (rather than thirty (30) days) after the end of each month for which a
 7 return and payment are made if the department estimates that the
 8 entity's average monthly payment for the current calendar year will
 9 exceed one thousand dollars (\$1,000).

10 (c) If the department determines that a withholding agent is not
 11 withholding, reporting, or remitting an amount of tax in accordance
 12 with this chapter, the department may require the withholding agent:

- 13 (1) to make periodic deposits during the reporting period; and
 14 (2) to file an informational return with each periodic deposit.

15 (d) If the department determines that an entity's:

- 16 (1) estimated monthly withholding tax remittance for the current
 17 year; or
 18 (2) average monthly withholding tax remittance for the preceding
 19 year;

20 exceeds five thousand dollars (\$5,000); the entity shall remit the
 21 monthly withholding taxes due by electronic fund transfer (as defined
 22 in IC 4-8.1-2-7) or by delivering in person or by overnight courier a
 23 payment by cashier's check, certified check, or money order to the
 24 department. The transfer or payment shall be made on or before the
 25 date the remittance is due.

26 (e) (d) An entity that withholds taxes shall file the withholding tax
 27 report and remit withholding taxes electronically through the
 28 department's online tax filing program.

29 SECTION 16. IC 6-3-4-15.1 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 31 1, 2021]: **Sec. 15.1. For purposes of IC 6-3-4-12, IC 6-3-4-13, and**
 32 **IC 6-3-4-15, the department may:**

- 33 (1) prescribe procedures by which a pass through entity
 34 remits tax on behalf of partners, shareholders, and
 35 beneficiaries who are considered residents for purposes of
 36 those sections in the same manner as tax is remitted for
 37 partners, shareholders, and beneficiaries who are considered
 38 nonresidents for purposes of those sections, provided that
 39 such procedures do not relieve filing requirements otherwise
 40 applicable to partners, shareholders, and beneficiaries who
 41 are considered residents for purposes of those sections;
 42 (2) prescribe special procedures for persons or entities that



1 are otherwise subject to withholding under those sections but
 2 who may have circumstances such that a standard tax
 3 computation may result in excess withholding;

4 (3) prescribe procedures for individuals and trusts that are
 5 residents for part of the taxable year and nonresidents for
 6 part of the taxable year; and

7 (4) prescribe procedures by which an entity subject to those
 8 sections may request alternative withholding arrangements,
 9 provided that such arrangements do not jeopardize the tax
 10 otherwise due under IC 6-3 or IC 6-5.5.

11 SECTION 17. IC 6-3-4-16.3 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2021]: **Sec. 16.3. (a) For taxable years ending after December 31,
 14 2021, a corporation other than a corporation described in
 15 IC 6-3-2-2.8(2) subject to tax under this article and that has more
 16 than one million dollars (\$1,000,000) in gross income (as defined in
 17 Section 61 of the Internal Revenue Code) for the taxable year shall
 18 file a return required under section 1(3) of this chapter for that
 19 taxable year in an electronic manner specified by the department.**

20 **(b) If the department does not specify an electronic format for
 21 filing the required return for a corporation for purposes of section
 22 1(3) of this chapter, the corporation is not required to file in an
 23 electronic manner.**

24 **(c) Notwithstanding any other provision of this section, the
 25 department may provide exceptions to the requirement to file a
 26 return in an electronic manner specified by the department. Such
 27 exceptions shall be published in the Indiana Register.**

28 **(d) For purposes of this requirement, a return for a corporation
 29 shall include any amended return for the corporation.**

30 SECTION 18. IC 6-3-4.5 IS ADDED TO THE INDIANA CODE
 31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2021]:

33 **Chapter 4.5. Partnership Audit and Administrative
 34 Adjustments**

35 **Sec. 1. The following definitions apply throughout this chapter:**

36 **(1) "Adjustment year" means the partnership taxable year
 37 described in Section 6225(d)(2) of the Internal Revenue Code.**

38 **(2) "Administrative adjustment request" means an
 39 administrative adjustment request filed by a partnership
 40 under Section 6227 of the Internal Revenue Code.**

41 **(3) "Affected year" means any taxable year for a taxpayer
 42 that is affected by an adjustment under this chapter,**



- 1 regardless of whether the partnership has received an
2 adjustment for that taxable year.
- 3 (4) "Audited partnership" means a partnership subject to a
4 partnership level audit resulting in a federal adjustment.
- 5 (5) "Corporate partner" means a partner that is subject to
6 the state adjusted gross income tax under IC 6-3-2-1(b) or the
7 financial institutions tax under IC 6-5.5-2-1. In the case of a
8 partner that is a corporation described in IC 6-3-2-2.8(2) that
9 also is subject to tax under IC 6-3-2-1(b), the corporation is a
10 corporate partner only to the extent that its income is subject
11 to tax under IC 6-3-2-1(b).
- 12 (6) "Direct partner" means a partner that holds an interest
13 directly in a partnership or pass through entity.
- 14 (7) "Exempt partner" means a partner that is exempt from
15 the adjusted gross income tax under IC 6-3-2-2.8(1) or the
16 financial institutions tax under IC 6-5.5-2-7(4), except to the
17 extent of unrelated business taxable income.
- 18 (8) "Federal adjustment" means a change to an item or
19 amount determined under the Internal Revenue Code or a
20 change to any other tax attribute that is used by a taxpayer to
21 compute state adjusted gross income taxes or financial
22 institutions tax owed, whether that change results from action
23 by the Internal Revenue Service, including a partnership level
24 audit, or the filing of an amended federal return, a federal
25 refund claim, or an administrative adjustment request by the
26 taxpayer. A federal adjustment is positive to the extent that it
27 increases state adjusted gross income as determined under
28 IC 6-3 or IC 6-5.5 and is negative to the extent that it
29 decreases state adjusted gross income as determined under
30 IC 6-3 or IC 6-5.5.
- 31 (9) "Federal adjustment reports" includes methods or forms
32 required by the department for use by a taxpayer to report
33 final federal adjustments for purposes of this chapter,
34 including an amended Indiana tax return, information return,
35 or uniform multistate report.
- 36 (10) "Federal partnership representative" means a person the
37 partnership designates for the taxable year as the
38 partnership's representative, or the person the Internal
39 Revenue Service has appointed to act as the federal
40 partnership representative, pursuant to Section 6223(a) of the
41 Internal Revenue Code.
- 42 (11) "Final determination date" means the following:



- 1 **(A) Except as provided in clause (B) or (C), if the federal**
 2 **adjustment arises from an Internal Revenue Service audit**
 3 **or other action by the Internal Revenue Service, the final**
 4 **determination date is the date on which the federal**
 5 **adjustment is a final determination under IC 6-3-4-6(d).**
 6 **(B) For federal adjustments arising from an Internal**
 7 **Revenue Service audit or other action by the Internal**
 8 **Revenue Service, if the taxpayer filed as a member of a**
 9 **consolidated tax return filed under IC 6-3-4-14, a**
 10 **combined return filed under IC 6-3-2-2 or IC 6-5.5-5-1, or**
 11 **a return combined by the department under IC 6-3-2-2(p),**
 12 **the final determination date means the first date on which**
 13 **no related federal adjustments arising from that audit**
 14 **remain to be finally determined, as described in clause (A),**
 15 **for the entire group.**
 16 **(C) If the federal adjustment results from filing an**
 17 **amended federal return, a federal refund claim, or an**
 18 **administrative adjustment request, the final determination**
 19 **date means the day on which the amended return, refund**
 20 **claim, administrative adjustment request, or other similar**
 21 **report was filed.**
 22 **(12) "Final federal adjustment" means a federal adjustment**
 23 **after the final determination date for that federal adjustment**
 24 **has passed.**
 25 **(13) "Indirect partner" means a partner in a partnership or**
 26 **pass through entity that itself holds an interest directly, or**
 27 **through another indirect partner, in a partnership or pass**
 28 **through entity.**
 29 **(14) "Internal Revenue Code" has the meaning set forth in**
 30 **IC 6-3-1-11.**
 31 **(15) "Nonresident partner" has the meaning provided in**
 32 **IC 6-3-4-12(n).**
 33 **(16) "Partner" means a person or entity that holds an interest**
 34 **directly or indirectly in a partnership or other pass through**
 35 **entity.**
 36 **(17) "Partner level adjustments report" means a report**
 37 **provided by a partnership to its partners as a result of a**
 38 **department action with regard to the partnership. A partner**
 39 **level adjustments report does not include an amended**
 40 **statement provided by a partnership or other entity as a**
 41 **result of an adjustment reported by the partnership.**
 42 **(18) "Partnership" has the meaning set forth in IC 6-3-1-19.**



- 1 **(19) "Partnership level audit"** means an examination by the
2 **Internal Revenue Service** at the partnership level under
3 **Sections 6221 through 6241 of the Internal Revenue Code**, as
4 **enacted by the Bipartisan Budget Act of 2015, Public Law**
5 **114-74, which results in federal adjustments.**
- 6 **(20) "Partnership return"** means a return required to be filed
7 **by a partnership pursuant to IC 6-3-4-10. In the case of a**
8 **partnership that is required to withhold tax or file a**
9 **composite return pursuant to IC 6-3-4-12 or IC 6-5.5-2-8, the**
10 **term also includes the returns or schedules required for tax**
11 **withholding or composite filing.**
- 12 **(21) "Pass through entity"** means an entity defined in
13 **IC 6-3-1-35, other than a partnership, that is not subject to**
14 **tax under IC 6-3.**
- 15 **(22) "Reallocation adjustment"** means a federal adjustment
16 **resulting from a partnership level audit or an administrative**
17 **adjustment request that changes the shares of one (1) or more**
18 **items of partnership income, gain, loss, expense, or credit**
19 **allocated to direct partners. A positive reallocation**
20 **adjustment means the portion of a reallocation adjustment**
21 **that would increase federal adjusted gross income or federal**
22 **taxable income for one (1) or more direct partners, and a**
23 **negative reallocation adjustment means the portion of a**
24 **reallocation adjustment that would decrease federal adjusted**
25 **gross income or federal taxable income for one (1) or more**
26 **direct partners, according to Section 6225 of the Internal**
27 **Revenue Code and the regulations under that section.**
- 28 **(23) "Resident partner"** means a partner that is not a
29 **nonresident partner.**
- 30 **(24) "Review year"** means the taxable year of a partnership
31 **that is subject to a partnership level audit that results in**
32 **federal adjustments.**
- 33 **(25) "Statement"** means a form or schedule prescribed by the
34 **department through which a pass through entity reports tax**
35 **attributes to its owners or beneficiaries.**
- 36 **(26) "Tax attribute"** means any item of income, deduction,
37 **credit, receipts for apportionment, or other amount or status**
38 **that determines a partner's liability under IC 6-3, IC 6-3.6, or**
39 **IC 6-5.5.**
- 40 **(27) "Taxable year"** means, in the case of a partnership, the
41 **year or partial year for which a partnership files a return for**
42 **state and federal purposes and, in the case of a partner, the**



1 taxable year in which the partner reports tax attributes from
2 the partnership.

3 (28) "Taxpayer" has the meaning set forth in IC 6-3-1-15 (in
4 the case of the adjusted gross income tax) and IC 6-5.5-1-17
5 (in the case of the financial institutions tax) and, unless the
6 context clearly indicates otherwise, includes a partnership
7 subject to a partnership level audit or a partnership that has
8 made an administrative adjustment request, as well as a
9 tiered partner of that partnership.

10 (29) "Tiered partner" means any partner that is a
11 partnership or pass through entity.

12 (30) "Unrelated business taxable income" has the meaning set
13 forth in Section 512 of the Internal Revenue Code.

14 **Sec. 2. The following apply for purposes of this chapter:**

15 (1) If a taxpayer has not filed a return under IC 6-3 or
16 IC 6-5.5 for a taxable year, review year, or adjustment year,
17 any reference to an amended return shall be a reference to an
18 original return that includes any adjustments under this
19 chapter.

20 (2) If a taxpayer is a pass through entity and has not issued a
21 statement to its owners or beneficiaries, any reference to an
22 amended statement shall be a reference to an original
23 statement that includes any adjustment under this chapter.

24 (3) Any reference to tax shall include interest under
25 IC 6-8.1-10-1 and penalties under IC 6-8.1.

26 (4) In the case of an adjustment for a review year that is
27 required to be paid or otherwise reported for federal purposes
28 in an adjustment year, the adjustment shall be treated as:

29 (A) occurring in the review year, if any tax, interest, or
30 penalties are based on the review year for federal
31 purposes; or

32 (B) occurring in:

33 (i) the adjustment year, if the item is required to be
34 reported for federal purposes on the federal tax return
35 or in any other manner for the adjustment year; or

36 (ii) any other year, if the item is required to be reported
37 for federal purposes on the federal tax return or in any
38 other manner for such other year;

39 and is not described in clause (A).

40 (5) In the case of a state adjustment, the change shall be
41 treated as occurring in the taxable year to which the state
42 adjustment relates, unless the adjustment is treated as



1 occurring in a different year as a result of subdivision (4).

2 (6) For taxable years beginning before January 1, 2017, any
3 reference to IC 6-3.6 shall be construed to include
4 IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7, prior to their repeal.

5 (7) With respect to partnerships and tiered partners:

6 (A) a partner that is a partnership that receives a report of
7 partnership adjustments, receives a final federal
8 adjustment, or files an amended return is considered a tier
9 one (1) entity;

10 (B) a tiered partner that is a direct partner of a tier one (1)
11 entity is considered a tier two (2) entity; and

12 (C) each tiered partner that is an owner, beneficiary, or
13 partner of an entity that is a tier two (2) entity or higher
14 shall be assigned a tier number that is one (1) tier higher
15 and is considered an entity in that tier.

16 If, after application of this subdivision, a tiered partner is
17 assigned to more than one (1) tier, the tiered partner shall be
18 treated as being assigned to the highest numerical tier to
19 which the tiered partner could be assigned.

20 (8) In the case of a partnership or tiered partner that is
21 assigned a numerical tier, the applicable deadline for
22 purposes of this chapter is:

23 (A) in the case of a tier one (1) entity receiving a report of
24 partnership adjustments, ninety (90) days from the date
25 the report of partnership adjustments is final;

26 (B) in the case of a tier one (1) entity that has received a
27 final federal determination, one hundred eighty (180) days
28 from the final determination date;

29 (C) in the case of a tier one (1) entity that has filed an
30 amended return under this chapter other than an amended
31 return resulting from a final federal determination, zero
32 (0) days; and

33 (D) in the case of a tiered partner that has received
34 adjustments resulting from a tier one (1) partnership, a
35 number of days equal to:

36 (i) the number of days described in clauses (A) through
37 (C), as applicable; plus

38 (ii) thirty (30) multiplied by the tier number assigned to
39 the tiered partner; minus

40 (iii) thirty (30).

41 However, if a tiered partner receives an adjustment reported
42 on a partnership audit tracking report under Section 6226 of



1 the Internal Revenue Code, the time period applicable for the
 2 tiered partner is the longer of the time period described in
 3 clause (D) or ninety (90) days from the date prescribed in
 4 Section 6226(b)(4)(B) of the Internal Revenue Code, and any
 5 other applicable deadlines under this subdivision or
 6 subdivision (9).

7 (9) In the case of a direct partner or indirect partner that is
 8 not a tiered partner, the applicable deadline for purposes of
 9 this chapter is ninety (90) days after the applicable deadline
 10 that is determined for the partnership or tiered partner under
 11 subdivision (8). If a direct partner or indirect partner
 12 described in this subdivision is subject to more than one (1)
 13 applicable deadline, the applicable deadline is the latest date
 14 determined under this subdivision.

15 **Sec. 3. (a) If the department conducts an audit or investigation**
 16 **of a partnership, and the department determines that the**
 17 **partnership:**

18 (1) did not correctly report any tax attribute for a taxable
 19 year; or

20 (2) did not correctly allocate any tax attribute for a taxable
 21 year;

22 the department may adjust or reallocate the tax attribute. If the
 23 department makes an adjustment or reallocation to one (1) or
 24 more tax attributes, the department shall provide a report of
 25 partnership adjustments for the taxable year to the partnership.

26 (b) The preliminary report of partnership adjustments shall list:

27 (1) the department's adjustments to tax attributes; and

28 (2) the allocation of the department's adjustments to all
 29 affected direct partners.

30 (c) If the preliminary report of partnership adjustments for a
 31 taxable year results in either:

32 (1) a potential increase in tax to one (1) or more direct
 33 partners; or

34 (2) if the partnership reported tax attributes that would result
 35 in a refund of tax to one (1) or more partners, a reduction in
 36 that refund;

37 such report shall be treated as a proposed assessment under
 38 IC 6-8.1-5 to the partnership.

39 (d) If the result for partnership adjustments for a taxable year
 40 results in:

41 (1) no direct increase in tax to any direct partner; and

42 (2) a change in tax attributes to one (1) or more direct



1 partners that would result in a refund in excess of any refund
 2 claimed;
 3 the department shall issue a report of proposed partnership
 4 adjustments to the partnership reflecting such adjustments. Any
 5 refund arising from a report of proposed partnership adjustments
 6 shall be issued to the partners, subject to the partner claiming the
 7 refund and any statute of limitations on such refunds. In the case
 8 of partnership adjustments otherwise described in this subsection
 9 that result from a partnership adjustment described in subsection
 10 (c), all such partnership adjustments shall be treated as
 11 adjustments to which subsection (c) applies.

12 Sec. 4. If the department issues a report of proposed partnership
 13 adjustments to a partnership for a taxable year, the partnership
 14 shall be considered to be the taxpayer for purposes of IC 6-8.1-5,
 15 including all rights to protest and appeal the report of proposed
 16 partnership adjustments, except as specifically provided under this
 17 chapter.

18 Sec. 5. (a) For purposes of this chapter, a report of partnership
 19 adjustments for a taxable year is considered a final report of
 20 partnership adjustments upon the latest of:

- 21 (1) the last day a protest of the report of proposed partnership
 22 adjustments could have been filed by the partnership, if no
 23 protest is filed;
 24 (2) if a protest is filed, but no original tax appeal is filed
 25 pursuant to IC 6-8.1-5, the last day on which an original tax
 26 appeal could have been filed;
 27 (3) if an original tax appeal has been filed, the last day on
 28 which no further appeal may be taken from a decision
 29 requested; or
 30 (4) the date set in subsection (b).

31 (b) If, upon protest or appeal, an adjustment in a report of
 32 proposed partnership adjustments is determined to be incorrect,
 33 the department shall issue a report of final partnership
 34 adjustments consistent with the determination not more than one
 35 hundred eighty (180) days after the determination is otherwise
 36 determined to be final under subsection (a)(1) through (a)(3). If the
 37 report of final partnership adjustments is not issued within one
 38 hundred eighty (180) days, one (1) day for each day that the report
 39 of final partnership adjustments is issued after the one hundred
 40 eighty (180) day deadline is added to the deadline for which a
 41 partnership or tiered partner may act without being subject to
 42 assessment under section 18 of this chapter. In the case of a



1 partnership with multiple tiers, this extension applies to each tier.

2 (c) Notwithstanding subsection (a), if the partnership and the
3 department enter into a settlement agreement under IC 6-8.1-3-17
4 to resolve all matters related to the report of proposed partnership
5 adjustments for a taxable year, the report of final partnership
6 adjustments for that taxable year reflected in the agreement shall
7 be issued final one hundred eighty (180) days after the date of the
8 signature of the last party required to sign the agreement.

9 Sec. 6. (a) Once a report of partnership adjustments is
10 considered final, the partnership shall, not later than the applicable
11 deadline:

12 (1) supply to its direct partners and the department a partner
13 level adjustments report attributable to each partner in the
14 form and manner prescribed by the department; and

15 (2) remit any composite tax or withholding tax due under
16 IC 6-3-4-12 or IC 6-5.5-2-8.

17 (b) If the partner is a tiered partner, the tiered partner shall, not
18 later than the applicable deadline for the tiered partner:

19 (1) file an amended return for the taxable year and for any
20 other affected year reporting its share of the adjustments;

21 (2) supply its owners or beneficiaries and the department
22 amended statements reflecting the adjustments attributable
23 to the owner or beneficiary, or a report, in the form and
24 manner prescribed by the department; and

25 (3) remit any tax due under IC 6-3, IC 6-3.6, or IC 6-5.5,
26 including any composite tax or withholding tax due under
27 IC 6-3-4-12, IC 6-3-4-13, IC 6-3-4-15, and IC 6-5.5-2-8.

28 (c) Upon receipt of a partner level adjustments report or any
29 statement from tiered partners arising from a partner level
30 adjustments report, the taxpayer receiving the report or statement
31 shall file an amended return for the taxable year reporting the
32 adjustments along with any other affected year and remit any tax
33 due not later than the applicable deadline for the partner.

34 (d) Notwithstanding any other provision of this chapter or
35 IC 6-3-4-11:

36 (1) A partnership that has been issued a report of proposed
37 partnership adjustments, or a tiered partner that is a
38 partnership that has received a partner level adjustment
39 report or statement arising from a report of final partnership
40 adjustments, may elect to pay any tax due arising from a
41 report of final partnership adjustments.

42 (2) Such election must be filed with the department not later



1 than sixty (60) days after the department issues the report of
 2 proposed partnership adjustments or, in the case of an
 3 election by a tiered partner, not later than the date by which
 4 the tiered partner is required to file an amended return under
 5 this section.

6 (3) The computation of tax and other provisions governing
 7 this election shall be in a manner consistent with an election
 8 under section 9(c) of this chapter.

9 (4) If a partnership has made an election under this chapter
 10 to report and remit any tax due at the partnership level for a
 11 taxable year, the partnership shall be considered to have
 12 made a timely election under this subsection with regard to
 13 any adjustments in the report of partnership adjustments for
 14 that taxable year.

15 Sec. 7. (a) If the department receives the partner level
 16 adjustments report or statement required to be provided under
 17 section 6 of this chapter and the department determines that a
 18 taxpayer has not reported the correct amount of tax to the
 19 department, the department shall issue an assessment to the
 20 taxpayer of any tax due.

21 (b) For purposes of any assessment, protest, and litigation
 22 related to a partner level adjustments report or statement arising
 23 from a partner level adjustments report, any adjustments to tax
 24 attributes reported in the partner level adjustments report shall be
 25 final.

26 Sec. 8. (a) If a partnership:

27 (1) determines that it did not correctly report any tax
 28 attribute for a taxable year;

29 (2) determines that it did not correctly allocate any tax
 30 attribute for a taxable year; or

31 (3) receives final federal adjustments as a result of a federal
 32 partnership audit or administrative adjustment request for a
 33 taxable year;

34 the partnership shall file an amended partnership return with the
 35 department and provide its direct partners with amended
 36 statements or a report in the form and manner prescribed by the
 37 department reflecting the correctly reported and allocated tax
 38 attributes for any applicable year.

39 (b) If the partnership files an amended partnership return
 40 under this section for a taxable year:

41 (1) the partnership shall remit any composite tax or
 42 withholding tax due under IC 6-3-4-12 or IC 6-5.5-2-8 on its



1 direct partners resulting from the amended return at the time
2 of filing;

3 (2) any tiered partners shall, not later than the applicable
4 deadline for the tiered partner:

5 (A) file an amended return and, if applicable, remit any tax
6 due under IC 6-3, IC 6-3.6, or IC 6-5.5, including any
7 amounts due under IC 6-3-4-12, IC 6-3-4-13, IC 6-3-4-15,
8 or IC 6-5.5-2-8; and

9 (B) report any adjustments to the tiered partner's owners
10 or beneficiaries by providing amended statements to the
11 tiered partner's owners or beneficiaries, or a report in the
12 form and manner prescribed by the department; and

13 (3) any direct or indirect partners who are not tiered partners
14 and who are required to file a return under IC 6-3 or IC 6-5.5
15 or who have filed a return under IC 6-3 or IC 6-5.5 shall file
16 amended returns with the department for any taxable year
17 affected by the amended partnership return and remit any tax
18 due not later than the applicable deadline for the partner.

19 (c) Notwithstanding any other provision of this chapter or
20 IC 6-3-4-11:

21 (1) A partnership that has filed an amended partnership
22 return under this section, or a tiered partner that is a
23 partnership and that is a partner of a partnership that has
24 filed an amended partnership return under this section, may
25 elect to pay any tax due arising from an amended partnership
26 return.

27 (2) Such election must be filed with the department not later
28 than the date on which the amended partnership return is
29 filed with the department or, in the case of an election by a
30 tiered partner that is a partnership, not later than the date by
31 which the tiered partner is required to file an amended return
32 under this section.

33 (3) The computation and payment of tax and other provisions
34 governing this election shall be made in a manner consistent
35 with an election under section 9(c) of this chapter.

36 (4) If a partnership has made an election under this chapter
37 to report and remit all tax otherwise due at the partnership
38 level for a taxable year, the partnership shall be considered to
39 have made a timely election under this subsection with regard
40 to any changes arising from an amended return under this
41 section for that taxable year.

42 (d) If the department determines that a partnership:



1 (1) did not correctly report any tax attributes for a taxable
2 year; or

3 (2) did not correctly allocate any tax attributes for a taxable
4 year;

5 the department may proceed against the partnership in the manner
6 provided under sections 3 through 6 of this chapter.

7 **Sec. 9. (a) Partnerships and partners shall report final federal
8 adjustments arising from a partnership level audit or an
9 administrative adjustment request and make payments as required
10 under this section.**

11 **(b) Final federal adjustments subject to the requirements of this
12 section, except those subject to a properly made election under
13 subsection (c), shall be reported as follows:**

14 **(1) Not later than the applicable deadline, the partnership
15 shall:**

16 **(A) file an amended partnership return for the review year
17 and any other taxable year affected by the final federal
18 adjustments with the department as provided in section 8
19 of this chapter and provide any other information required
20 by the department;**

21 **(B) notify each of its direct partners of their distributive
22 share of the final federal adjustments as provided in
23 section 8 of this chapter for all affected taxable years for
24 which the partnership filed an amended partnership
25 return by an amended statement or a report in the form
26 and manner prescribed by the department; and**

27 **(C) file an amended composite return for direct partners
28 and an amended withholding return for direct partners for
29 the review year and any affected taxable years as
30 otherwise required by IC 6-3-4-12 or IC 6-5.5-2-8 and pay
31 any tax due for the taxable years.**

32 **(2) Each direct partner that is subject to tax under IC 6-3,
33 IC 6-3.6, or IC 6-5.5 shall, on or before the applicable
34 deadline:**

35 **(A) file an amended return as provided in section 8 of this
36 chapter reporting their distributive share of the
37 adjustments reported to them under subdivision (1)(B) for
38 the taxable year in which affected taxable year attributes
39 would be reported by the direct partner as provided in
40 section 8 of this chapter; and**

41 **(B) pay any additional amount of tax due as if final federal
42 partnership adjustments had been properly reported, less**



- 1 any credit for related amounts paid or withheld and
2 remitted on behalf of the direct partner.
- 3 **(3) Each tiered partner shall treat any final federal**
4 **partnership adjustments under this section in a manner**
5 **consistent with the treatment of tiered partners under section**
6 **8 of this chapter.**
- 7 **(c) Except as provided in subsection (d), an audited partnership**
8 **making an election under this subsection shall:**
- 9 **(1) not later than the applicable deadline, file an amended**
10 **partnership return for the review year and for any other**
11 **affected taxable year elected by the audited partnership,**
12 **including information as required by the department, and**
13 **notify the department that it is making the election under this**
14 **subsection; and**
- 15 **(2) not later than ninety (90) days after the applicable**
16 **deadline, pay an amount, determined as follows, in lieu of**
17 **taxes owed by its direct or indirect partners:**
- 18 **(A) Exclude from final federal adjustments the distributive**
19 **share of these adjustments reported to a direct exempt**
20 **partner that is not unrelated business income.**
- 21 **(B) For the total distributive shares of the remaining final**
22 **federal adjustments reported to direct corporate partners**
23 **and to direct exempt partners, apportion and allocate such**
24 **adjustments as provided under IC 6-3-2-2 or IC 6-3-2-2.2**
25 **(in the case of the adjusted gross income tax) or IC 6-5.5-4**
26 **(in the case of the financial institutions tax), and multiply**
27 **the resulting amount by the tax rate for the taxable year**
28 **under IC 6-3-2-1(b), IC 6-3-2-1.5, or IC 6-5.5-2-1, as**
29 **applicable.**
- 30 **(C) For the total distributive shares of the remaining final**
31 **federal adjustments reported to nonresident direct**
32 **partners other than corporate partners, determine the**
33 **amount of such adjustments which is Indiana source**
34 **income under IC 6-3-2-2 or IC 6-3-2-2.2, and multiply the**
35 **resulting amount by the tax rate under IC 6-3-2-1(a), and**
36 **if applicable IC 6-3.6. If a partnership is unable to**
37 **determine whether a nonresident is subject to tax under**
38 **IC 6-3.6, or to determine in what county the nonresident is**
39 **subject to tax under IC 6-3.6, tax shall also be imposed at**
40 **the highest rate for which a county imposes a tax under**
41 **IC 6-3.6 for the taxable year.**
- 42 **(D) For the total distributive shares of the remaining final**



1 federal adjustments reported to tiered partners:

2 (i) determine the amount of any adjustment that is of a
3 type that it would be subject to sourcing in Indiana
4 under IC 6-3-2-2, IC 6-3-2-2.2, or IC 6-5.5-4, as
5 applicable, and determine the portion of this amount
6 that would be sourced to Indiana;

7 (ii) determine the amount of any adjustment that is of a
8 type that it would not be subject to sourcing to Indiana
9 by a nonresident partner under IC 6-3-2-2, IC 6-3-2-2.2,
10 or IC 6-5.5-4, as applicable;

11 (iii) determine the portion of the amount determined
12 under item (ii) that can be established, as prescribed by
13 the department by rule under IC 4-22-2, to be properly
14 allocable to nonresident indirect partners or other
15 partners not subject to tax on the adjustments; and

16 (iv) multiply the sum of the amounts determined in items
17 (i) and (ii) reduced by the amount determined in item
18 (iii) by the highest combined rate for the review year
19 under IC 6-3-2-1(a) and IC 6-3.6 for any county, the rate
20 under IC 6-3-2-1(b), or the rate under 6-5.5-2-1 for the
21 taxable year, whichever is highest.

22 (E) For the total distributive shares of the remaining final
23 federal adjustments reported to resident individual, estate,
24 or trust direct partners, multiply that amount by the tax
25 rate under IC 6-3-2-1(a) and IC 6-3.6. If a partnership does
26 not reasonably ascertain the county of residence for an
27 individual direct partner, the rate under IC 6-3.6 for that
28 partner shall be treated as the highest rate imposed in any
29 county under IC 6-3.6 for the taxable year.

30 (F) Add the amounts determined in clauses (B), (C),
31 (D)(iv), and (E). For purposes of determining interest and
32 penalties, the due date of payment shall be the due date of
33 the partnership's return under IC 6-3-4-10 for the taxable
34 year, determined without regard to any extensions.

35 If a partnership has made an election under this chapter to report
36 and remit all tax otherwise due at the partnership level for a
37 taxable year, the partnership shall be considered to have made a
38 timely election under this subsection with regard to any changes
39 arising from an amended return under this section for that taxable
40 year.

41 (d) Final federal adjustments subject to an election under
42 subsection (c) shall not include:



1 (1) the distributive share of final federal adjustments that
2 would constitute income derived from a partnership to any
3 direct or indirect partner that is either a corporation taxable
4 under IC 6-3-2-1(b), IC 6-3-2-1.5, or IC 6-5.5-2-1 and is
5 considered unitary to the partnership;

6 (2) any final federal adjustments resulting from an
7 administrative adjustment request; or

8 (3) any other circumstances that the department determines
9 would result in avoidance or evasion of any tax otherwise due
10 from one (1) or more partners under IC 6-3 or IC 6-5.5.

11 (e) Notwithstanding IC 6-3-4-11, an audited partnership not
12 otherwise subject to any reporting or payment obligations to
13 Indiana that makes an election under subsection (c) consents to be
14 subject to Indiana law related to reporting, assessment, payment,
15 and collection of Indiana tax calculated under the election.

16 Sec. 10. (a) The direct and indirect partners of an audited
17 partnership that are tiered partners, and all of the partners,
18 owners, and beneficiaries of those tiered partners that are subject
19 to tax under IC 6-3 or IC 6-5.5, are subject to the reporting and
20 payment requirements of section 8 of this chapter.

21 (b) The tiered partners who are partnerships are entitled to
22 make the elections provided by section 9(c) of this chapter,
23 provided that such an election is made not later than the due date
24 by which the tiered partner is otherwise required to furnish
25 statements or other reports to its partners under section 8(b)(2) of
26 this chapter.

27 (c) The department may adopt rules under IC 4-22-2 to
28 establish procedures and interim time periods for the reports and
29 payments required by tiered partners and their partners, owners,
30 and beneficiaries and for making the elections under section 9(c)
31 of this chapter.

32 Sec. 11. Under procedures adopted by and subject to the
33 approval of the department, an audited partnership or tiered
34 partner may enter into an agreement with the department to utilize
35 an alternative reporting and payment method, including applicable
36 time requirements or any other provision of section 9 of this
37 chapter, if the audited partnership or tiered partner demonstrates
38 that the requested method will reasonably provide for the
39 reporting and payment of taxes due. Application for approval of an
40 alternative reporting and payment method must be made by the
41 audited partnership or tiered partner within the time for election
42 as provided in section 9(c)(1) of this chapter.



1 **Sec. 12. (a)** The election made pursuant to section 9(c) of this
2 chapter is irrevocable unless the department, in its discretion,
3 determines otherwise.

4 **(b)** If properly reported and paid by the audited partnership or
5 tiered partner, the amount determined under section 9(c)(2) of this
6 chapter or similarly under an optional election under section 11 of
7 this chapter, will be treated as paid in lieu of taxes owed by its
8 direct and indirect partners, to the extent applicable, on the same
9 final federal adjustments. The direct partners or indirect partners
10 may not take any deduction or credit for this amount or claim a
11 refund of the amount in this state. However, nothing in this
12 subsection shall preclude a direct partner from claiming a credit
13 for any amounts paid by the audited partnership or tiered partner
14 on the direct partner's behalf to another state or local tax
15 jurisdiction in accordance with provisions in IC 6-3-3-3 and
16 IC 6-3.6-8-6.

17 **(c)** If the department determines that a partnership made an
18 election under section 9(c) of this chapter that was improper with
19 regard to one (1) or more partners or adjustments, the department
20 may treat the election as invalid with regard to the partners or
21 adjustments and treat any tax applicable to such partners as tax
22 withheld by the partnership on any affected partner's behalf.

23 **Sec. 13.** If the department conducts an audit or investigation
24 under this chapter, or the partnership receives federal adjustments
25 covered under section 12 of this chapter, the partnership shall be
26 required to designate a state partnership representative for that
27 taxable year or review year. The following apply:

28 **(1)** With respect to an action required or permitted to be
29 taken by a partnership under this chapter and a preceding for
30 administrative or judicial review with respect to that action,
31 the state partnership representative for the taxable year shall
32 have sole authority to act on behalf of the partnership, and the
33 partnership's direct partners and indirect partners shall be
34 bound by those actions.

35 **(2)** The state partnership representative for a taxable year is
36 the partnership's federal partnership representative for the
37 taxable year, unless the partnership designates in writing
38 another person as its state partnership representative or the
39 partnership has not designated a federal partnership
40 representative.

41 **(3)** The department may establish reasonable qualifications
42 for and procedures for designating a person, other than the



1 federal partnership representative, to be the state partnership
2 representative.

3 **Sec. 14.** For purposes of this chapter and IC 6-8.1-5-2, an
4 assessment may not be issued against a direct or indirect partner
5 or partnership with regard to changes related to a proposed or
6 report of final partnership adjustments if the report of proposed
7 partnership adjustments is issued by the department to a
8 partnership after the latest of:

9 (1) three (3) years after the due date of the partnership's
10 return, including any valid extension granted under
11 IC 6-8.1-6-1;

12 (2) three (3) years after the date the partnership's return is
13 filed with the department;

14 (3) in the case of the partnership's underreporting of its
15 adjusted gross income by more than twenty-five percent
16 (25%), the periods provided in subdivisions (1) and (2) shall
17 be six (6) years;

18 (4) if the partnership fails to file a return required under
19 IC 6-3-4-10, files a fraudulent return, or files a substantially
20 blank return, no time limit;

21 (5) in the case of a report of proposed partnership
22 adjustments arising from final federal adjustments:

23 (A) one hundred eighty (180) days after the date on which
24 the department receives the final federal adjustments from
25 the partnership in the manner prescribed by the
26 department; or

27 (B) December 31, 2021;

28 whichever is later; or

29 (6) in the case of a report of proposed partnership
30 adjustments issued to a tiered partner that is a partnership as
31 a direct or indirect result of another partnership's report of
32 final partnership adjustments, final federal adjustments, or
33 an amended return, one hundred eighty (180) days after the
34 applicable deadline for the tiered partner or the date
35 otherwise determined under this section for the partnership,
36 whichever is later.

37 **Sec. 15. (a)** If the department receives the partner level
38 adjustments report, amended statement, or similar report required
39 to be provided under section 6 of this chapter and the department
40 determines that a taxpayer has not reported the correct amount of
41 tax to the department for a taxable year of the taxpayer affected by
42 the partner level adjustments report, the department shall issue a



1 proposed assessment to the taxpayer not later than:

2 (1) one hundred eighty (180) days after the department
3 receives the partner level adjustments report or amended
4 statement arising from the partner level adjustments report
5 from the entity required to provide the report or statement to
6 the department;

7 (2) one hundred eighty (180) days after the applicable
8 deadline for the taxpayer; or

9 (3) the period during which the taxpayer could otherwise be
10 issued a proposed assessment under IC 6-8.1-5-2;

11 whichever is latest.

12 (b) If a taxpayer receives multiple partner level adjustments
13 reports or amended statements relating to the same final report of
14 partnership adjustments, the last day for issuing a proposed
15 assessment to the taxpayer is the latest time for which the
16 department could issue an assessment for any partner level
17 adjustments report or amended statement arising from the report
18 of partnership adjustments as determined under this section.

19 (c) The taxpayer may protest or appeal the proposed assessment
20 or refund denial in the same manner as prescribed in IC 6-8.1-5 or
21 IC 6-8.1-9-1, whichever is applicable. However, any adjustments
22 made pursuant to a final report of partnership adjustments shall
23 be considered final as to the taxpayer.

24 Sec. 16. (a) If the department determines that the partnership
25 correctly reported and allocated tax attributes to its partners on a
26 return or an amended return, but that the taxpayer reported the
27 tax attributes from the partnership incorrectly, and that the
28 taxpayer did not report the proper amount of tax as a result of
29 such tax attributes for any year affected by the partnership return
30 or amended return, the department may issue a proposed
31 assessment against the taxpayer not later than one hundred eighty
32 (180) days after the applicable deadline for the taxpayer or the
33 date otherwise prescribed in IC 6-8.1-5-2 for issuing a proposed
34 assessment against the taxpayer, whichever is later.

35 (b) If the amended return filed by the partnership would result
36 in a refund to one (1) or more direct or indirect partners, the
37 partner must file an amended return not later than:

38 (1) the date prescribed under IC 6-8.1-9-1 for the partner to
39 claim a refund, if the amended return is not the result of a
40 change by the Internal Revenue Service; or

41 (2) if the adjustment is the result of a change by the Internal
42 Revenue Service, the applicable deadline for the partner, or



1 the date prescribed under IC 6-8.1-9-1, whichever is later.

2 (c) For purposes of any protest or appeal from an amended
3 return under this section, any reporting by the partnership shall be
4 considered conclusive with regard to the direct and indirect
5 partners of the partnership.

6 **Sec. 17.** If the department determines that a taxpayer reported
7 a tax attribute in an inconsistent manner with the partnership's
8 reporting of the tax attribute and the taxpayer does not disclose the
9 inconsistent reporting in a manner prescribed by the department,
10 the department may issue a proposed assessment against the
11 taxpayer as a result of the inconsistent reporting not later than:

12 (1) three (3) years after the due date of the partnership's
13 return, including any valid extensions granted under
14 IC 6-8.1-6-1;

15 (2) three (3) years after the partnership's return is filed with
16 the department;

17 (3) in the case of the partnership's underreporting of its
18 adjusted gross income by more than twenty-five percent
19 (25%), the periods provided in subdivisions (1) and (2) shall
20 be six (6) years;

21 (4) if the partnership fails to file a return required under
22 IC 6-3-4-10, files a fraudulent return, or files a substantially
23 blank return, no time limit; or

24 (5) the latest date for which the taxpayer could be assessed
25 under IC 6-8.1-5-2;

26 whichever date is latest. For purposes of this section, if a
27 partnership is required to file a return under IC 6-3-4-10 and fails
28 to file such return or fails to provide the partner with a statement
29 setting forth the tax attributes from the partnership, the taxpayer
30 will be considered to have reported all tax attributes from the
31 partnership in an inconsistent manner with the partnership's
32 reporting of the tax attributes. For purposes of any protest or
33 appeal with regard to a proposed assessment under this section,
34 any reporting by the partnership shall be considered conclusive
35 with regard to the direct or indirect partners of the partnership,
36 provided that the reporting by the partnership is determined to be
37 neither fraudulent nor in bad faith.

38 **Sec. 18.** (a) If a partnership or tiered partner is required to issue
39 a report, issue an amended statement, or issue other information
40 to a partner, owner, or beneficiary under this chapter, and does not
41 issue such report, statement, or information within the period such
42 issuance is required under this chapter, the partnership or tiered



1 partner shall be liable for any tax that otherwise may be due from
 2 the partner, owner, or beneficiary, notwithstanding any other
 3 provision in IC 6-3 or IC 6-5.5. The tax rate under this section shall
 4 be computed at the highest rate for the taxable year under:

- 5 (1) IC 6-3-2-1(a), plus the highest rate imposed in any county
 6 under IC 6-3.6;
 7 (2) IC 6-3-2-1(b); or
 8 (3) IC 6-5.5-2-1;

9 unless the partnership or tiered partner can establish that a lower
 10 rate should apply, the partnership or tiered partner has made an
 11 election to be subject to tax under sections 6, 8, or 9 of this chapter,
 12 or to the extent the partnership, tiered partner, or the department
 13 can determine that the tax was otherwise properly reported and
 14 remitted. Such tax shall be considered to be due on the due date of
 15 the partnership's or tiered partner's return for the taxable year,
 16 determined without regard to extensions.

17 (b) If a partnership or tiered partner issues the report, amended
 18 statement, or other information:

- 19 (1) to an address that the partnership or tiered partner knows
 20 or reasonably should know is incorrect; or
 21 (2) if the report, amended statement, or other information not
 22 described in subdivision (1) is returned and the partnership or
 23 tiered partner:

24 (A) fails to take reasonable steps to determine a proper
 25 address for reissuance within thirty (30) days after the
 26 report, amended statement, or other information is
 27 returned; or

28 (B) takes such steps and fails to reissue the report to a
 29 proper address within thirty (30) days after the report,
 30 amended statement, or other information is returned;

31 such report, amended statement, or other information shall be
 32 considered to have not been issued for purposes of this section.

33 (c) The department may issue a proposed assessment under this
 34 section not later than three (3) years after the department receives
 35 a return or amended return from the partnership or tiered partner
 36 for which the partnership or tiered partner fails to issue reports,
 37 amended statements, or other information.

38 (d) If:

- 39 (1) a direct or indirect partner files and remits the tax
 40 otherwise due under this section, the assessment to the
 41 partnership under this section shall be reduced by the portion
 42 of the tax attributable to the direct or indirect partner; and



1 (2) a partnership or tiered partner files and remits the tax
2 under this section, such tax shall be treated as payment of tax
3 to the direct or indirect partners. However, in no event shall
4 the direct or indirect partners be permitted a refund of tax
5 paid by a partnership or tiered partner under this section
6 unless otherwise permitted under this chapter or IC 6-8.1-9-1.

7 (e) Nothing in this section shall be construed to relieve a
8 partnership or tiered partner from any duty to issue a report,
9 amended statement, or other information otherwise required
10 under this chapter or under any other provision of IC 6-3 or
11 IC 6-5.5. If a partnership or tiered partner issues a report,
12 amended statement, or other information provided under this
13 chapter after the date otherwise required for issuance, the
14 department may grant relief to any tiered partner, direct partner,
15 or indirect partner affected by the late issuance, including
16 extension of applicable deadlines.

17 Sec. 19. If a partnership or tiered partner remits a payment on
18 behalf of a partner, shareholder, or beneficiary as a result of this
19 chapter, the partner, shareholder, or beneficiary may file a claim
20 for refund with regard to any overpayment remitted on its behalf
21 not later than the date on which the partner, shareholder, or
22 beneficiary is required to file an amended return under this
23 chapter or the date otherwise prescribed under IC 6-8.1-9-1,
24 whichever is later.

25 Sec. 20. (a) Notwithstanding any other provision of this chapter
26 or IC 6-8.1, if, before the end of the time period within which the
27 department may take an action under this chapter:

28 (1) in the case of a partnership or tiered partner that has
29 more than ten thousand (10,000) direct owners, the
30 department shall extend the time period one (1) time by sixty
31 (60) days upon written request of the partnership or tiered
32 partner, regardless of whether the department signs the
33 extension.

34 (2) in the case of an action required to be taken with regard to
35 a partnership under this chapter, the department and the
36 partnership agree to extend that period, the period may be
37 extended according to the terms of a written agreement signed
38 by both the department and the partnership; and

39 (3) in the case of an action required to be taken with regard to
40 a tiered partner, direct partner, or indirect partner under this
41 chapter, the department and the tiered partner, direct
42 partner, or indirect partner, as applicable, agree to extend



1 that period, the period may be extended according to the
2 terms of a written agreement signed by both the department
3 and the tiered partner, direct partner, or indirect partner, as
4 appropriate.

5 (b) If an extension is entered into under subsection (a), the
6 request for automatic extension or agreement must contain:

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

8 (2) a statement that the person or entity agrees to preserve the
9 person's or entity's records until the extension terminates.

10 (c) If an extension is entered into under subsection (a), the
11 applicable deadlines and statute of limitations for any actions
12 arising from an action required by a partnership, tiered partner,
13 direct partner, or indirect partner shall be extended in a manner
14 consistent with the extension under subsection (a)(1) or (a)(2).

15 (d) The department and a partnership, tiered partner, direct
16 partner, or indirect partner may enter into more than one (1)
17 extension agreement under this section.

18 (e) The department may, by rules adopted under IC 4-22-2 or
19 by guidelines published in the Indiana Register, provide for
20 automatic extensions or relief from liability and reporting for
21 certain situations. The following apply:

22 (1) In the case of an automatic extension, the extension shall
23 be considered signed by both the department and the
24 partnership, tiered partner, direct partner, or indirect
25 partner before the time the department may take an action
26 under this section. In addition, the partnership, tiered
27 partner, direct partner, or indirect partner shall preserve the
28 person's or entity's records until the automatic extension
29 terminates.

30 (2) In the case of relief from liability, such relief shall be
31 granted only under the situations specifically granted by the
32 rules or guidelines.

33 (3) The department may adopt rules or guidelines to establish
34 a de minimis amount upon which a taxpayer shall not be
35 required to comply with specified provisions of this chapter.

36 SECTION 19. IC 6-3.6-2-7.4, AS ADDED BY P.L.154-2020,
37 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 UPON PASSAGE]: Sec. 7.4. "County with a single voting bloc" means
39 a county that has a local income tax council in which one (1) city that
40 is a member of the local income tax council or one (1) town that is a
41 member of the local income tax council is allocated more than fifty
42 percent (50%) of the total one hundred (100) votes allocated under



1 IC 6-3.6-3-6(d). This section expires May 31, ~~2021~~: **2024**.

2 SECTION 20. IC 6-3.6-3-5, AS AMENDED BY P.L.154-2020,
3 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 5. (a) The auditor of a county shall record all
5 votes taken on ordinances presented for a vote under this article and
6 not more than ten (10) days after the vote, send a certified copy of the
7 results to:

- 8 (1) the commissioner of the department of state revenue; and
9 (2) the commissioner of the department of local government
10 finance;

11 in an electronic format approved by the commissioner of the
12 department of local government finance.

13 (b) Except as provided in subsection (c), this subsection applies only
14 to a county that has a local income tax council. The county auditor may
15 cease sending certified copies after the county auditor sends a certified
16 copy of results showing that members of the local income tax council
17 have cast a majority of the votes on the local income tax council for or
18 against the proposed ordinance.

19 (c) This subsection applies only to a county with a single voting bloc
20 that proposes to increase (but not decrease) a tax rate in the county. The
21 county auditor may cease sending certified copies of the votes on the
22 local income tax council voting as a whole under section 9.5 of this
23 chapter after the county auditor sends a certified copy of results
24 showing that the individuals who sit on the fiscal bodies of the county,
25 cities, and towns that are members of the local income tax council have
26 cast a majority of the votes on the local income tax council voting as a
27 whole under section 9.5 of this chapter for or against the proposed
28 ordinance. This subsection expires May 31, ~~2021~~: **2024**.

29 SECTION 21. IC 6-3.6-3-6, AS AMENDED BY THE TECHNICAL
30 CORRECTIONS BILL OF THE 2021 GENERAL ASSEMBLY, IS
31 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
32 PASSAGE]: Sec. 6. (a) This section applies to a county in which the
33 county adopting body is a local income tax council.

34 (b) In the case of a city or town that lies within more than one (1)
35 county, the county auditor of each county shall base the allocations
36 required by ~~subsection (c)~~ **subsections (d) and (e)** on the population
37 of that part of the city or town that lies within the county for which the
38 allocations are being made.

39 (c) Each local income tax council has a total of one hundred (100)
40 votes.

41 (d) Each county, city, or town that is a member of a local income tax
42 council is allocated a percentage of the total one hundred (100) votes



1 that may be cast. The percentage that a city or town is allocated for a
 2 year equals the same percentage that the population of the city or town
 3 bears to the population of the county. The percentage that the county
 4 is allocated for a year equals the same percentage that the population
 5 of all areas in the county not located in a city or town bears to the
 6 population of the county.

7 (e) This subsection applies only to a county with a single voting
 8 bloc. Each individual who sits on the fiscal body of a county, city, or
 9 town that is a member of the local income tax council is allocated for
 10 a year the number of votes equal to the total number of votes allocated
 11 to the particular county, city, or town under subsection (d) divided by
 12 the number of members on the fiscal body of the county, city, or town.
 13 This subsection expires May 31, ~~2021~~. **2024**.

14 (f) On or before January 1 of each year, the county auditor shall
 15 certify to each member of the local income tax council the number of
 16 votes, rounded to the nearest one hundredth (0.01), each member has
 17 for that year.

18 (g) This subsection applies only to a county with a single voting
 19 bloc. On or before January 1 of each year, in addition to the
 20 certification to each member of the local income tax council under
 21 subsection (f), the county auditor shall certify to each individual who
 22 sits on the fiscal body of each county, city, or town that is a member of
 23 the local income tax council the number of votes, rounded to the
 24 nearest one hundredth (0.01), each individual has under subsection (e)
 25 for that year. This subsection expires May 31, ~~2021~~. **2024**.

26 SECTION 22. IC 6-3.6-3-8, AS AMENDED BY P.L.154-2020,
 27 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]: Sec. 8. (a) This section applies to a county in
 29 which the county adopting body is a local income tax council.

30 (b) Except as provided in subsection (e), any member of a local
 31 income tax council may present an ordinance for passage. To do so, the
 32 member must adopt a resolution to propose the ordinance to the local
 33 income tax council and distribute a copy of the proposed ordinance to
 34 the county auditor. The county auditor shall treat any proposed
 35 ordinance distributed to the auditor under this section as a casting of all
 36 that member's votes in favor of the proposed ordinance.

37 (c) Except as provided in subsection (f), the county auditor shall
 38 deliver copies of a proposed ordinance the auditor receives to all
 39 members of the local income tax council within ten (10) days after
 40 receipt. Subject to subsection (d), once a member receives a proposed
 41 ordinance from the county auditor, the member shall vote on it within
 42 thirty (30) days after receipt.



1 (d) Except as provided in subsection (h), if, before the elapse of
 2 thirty (30) days after receipt of a proposed ordinance, the county
 3 auditor notifies the member that the members of the local income tax
 4 council have cast a majority of the votes on the local income tax
 5 council for or against the proposed ordinance the member need not
 6 vote on the proposed ordinance.

7 (e) This subsection applies only to a county with a single voting bloc
 8 that proposes to increase (but not decrease) a tax rate in the county. The
 9 fiscal body of any county, city, or town that is a member of a local
 10 income tax council may adopt a resolution to propose an ordinance to
 11 increase a tax rate in the county to be voted on by the local income tax
 12 council as a whole as required under section 9.5 of this chapter and
 13 distribute a copy of the proposed ordinance to the county auditor. The
 14 county auditor shall treat the vote tally on the resolution adopted under
 15 this subsection for each individual who is a member of the fiscal body
 16 of the county, city, or town as the voting record for that individual
 17 either for or against the ordinance being proposed for consideration by
 18 the local income tax council as a whole under section 9.5 of this
 19 chapter. This subsection expires May 31, ~~2021~~. **2024.**

20 (f) This subsection applies only to a county with a single voting bloc
 21 that proposes to increase (but not decrease) a tax rate in the county. The
 22 county auditor shall deliver copies of a proposed ordinance the auditor
 23 receives under subsection (e) to the fiscal officers of all members of the
 24 local income tax council (other than the member proposing the
 25 ordinance under subsection (e)) within ten (10) days after receipt.
 26 Subject to subsection (h), once a member receives a proposed
 27 ordinance from the county auditor, the member shall vote on it within
 28 thirty (30) days after receipt. This subsection expires May 31, ~~2021~~.
 29 **2024.**

30 (g) This subsection applies only to a county with a single voting
 31 bloc that proposes to increase (but not decrease) a tax rate in the
 32 county. The fiscal body of each county, city, or town voting on a
 33 resolution to propose an ordinance under subsection (e), or voting on
 34 a proposed ordinance being considered by the local income tax council
 35 as a whole under section 9.5 of this chapter, must take a roll call vote
 36 on the resolution or the proposed ordinance. If an individual who sits
 37 on the fiscal body is absent from the meeting in which a vote is taken
 38 or abstains from voting on the resolution or proposed ordinance, the
 39 fiscal officer of the county, city, or town shall nevertheless consider
 40 that individual's vote as a "no" vote against the resolution or the
 41 proposed ordinance being considered, whichever is applicable, for
 42 purposes of the vote tally under this section and shall note on the vote



1 tally that the individual's "no" vote is due to absence or abstention. The
 2 fiscal body of each county, city, or town shall certify the roll call vote
 3 on a resolution or a proposed ordinance, either for or against, to the
 4 county auditor as set forth under this chapter. This subsection expires
 5 May 31, ~~2021~~ **2024**.

6 (h) This subsection applies only to a county with a single voting
 7 bloc that proposes to increase (but not decrease) a tax rate in the
 8 county. If, before the elapse of thirty (30) days after receipt of a
 9 proposed ordinance under subsection (e), the county auditor notifies
 10 the member that the individuals who sit on the fiscal bodies of the
 11 county, cities, and towns that are members of the local income tax
 12 council have cast a majority of the votes on the local income tax
 13 council for or against a proposed ordinance voting as a whole under
 14 section 9.5 of this chapter, the member need not vote on the proposed
 15 ordinance under subsection (e). This subsection expires May 31, ~~2021~~
 16 **2024**.

17 SECTION 23. IC 6-3.6-3-9, AS AMENDED BY P.L.154-2020,
 18 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (d),
 20 this section applies to a county in which the county adopting body is a
 21 local income tax council.

22 (b) A member of the local income tax council may exercise its votes
 23 by passing a resolution and transmitting the resolution to the county
 24 auditor.

25 (c) A resolution passed by a member of the local income tax council
 26 exercises all votes of the member on the proposed ordinance, and those
 27 votes may not be changed during the year.

28 (d) This section does not apply to a county in which the county
 29 adopting body is a local income tax council to which section 9.5 of this
 30 chapter applies. This subsection expires May 31, ~~2021~~ **2024**.

31 SECTION 24. IC 6-3.6-3-9.5, AS ADDED BY P.L.154-2020,
 32 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 UPON PASSAGE]: Sec. 9.5. (a) This section applies to a county:

- 34 (1) in which the county adopting body is a local income tax
 35 council;
- 36 (2) that is a county with a single voting bloc; and
- 37 (3) that proposes to increase a tax rate in the county.

38 However, the provisions under section 9 of this chapter shall apply to
 39 a county described in subdivisions (1) and (2) that proposes to decrease
 40 a tax rate in the county.

41 (b) A local income tax council described in subsection (a) must vote
 42 as a whole to exercise its authority to increase a tax rate under this



1 article.

2 (c) A resolution passed by the fiscal body of a county, city, or town

3 that is a member of the local income tax council exercises the vote of

4 each individual who sits on the fiscal body of the county, city, or town

5 on the proposed ordinance, and the individual's vote may not be

6 changed during the year.

7 (d) This section expires May 31, ~~2021~~ **2024**.

8 SECTION 25. IC 6-5.5-1-2, AS AMENDED BY P.L.234-2019,

9 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

10 JULY 1, 2021]: Sec. 2. (a) Except as provided in subsections (b)

11 through (d), "adjusted gross income" means taxable income as defined

12 in Section 63 of the Internal Revenue Code, adjusted as follows:

13 (1) Add the following amounts:

14 (A) An amount equal to a deduction allowed or allowable

15 under Section 166, Section 585, or Section 593 of the Internal

16 Revenue Code.

17 (B) An amount equal to a deduction allowed or allowable

18 under Section 170 of the Internal Revenue Code.

19 (C) An amount equal to a deduction or deductions allowed or

20 allowable under Section 63 of the Internal Revenue Code for

21 taxes based on or measured by income and levied at the state

22 level by a state of the United States or levied at the local level

23 by any subdivision of a state of the United States.

24 (D) The amount of interest excluded under Section 103 of the

25 Internal Revenue Code or under any other federal law, minus

26 the associated expenses disallowed in the computation of

27 taxable income under Section 265 of the Internal Revenue

28 Code.

29 (E) An amount equal to the deduction allowed under Section

30 172 or 1212 of the Internal Revenue Code for net operating

31 losses or net capital losses.

32 (F) For a taxpayer that is not a large bank (as defined in

33 Section 585(c)(2) of the Internal Revenue Code), an amount

34 equal to the recovery of a debt, or part of a debt, that becomes

35 worthless to the extent a deduction was allowed from gross

36 income in a prior taxable year under Section 166(a) of the

37 Internal Revenue Code.

38 (G) Add the amount necessary to make the adjusted gross

39 income of any taxpayer that owns property for which bonus

40 depreciation was allowed in the current taxable year or in an

41 earlier taxable year equal to the amount of adjusted gross

42 income that would have been computed had an election not



1 been made under Section 168(k) of the Internal Revenue Code
2 to apply bonus depreciation to the property in the year that it
3 was placed in service.

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

13 (i) twenty-five thousand dollars (\$25,000) to the extent
14 deductions under Section 179 of the Internal Revenue Code
15 were not elected as provided in item (ii); and

16 (ii) for taxable years beginning after December 31, 2017, the
17 deductions elected under Section 179 of the Internal
18 Revenue Code on property acquired in an exchange if the
19 exchange would have been eligible for nonrecognition of
20 gain or loss under Section 1031 of the Internal Revenue
21 Code in effect on January 1, 2017, the exchange is not
22 eligible for nonrecognition of gain or loss under Section
23 1031 of the Internal Revenue Code, and the taxpayer made
24 an election to take deductions under Section 179 of the
25 Internal Revenue Code with regard to the acquired property
26 in the year that the property was placed into service. The
27 amount of deductions allowable for an item of property
28 under this item may not exceed the amount of adjusted gross
29 income realized on the property that would have been
30 deferred under the Internal Revenue Code in effect on
31 January 1, 2017.

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



- 1 reacquisition after December 31, 2008, and before January 1,
2 2011, of an applicable debt instrument, as provided in Section
3 108(i) of the Internal Revenue Code.
- 4 (J) Add an amount equal to any exempt insurance income
5 under Section 953(e) of the Internal Revenue Code for active
6 financing income under Subpart F, Subtitle A, Chapter 1,
7 Subchapter N of the Internal Revenue Code.
- 8 (2) Subtract the following amounts:
- 9 (A) Income that the United States Constitution or any statute
10 of the United States prohibits from being used to measure the
11 tax imposed by this chapter.
- 12 (B) Income that is derived from sources outside the United
13 States, as defined by the Internal Revenue Code.
- 14 (C) An amount equal to a debt or part of a debt that becomes
15 worthless, as permitted under Section 166(a) of the Internal
16 Revenue Code.
- 17 (D) An amount equal to any bad debt reserves that are
18 included in federal income because of accounting method
19 changes required by Section 585(c)(3)(A) or Section 593 of
20 the Internal Revenue Code.
- 21 (E) The amount necessary to make the adjusted gross income
22 of any taxpayer that owns property for which bonus
23 depreciation was allowed in the current taxable year or in an
24 earlier taxable year equal to the amount of adjusted gross
25 income that would have been computed had an election not
26 been made under Section 168(k) of the Internal Revenue Code
27 to apply bonus depreciation.
- 28 (F) The amount necessary to make the adjusted gross income
29 of any taxpayer that placed Section 179 property (as defined
30 in Section 179 of the Internal Revenue Code) in service in the
31 current taxable year or in an earlier taxable year equal to the
32 amount of adjusted gross income that would have been
33 computed had an election for federal income tax purposes not
34 been made for the year in which the property was placed in
35 service to take deductions under Section 179 of the Internal
36 Revenue Code in a total amount exceeding the sum of:
- 37 (i) twenty-five thousand dollars (\$25,000) to the extent
38 deductions under Section 179 of the Internal Revenue Code
39 were not elected as provided in item (ii); and
- 40 (ii) for taxable years beginning after December 31, 2017, the
41 deductions elected under Section 179 of the Internal
42 Revenue Code on property acquired in an exchange if the



1 exchange would have been eligible for nonrecognition of
 2 gain or loss under Section 1031 of the Internal Revenue
 3 Code in effect on January 1, 2017, the exchange is not
 4 eligible for nonrecognition of gain or loss under Section
 5 1031 of the Internal Revenue Code, and the taxpayer made
 6 an election to take deductions under Section 179 of the
 7 Internal Revenue Code with regard to the acquired property
 8 in the year that the property was placed into service. The
 9 amount of deductions allowable for an item of property
 10 under this item may not exceed the amount of adjusted gross
 11 income realized on the property that would have been
 12 deferred under the Internal Revenue Code in effect on
 13 January 1, 2017.

14 (G) Income that is:
 15 (i) exempt from taxation under IC 6-3-2-21.7; and
 16 (ii) included in the taxpayer's taxable income under the
 17 Internal Revenue Code.

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

22 (3) Make the following adjustments:
 23 (A) Subtract the amount of any interest expense paid or
 24 accrued in the current taxable year but not deducted as a result
 25 of the limitation imposed under Section 163(j)(1) of the
 26 Internal Revenue Code.

27 (B) Add any interest expense paid or accrued in a previous
 28 taxable year but allowed as a deduction under Section 163 of
 29 the Internal Revenue Code in the current taxable year.

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

35 (b) In the case of a credit union, "adjusted gross income" for a
 36 taxable year means the total transfers to undivided earnings minus
 37 dividends for that taxable year after statutory reserves are set aside
 38 under IC 28-7-1-24.

39 (c) In the case of an investment company, "adjusted gross income"
 40 means the company's federal taxable income adjusted as follows:

41 (1) Add the amount excluded from federal gross income under
 42 Section 103 of the Internal Revenue Code for interest received on



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

4 (2) Make the following adjustments:

5 (A) Subtract the amount of any interest expense paid or
 6 accrued in the current taxable year but not deducted as a result
 7 of the limitation imposed under Section 163(j)(1) of the
 8 Internal Revenue Code.

9 (B) Add any interest expense paid or accrued in a previous
 10 taxable year but allowed as a deduction under Section 163 of
 11 the Internal Revenue Code in the current taxable year.

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

17 (3) Multiply the amount determined after the adjustments in
 18 subdivisions (1) and (2) by the quotient of:

19 (A) the aggregate of the gross payments collected by the
 20 company during the taxable year from old and new business
 21 upon investment contracts issued by the company and held by
 22 residents of Indiana; divided by

23 (B) the total amount of gross payments collected during the
 24 taxable year by the company from the business upon
 25 investment contracts issued by the company and held by
 26 persons residing within Indiana and elsewhere.

27 (d) As used in subsection (c), "investment company" means a
 28 person, copartnership, association, limited liability company, or
 29 corporation, whether domestic or foreign, that:

30 (1) is registered under the Investment Company Act of 1940 (15
 31 U.S.C. 80a-1 et seq.); and

32 (2) solicits or receives a payment to be made to itself and issues
 33 in exchange for the payment:

34 (A) a so-called bond;

35 (B) a share;

36 (C) a coupon;

37 (D) a certificate of membership;

38 (E) an agreement;

39 (F) a pretended agreement; or

40 (G) other evidences of obligation;

41 entitling the holder to anything of value at some future date, if the
 42 gross payments received by the company during the taxable year



1 on outstanding investment contracts, plus interest and dividends
 2 earned on those contracts (by prorating the interest and dividends
 3 earned on investment contracts by the same proportion that
 4 certificate reserves (as defined by the Investment Company Act
 5 of 1940) is to the company's total assets) is at least fifty percent
 6 (50%) of the company's gross payments upon investment
 7 contracts plus gross income from all other sources except
 8 dividends from subsidiaries for the taxable year. The term
 9 "investment contract" means an instrument listed in clauses (A)
 10 through (G).

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

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

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

27 SECTION 26. IC 6-5.5-1-19 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 19. "Partnership"
 29 means an association of two (2) or more entities formed to conduct a
 30 business; including but not limited to:

31 (1) a limited partnership; a syndicate; a group; a pool; a joint
 32 venture; or an incorporated association; or

33 (2) a similar entity if the income for federal income tax purposes
 34 is taxed to the equity participants in that business; however
 35 characterized.

36 **an entity subject to taxation under Subchapter K of the Internal**
 37 **Revenue Code.**

38 SECTION 27. IC 6-5.5-6-6, AS AMENDED BY P.L.242-2015,
 39 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2021]: Sec. 6. (a) Each taxpayer shall notify the department
 41 in writing of any alteration or modification of a federal income tax
 42 return filed with the United States Internal Revenue Service for a



1 taxable year that begins after December 31, 1988, including any
 2 modification or alteration in the amount of tax, regardless of whether
 3 the modification or assessment results from an assessment.

4 (b) The taxpayer shall file the notice in the form required by the
 5 department within one hundred eighty (180) days after the alteration or
 6 modification is made. **In the case of a taxpayer that files a combined**
 7 **return under this article, the date on which the alteration or**
 8 **modification is made shall be considered to be the last day on**
 9 **which an alteration or modification occurs for any entity filing as**
 10 **part of the combined return.**

11 (c) For purposes of this section, a modification or alteration occurs
 12 on the date on which a:

- 13 (1) taxpayer files an amended federal income tax return;
 14 (2) final determination is made concerning an assessment of
 15 deficiency;
 16 (3) final determination is made concerning a claim for refund;
 17 (4) taxpayer waives the restrictions on assessment and collection
 18 of all, or any part, of an underpayment of federal income tax by
 19 signing a federal Form 870, or any other Form prescribed by the
 20 Internal Revenue Service for that purpose. For purposes of this
 21 subdivision:

22 (A) a final determination does not occur with respect to any
 23 part of the underpayment that is not covered by the waiver;
 24 and

25 (B) if the signature of an authorized representative of the
 26 Internal Revenue Service is required to execute a waiver, the
 27 date of the final determination is the date of signing by the
 28 authorized representative of the Internal Revenue Service **or**
 29 **by the taxpayer, whichever is later;**

30 (5) taxpayer enters into a closing agreement with the Internal
 31 Revenue Service concerning the taxpayer's tax liability under
 32 Section 7121 of the Internal Revenue Code that is a final
 33 determination. The date the taxpayer enters into a closing
 34 agreement under this subdivision is the date the closing
 35 agreement is signed by an authorized representative of the
 36 Internal Revenue Service **or by the taxpayer, whichever is**
 37 **later; or**

38 (6) modification or alteration in an amount of tax, **adjusted gross**
 39 **income, taxable income, credit, or other tax attribute** is
 40 otherwise made that is a final determination;

41 for a taxable year, regardless of whether a modification or alteration
 42 results in an underpayment or overpayment of tax.



1 (d) For purposes of subsection (c)(2) through (c)(6), a final
 2 determination means an action or decision by a taxpayer, the Internal
 3 Revenue Service (including the Appeals Division), the United States
 4 Tax Court, or any other United States federal court concerning any
 5 disputed tax issue that:

- 6 (1) is final and conclusive; and
 7 (2) cannot be reopened or appealed by a taxpayer or the Internal
 8 Revenue Service as a matter of law.

9 (e) If the federal modification or ~~alternation~~ **alteration** results in a
 10 change in the taxpayer's federal adjusted gross income or income
 11 within Indiana, the taxpayer shall file an amended Indiana financial
 12 institutions tax return (as required by the department) and a copy of the
 13 taxpayer's amended federal income tax return with the department not
 14 later than the date that is one hundred eighty (180) days after the
 15 modification or alteration is made.

16 (f) The taxpayer shall pay an additional tax or penalty due under this
 17 article upon notice or demand from the department.

18 SECTION 28. IC 6-5.5-7-1 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) The penalty **in**
 20 **the amount** prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the
 21 department on a taxpayer who fails to make payments as required in
 22 IC 6-5.5-6. However, no penalty shall be assessed for a quarterly
 23 payment if the payment equals or exceeds:

- 24 (1) twenty percent (20%) of the final tax liability for the taxable
 25 year; or
 26 (2) twenty-five percent (25%) of the final tax liability for the
 27 taxpayer's previous taxable year.

28 (b) The penalty for an underpayment of tax on a quarterly return
 29 shall only be assessed on the difference between the actual amount paid
 30 by the taxpayer on the quarterly return and the lesser of:

- 31 (1) twenty percent (20%) of the taxpayer's final tax liability for
 32 the taxable year; or
 33 (2) twenty-five percent (25%) of the taxpayer's final tax liability
 34 for the taxpayer's previous taxable year.

35 **A payment required to be made in the manner prescribed in**
 36 **IC 6-5.5-6-3(c), but not paid in such a prescribed manner, shall be**
 37 **subject to the penalty provided in IC 6-8.1-10-2.1(b)(5).**

38 (d) **For a corporation required to make estimated payments**
 39 **under this section:**

- 40 (1) **if a corporation has a current taxable year or a previous**
 41 **taxable year that is less than twelve (12) months, the penalty**
 42 **under this section shall be computed in a manner consistent**



1 **with Section 6655 of the Internal Revenue Code, including**
 2 **regulations promulgated thereunder; and**
 3 **(2) the department may adopt rules or issue guidelines related**
 4 **to the application of payments withheld on behalf of the**
 5 **corporation under IC 6-3-4 or IC 6-5.5-2-8.**

6 SECTION 29. IC 6-6-1.1-201, AS AMENDED BY P.L.218-2017,
 7 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2021]: Sec. 201. (a) A license tax is imposed on the use of all
 9 gasoline used in Indiana at the applicable rate specified in subsection
 10 (b), except as otherwise provided by this chapter. The distributor shall
 11 initially pay the tax on the billed gallonage of all gasoline the
 12 distributor receives in this state, less any deductions authorized by this
 13 chapter. The distributor shall then add the per gallon amount of tax to
 14 the selling price of each gallon of gasoline sold in this state and
 15 collected from the purchaser so that the ultimate consumer bears the
 16 burden of the tax.

17 (b) The license tax described in subsection (a) is imposed at the
 18 following applicable rate per gallon:

19 (1) Before July 1, 2017, eighteen cents (\$0.18).

20 (2) For July 1, 2017, through June 30, 2018, the lesser of:

21 (A) the rate resulting from using the factors determined under
 22 IC 6-6-1.6-2; or

23 (B) twenty-eight cents (\$0.28).

24 (3) Beginning July 1, 2018, and each July 1 through July 1, 2024,
 25 the department shall determine an applicable rate equal to the
 26 product of:

27 (A) the rate in effect on June 30; multiplied by

28 (B) the factor determined under IC 6-6-1.6-3.

29 The rate shall be rounded to the nearest cent (\$0.01). ~~However,~~ After
 30 June 30, 2018, the new applicable rate may not exceed the rate in effect
 31 on June 30 plus one cent (\$0.01). **However, the new rate may not be**
 32 **less than the rate in effect on June 30. If the calculation of a new**
 33 **rate would produce a rate that is less than the rate in effect on June**
 34 **30, the new rate shall be the rate in effect on June 30.** The
 35 department shall publish the rate that will take effect on July 1 on the
 36 department's Internet web site not later than June 1.

37 SECTION 30. IC 6-6-1.6-3, AS AMENDED BY P.L.185-2018,
 38 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2021]: Sec. 3. (a) The department shall calculate an annual
 40 index factor to be used for the rate to take effect each July 1 beginning
 41 in 2018 through July 1, 2024. The department shall determine the index
 42 factor before June 1 of each year using the method described in



- 1 subsection (b).
 2 (b) The annual gasoline tax index factor and special fuel index
 3 factor equals the following:
 4 STEP ONE: Divide the annual CPI-U for the year preceding the
 5 determination year by the annual CPI-U for the year immediately
 6 preceding that year.
 7 STEP TWO: Divide the annual IPI for the year preceding the
 8 determination year by the annual IPI for the year immediately
 9 preceding that year.
 10 STEP THREE: Add:
 11 (A) the STEP ONE result; and
 12 (B) the STEP TWO result.
 13 STEP FOUR: Divide the STEP THREE result by two (2).
 14 **(c) If the CPI-U or IPI for a preceding year is revised, corrected,**
 15 **or updated after May 31 of that year, the department shall use the**
 16 **CPI-U or IPI as published for the preceding year prior to revision.**
 17 SECTION 31. IC 6-6-2.5-28, AS AMENDED BY P.L.185-2018,
 18 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2021]: Sec. 28. (a) A license tax is imposed on all special fuel
 20 sold or used in producing or generating power for propelling motor
 21 vehicles, except fuel used under section 30(a)(8) or 30.5 of this
 22 chapter, at the applicable rate specified in subsection (b). The tax shall
 23 be paid at those times, in the manner, and by those persons specified in
 24 this section and section 35 of this chapter.
 25 (b) The license tax described in subsection (a) is imposed at the
 26 following applicable rate per special fuel gallon:
 27 (1) Before July 1, 2017, sixteen cents (\$0.16).
 28 (2) For July 1, 2017, through June 30, 2018, the lesser of:
 29 (A) the rate resulting from using the factors determined under
 30 IC 6-6-1.6-2; or
 31 (B) twenty-six cents (\$0.26).
 32 (3) For July 1, 2018, through June 30, 2019, the product of:
 33 (A) the sum of:
 34 (i) the rate in effect on June 30; and
 35 (ii) twenty-one cents (\$0.21); multiplied by
 36 (B) the factor determined under IC 6-6-1.6-3.
 37 (4) Beginning July 1, 2019, and each July 1 through July 1, 2024,
 38 the department shall determine an applicable rate equal to the
 39 product of:
 40 (A) the rate in effect on June 30; multiplied by
 41 (B) the factor determined under IC 6-6-1.6-3.
 42 The rate shall be rounded to the nearest cent (\$0.01). However, after



1 June 30, 2018, and before July 1, 2019, the new applicable rate may not
 2 exceed the rate in effect on June 30 plus twenty-three cents (\$0.23).
 3 After June 30, 2019, the new applicable rate may not exceed the rate
 4 in effect on June 30 plus two cents (\$0.02). **However, the new rate**
 5 **may not be less than the rate in effect on June 30. If the calculation**
 6 **of a new rate would produce a rate that is less than the rate in**
 7 **effect on June 30, the new rate shall be the rate in effect on June**
 8 **30.** The department shall publish the rate that will take effect on July
 9 1 on the department's Internet web site not later than June 1.

10 (c) The department shall consider it a rebuttable presumption that
 11 all undyed or unmarked special fuel, or both, received in Indiana is to
 12 be sold for use in propelling motor vehicles.

13 (d) Except as provided in subsection (e), the tax imposed on special
 14 fuel by subsection (a) shall be measured by invoiced gallons (or diesel
 15 or gasoline gallon equivalents in the case of a special fuel described in
 16 section 22.5(2) or 22.5(3) of this chapter) of nonexempt special fuel
 17 received by a licensed supplier in Indiana for sale or resale in Indiana
 18 or with respect to special fuel subject to a tax precollection agreement
 19 under section 35(j) of this chapter, such special fuel removed by a
 20 licensed supplier from a terminal outside of Indiana for sale for export
 21 or for export to Indiana and in any case shall generally be determined
 22 in the same manner as the tax imposed by Section 4081 of the Internal
 23 Revenue Code and Code of Federal Regulations.

24 (e) The tax imposed by subsection (a) on special fuel imported into
 25 Indiana, other than into a terminal, is imposed at the time the product
 26 is entered into Indiana and shall be measured by invoiced gallons
 27 received at a terminal or at a bulk plant.

28 (f) In computing the tax, all special fuel in process of transfer from
 29 tank steamers at boat terminal transfers and held in storage pending
 30 wholesale bulk distribution by land transportation, or in tanks and
 31 equipment used in receiving and storing special fuel from interstate
 32 pipelines pending wholesale bulk reshipment, shall not be subject to
 33 tax.

34 (g) The department shall consider it a rebuttable presumption that
 35 special fuel consumed in a motor vehicle plated for general highway
 36 use is subject to the tax imposed under this chapter. A person claiming
 37 exempt use of special fuel in such a vehicle must maintain adequate
 38 records as required by the department to document the vehicle's taxable
 39 and exempt use.

40 (h) A person that engages in blending fuel for taxable sale or use in
 41 Indiana is primarily liable for the collection and remittance of the tax
 42 imposed under subsection (a). The person shall remit the tax due in



1 conjunction with the filing of a monthly report in the form prescribed
2 by the department.

3 (i) A person that receives special fuel that has been blended for
4 taxable sale or use in Indiana is secondarily liable to the state for the
5 tax imposed under subsection (a).

6 (j) A person may not use special fuel on an Indiana public highway
7 if the special fuel contains a sulfur content that exceeds five
8 one-hundredths of one percent (0.05%). A person who knowingly:

9 (1) violates; or

10 (2) aids or abets another person to violate;

11 this subsection commits a Class A infraction. However, the violation
12 is a Class A misdemeanor if the person has committed one (1) prior
13 unrelated violation of this subsection, and a Level 6 felony if the person
14 has committed more than one (1) unrelated violation of this subsection.

15 SECTION 32. IC 6-8.1-5-2, AS AMENDED BY P.L.146-2020,
16 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2021]: Sec. 2. (a) Except as otherwise provided in this section
18 and section 2.5 of this chapter, the department may not issue a
19 proposed assessment under section 1 of this chapter more than three (3)
20 years after the latest of the date the return is filed, or the following:

21 (1) The due date of the return.

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

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

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



1 provided in subsection (a).

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

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

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

24 **(f) In the case of a credit against a listed tax based on payments**
25 **of taxes to a state or local jurisdiction outside Indiana or payments**
26 **of amounts that are subsequently refunded or returned, a proposed**
27 **assessment for the refunded or returned credit must be issued by**
28 **the later of:**

29 (1) the date by which a proposed assessment must be issued
30 under this section; or

31 (2) one hundred eighty (180) days from the date the taxpayer
32 notifies the department of the refund or return of payment.

33 **For purposes of this subsection, if a taxpayer receives a refund of**
34 **an amount paid by or on behalf of the taxpayer for a listed tax, that**
35 **refund shall not be considered the payment of an amount that is**
36 **subsequently refunded or returned.**

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

40 (h) If any part of a listed tax has been erroneously refunded by
41 the department, the erroneous refund may be recovered through the
42 assessment procedures established in this chapter. An assessment



- 1 issued for an erroneous refund must be issued within the later of:
 2 (1) the period for which an assessment could otherwise be issued
 3 under this section; or
 4 (2) whichever is applicable:
 5 (A) within two (2) years after making the refund; or
 6 (B) within five (5) years after making the refund if the refund
 7 was induced by fraud or misrepresentation.
- 8 ~~(h)~~ **(i)** If, before the end of the time within which the department
 9 may make an assessment, the department and the person agree to
 10 extend that assessment period, the period may be extended according
 11 to the terms of a written agreement signed by both the department and
 12 the person. The agreement must contain:
 13 (1) the date to which the extension is made; and
 14 (2) a statement that the person agrees to preserve the person's
 15 records until the extension terminates.
- 16 The department and a person may agree to more than one (1) extension
 17 under this subsection.
- 18 ~~(j)~~ **(j)** Except as otherwise provided in subsection ~~(j)~~; **(k)**, if a
 19 taxpayer's federal taxable income, federal adjusted gross income, or
 20 federal income tax liability for a taxable year is modified due to a
 21 modification as provided under IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the
 22 adjusted gross income tax), or a modification or alteration as provided
 23 under IC 6-5.5-6-6(c) and IC 6-5.5-6-6(e) (for the financial institutions
 24 tax), then the date by which the department must issue a proposed
 25 assessment under section 1 of this chapter for tax imposed under IC 6-3
 26 is extended to six (6) months after the date on which the notice of
 27 modification is filed with the department by the taxpayer.
- 28 ~~(k)~~ **(k)** The following apply:
 29 (1) This subsection applies to partnerships whose taxable year:
 30 (A) begins after December 31, 2017;
 31 (B) ends after August 12, 2018; or
 32 (C) begins after November 2, 2015, and before January 1,
 33 2018, and for which a valid election under United States
 34 Treasury Regulation 301.9100-22 is in effect;
 35 and to the partners of such partnerships, including any partners,
 36 shareholders, or beneficiaries of a pass through entity that is a
 37 partner in such partnership.
 38 (2) Notwithstanding any other provision of this article, if a
 39 partnership is subject to federal income tax liability or a federal
 40 tax adjustment at the partnership level as the result of a
 41 modification under Sections 6221 through 6241 of the Internal
 42 Revenue Code, the date on which the department must issue a



1 proposed assessment to either the partners or the partnership shall
2 be the later of:

- 3 (A) the date on which a proposed assessment must otherwise
4 be issued to the partner or the partnership under this section **or**
5 **IC 6-3-4.5** with regard to the taxable year of the partnership to
6 which the modification is taxed at the partnership level; or
7 (B) December 31, 2021.

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

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

- 25 (A) This section.
26 (B) IC 6-3-4-6.
27 (C) IC 6-5.5-6-6.
28 (D) IC 6-8.1-9-1.

29 SECTION 33. IC 6-8.1-7-1, AS AMENDED BY P.L.146-2020,
30 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2021]: Sec. 1. (a) This subsection does not apply to the
32 disclosure of information concerning a conviction on a tax evasion
33 charge. Unless in accordance with a judicial order or as otherwise
34 provided in this chapter, the department, its employees, former
35 employees, counsel, agents, or any other person may not divulge the
36 amount of tax paid by any taxpayer, terms of a settlement agreement
37 executed between a taxpayer and the department, investigation records,
38 investigation reports, or any other information disclosed by the reports
39 filed under the provisions of the law relating to any of the listed taxes,
40 including required information derived from a federal return, except to
41 any of the following when it is agreed that the information is to be
42 confidential and to be used solely for official purposes:



- 1 (1) Members and employees of the department.
 2 (2) The governor.
 3 (3) A member of the general assembly or an employee of the
 4 house of representatives or the senate when acting on behalf of a
 5 taxpayer located in the member's legislative district who has
 6 provided sufficient information to the member or employee for
 7 the department to determine that the member or employee is
 8 acting on behalf of the taxpayer.
 9 (4) An employee of the legislative services agency to carry out the
 10 responsibilities of the legislative services agency under
 11 IC 2-5-1.1-7 or another law.
 12 (5) The attorney general or any other legal representative of the
 13 state in any action in respect to the amount of tax due under the
 14 provisions of the law relating to any of the listed taxes.
 15 (6) Any authorized officers of the United States.
 16 (b) The information described in subsection (a) may be revealed
 17 upon the receipt of a certified request of any designated officer of the
 18 state tax department of any other state, district, territory, or possession
 19 of the United States when:
 20 (1) the state, district, territory, or possession permits the exchange
 21 of like information with the taxing officials of the state; and
 22 (2) it is agreed that the information is to be confidential and to be
 23 used solely for tax collection purposes.
 24 (c) The information described in subsection (a) relating to a person
 25 on public welfare or a person who has made application for public
 26 welfare may be revealed to the director of the division of family
 27 resources, and to any director of a county office of the division of
 28 family resources located in Indiana, upon receipt of a written request
 29 from either director for the information. The information shall be
 30 treated as confidential by the directors. In addition, the information
 31 described in subsection (a) relating to a person who has been
 32 designated as an absent parent by the state Title IV-D agency shall be
 33 made available to the state Title IV-D agency upon request. The
 34 information shall be subject to the information safeguarding provisions
 35 of the state and federal Title IV-D programs.
 36 (d) The name, address, Social Security number, and place of
 37 employment relating to any individual who is delinquent in paying
 38 educational loans owed to a postsecondary educational institution may
 39 be revealed to that institution if it provides proof to the department that
 40 the individual is delinquent in paying for educational loans. This
 41 information shall be provided free of charge to approved postsecondary
 42 educational institutions (as defined by IC 21-7-13-6(a)). The



1 department shall establish fees that all other institutions must pay to the
2 department to obtain information under this subsection. However, these
3 fees may not exceed the department's administrative costs in providing
4 the information to the institution.

5 (e) The information described in subsection (a) relating to reports
6 submitted under IC 6-6-1.1-502 concerning the number of gallons of
7 gasoline sold by a distributor and IC 6-6-2.5 concerning the number of
8 gallons of special fuel sold by a supplier and the number of gallons of
9 special fuel exported by a licensed exporter or imported by a licensed
10 transporter may be released by the commissioner upon receipt of a
11 written request for the information.

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

15 (1) the state agency shows an official need for the information;
16 and

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

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

25 (h) The name and address of retail merchants, including township,
26 as specified in IC 6-2.5-8-1(k) may be released solely for tax collection
27 purposes to township assessors and county assessors.

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

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

36 (k) All information relating to the delinquency or evasion of
37 commercial vehicle excise taxes payable to the bureau of motor
38 vehicles in Indiana may be disclosed to the bureau and may be
39 disclosed to another state, if the information is disclosed for the
40 purpose of the enforcement and collection of the taxes imposed by
41 IC 6-6-5.5.

42 (l) All information relating to the delinquency or evasion of



1 commercial vehicle excise taxes payable under the International
 2 Registration Plan may be disclosed to another state, if the information
 3 is disclosed for the purpose of the enforcement and collection of the
 4 taxes imposed by IC 6-6-5.5.

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

11 (n) This section does not apply to:

- 12 (1) the beer excise tax, including brand and packaged type
- 13 (IC 7.1-4-2);
- 14 (2) the liquor excise tax (IC 7.1-4-3);
- 15 (3) the wine excise tax (IC 7.1-4-4);
- 16 (4) the hard cider excise tax (IC 7.1-4-4.5);
- 17 (5) the vehicle excise tax (IC 6-6-5);
- 18 (6) the commercial vehicle excise tax (IC 6-6-5.5); and
- 19 (7) the fees under IC 13-23.

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

24 (p) The name and business address of a person licensed by the
 25 department under IC 6-6 or IC 6-7, **or issued a registered retail**
 26 **merchant's certificate under IC 6-2.5**, may be released for the
 27 purpose of reporting the status of the person's license **or certificate**.

28 (q) The department may release information concerning total
 29 incremental tax amounts under:

- 30 (1) IC 5-28-26;
- 31 (2) IC 36-7-13;
- 32 (3) IC 36-7-26;
- 33 (4) IC 36-7-27;
- 34 (5) IC 36-7-31;
- 35 (6) IC 36-7-31.3; or
- 36 (7) any other statute providing for the calculation of incremental
- 37 state taxes that will be distributed to or retained by a political
- 38 subdivision or other entity;

39 to the fiscal officer of the political subdivision or other entity that
 40 established the district or area from which the incremental taxes were
 41 received if that fiscal officer enters into an agreement with the
 42 department specifying that the political subdivision or other entity will



- 1 use the information solely for official purposes.
- 2 (r) The department may release the information as required in
- 3 IC 6-8.1-3-7.1 concerning:
- 4 (1) an innkeeper's tax, a food and beverage tax, or an admissions
- 5 tax under IC 6-9;
- 6 (2) the supplemental auto rental excise tax under IC 6-6-9.7; and
- 7 (3) the covered taxes allocated to a professional sports
- 8 development area fund, sports and convention facilities operating
- 9 fund, or other fund under IC 36-7-31 and IC 36-7-31.3.
- 10 (s) Information concerning state gross retail tax exemption
- 11 certificates that relate to a person who is exempt from the state gross
- 12 retail tax under IC 6-2.5-4-5 may be disclosed to a power subsidiary (as
- 13 defined in IC 6-2.5-4-5) or a person selling the services or commodities
- 14 listed in IC 6-2.5-4-5(b) for the purpose of enforcing and collecting the
- 15 state gross retail and use taxes under IC 6-2.5.
- 16 (t) The department may release a statement of tax withholding or
- 17 other tax information statement provided on behalf of a taxpayer to the
- 18 department to:
- 19 (1) the taxpayer on whose behalf the tax withholding or other tax
- 20 information statement was provided to the department;
- 21 (2) the taxpayer's spouse, if:
- 22 (A) the taxpayer is deceased or incapacitated; and
- 23 (B) the taxpayer's spouse is filing a joint income tax return
- 24 with the taxpayer; or
- 25 (3) an administrator, executor, trustee, or other fiduciary acting on
- 26 behalf of the taxpayer if the taxpayer is deceased.
- 27 (u) Information related to a listed tax regarding a taxpayer may be
- 28 disclosed to an individual without a power of attorney under
- 29 IC 6-8.1-3-8(a)(2) if:
- 30 (1) the individual is authorized to file returns and remit payments
- 31 for one (1) or more listed taxes on behalf of the taxpayer through
- 32 the department's online tax system before September 8, 2020;
- 33 (2) the information relates to a listed tax described in subdivision
- 34 (1) for which the individual is authorized to file returns and remit
- 35 payments;
- 36 (3) the taxpayer has been notified by the department of the
- 37 individual's ability to access the taxpayer's information for the
- 38 listed taxes described in subdivision (1) and the taxpayer has not
- 39 objected to the individual's access;
- 40 (4) the individual's authorization or right to access the taxpayer's
- 41 information for a listed tax described in subdivision (1) has not
- 42 been withdrawn by the taxpayer; and



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

19 SECTION 34. IC 6-8.1-9-1, AS AMENDED BY P.L.146-2020,
 20 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2021]: Sec. 1. (a) If a person has paid more tax than the
 22 person determines is legally due for a particular taxable period, the
 23 person may file a claim for a refund with the department. Except as
 24 provided in subsections (j), (k), ~~and (l)~~, **(m)**, and **(n)**, in order to obtain
 25 the refund, the person must file the claim with the department within
 26 three (3) years after the later of the following:

- 27 (1) The due date of the return.
 28 (2) The date of payment.

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

40 (b) After considering the claim and all evidence relevant to the
 41 claim, the department shall issue a decision on the claim, stating the
 42 part, if any, of the refund allowed and containing a statement of the



1 reasons for any part of the refund that is denied. The department shall
2 mail a copy of the decision to the person that filed the claim. If the
3 person disagrees with a part of the decision on the claim, the person
4 may file a protest and request a hearing with the department. If the
5 department allows the full amount of the refund claim, a warrant for the
6 payment of the claim is sufficient notice of the decision.

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

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

18 (1) set the hearing at the department's earliest convenient time;
19 and

20 (2) notify the person by United States mail of the time, date, and
21 location of the hearing.

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

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

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



1 of decision based on the rehearing, whichever is applicable.

2 (h) If the person disagrees with any part of the department's
3 determination, the person may appeal the determination, regardless of
4 whether or not the person protested the tax payment or whether or not
5 the person has accepted a refund. The person must file the appeal with
6 the tax court. The tax court does not have jurisdiction to hear a refund
7 appeal if:

8 (1) the appeal is filed more than ninety (90) days after the latest
9 of the dates on which:

10 (A) the memorandum of decision or order denying a refund is
11 issued by the department, if the person does not make a timely
12 request for a rehearing under subsection (g) on the
13 memorandum of decision or order denying a refund;

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

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

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

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

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

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

39 (1) the date determined under subsection (a);

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



- 1 (A) IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted gross
 2 income tax); or
 3 (B) IC 6-5.5-6-6(c) and IC 6-5.5-6-6(d) (for the financial
 4 institutions tax); or
 5 (3) in the case of a modification described in ~~IC 6-8.1-5-2(j)(1)~~
 6 **IC 6-8.1-5-2(k)(1)** through ~~IC 6-8.1-5-2(j)(3)~~, **IC 6-8.1-5-2(k)(3)**,
 7 **the date provided in IC 6-3-4.5 for such refunds or** December
 8 31, 2021, **whichever is later.**

9 (k) Notwithstanding any other provision of this section, if an
 10 individual received a severance payment described in Section
 11 3(a)(1)(A) of the Combat-Injured Veterans Tax Fairness Act of 2016
 12 (P.L. 114-292) and upon which the United States Secretary of Defense
 13 withheld tax under IC 6-3, IC 6-3.5-1.1 (before its repeal), IC 6-3.5-6
 14 (before its repeal), IC 6-3.5-7 (before its repeal), or IC 6-3.6, the
 15 individual must file a claim for refund for taxes that were overpaid and
 16 attributable to the severance payment not later than December 31,
 17 2020. Any refund under this subsection shall be computed without
 18 regard to subsection (a)(2). The department may establish procedures
 19 to provide standard refund amounts if a standard refund amount is
 20 requested from the Internal Revenue Service.

21 **(l) Notwithstanding any other provision of this section, a**
 22 **taxpayer may file a claim for refund for any taxes under IC 6-3 or**
 23 **IC 6-5.5 that the taxpayer expected to be due as a result of an**
 24 **Internal Revenue Service audit not later than the date otherwise**
 25 **prescribed in this section or one hundred eighty (180) days after**
 26 **the date the taxpayer is notified that the audit resulted in no**
 27 **change or, if the audit resulted in a modification, the date of the**
 28 **modification as provided under:**

29 (1) IC 6-3-4-6(c) and IC 6-3-4-6(d) (for adjusted gross income
 30 tax); or

31 (2) IC 6-5.5-6-6(c) and IC 6-5.5-6-6(d) (for the financial
 32 institutions tax);

33 **whichever is later.**

34 **(m) If a taxpayer has an overpayment for a listed tax as a result**
 35 **of a credit of taxes paid to another state, country, or local**
 36 **jurisdiction in another state or country, and those taxes were**
 37 **assessed by the state, country, or local jurisdiction after the period**
 38 **for which a refund could have been claimed for that listed tax**
 39 **under this section, the period for requesting the refund under this**
 40 **section is extended to one hundred eighty (180) days after payment**
 41 **of the tax to the state, country, or local jurisdiction.**

42 **(⊕) (n) If an agreement to extend the assessment time period is**



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

5 SECTION 35. IC 6-8.1-9-2, AS AMENDED BY P.L.146-2020,
 6 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2021]: Sec. 2. (a) If the department finds that a person has
 8 paid more tax for a taxable year than is legally due, the department
 9 shall apply the amount of the excess against any amount of that same
 10 tax that is assessed and is currently due. The department may then
 11 apply any remaining excess against any of the listed taxes that have
 12 been assessed against the person and that are currently due. Subject to
 13 subsection (c), if any excess remains after the department has applied
 14 the overpayment against the person's tax liabilities, the department
 15 shall either refund the amount to the person or, at the person's request,
 16 credit the amount to the person's future tax liabilities.

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

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

- 28 (1) the person has filed a timely claim for refund with respect to
 29 the overpayment under IC 6-8.1-9-1;
 30 (2) the overpayment:
 31 (A) is with respect to a taxable year beginning before January
 32 1, 2009;
 33 (B) is attributable to amounts paid to the department by:
 34 (i) a nonresident shareholder, partner, or member of a pass
 35 through entity;
 36 (ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13
 37 on behalf of a nonresident shareholder, partner, or member
 38 of the pass through entity; or
 39 (iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13
 40 on behalf of a nonresident shareholder, partner, or member
 41 of another pass through entity; and
 42 (3) the overpayment arises from a determination by the



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

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

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

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



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



1 be claimed on not more than thirty-six (36) consecutive monthly excise
 2 tax returns beginning with the month in which credit is first claimed.
 3 (g) The amount of the credit calculated under subsection (f) must be
 4 used for capital expenditures to:
 5 (1) expand employment; or
 6 (2) assist in retaining employment within Indiana.
 7 The department shall annually verify whether the capital expenditures
 8 made by the person comply with this subsection.
 9 (h) An excess tax payment under section 1(k) of this chapter that is
 10 not refunded or credited against a current or future tax liability within
 11 ninety (90) days after the date the refund claim is filed, the date the tax
 12 payment was due, or the date the tax was paid, whichever is latest,
 13 accrues interest from April 1, 2020. For purposes of this subsection, a
 14 refund claim filed prior to April 1, 2020, shall be treated as filed on
 15 April 1, 2020.
 16 SECTION 36. IC 6-8.1-10-2.1, AS AMENDED BY P.L.234-2019,
 17 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2021]: Sec. 2.1. (a) Except as provided in IC 6-3-4-12(k) and
 19 IC 6-3-4-13(l), a person that:
 20 (1) fails to file a return for any of the listed taxes;
 21 (2) fails to pay the full amount of tax shown on the person's return
 22 on or before the due date for the return or payment;
 23 (3) incurs, upon examination by the department, a deficiency that
 24 is due to negligence;
 25 (4) fails to timely remit any tax held in trust for the state; ~~or~~
 26 **(5) fails to file a return in the electronic manner required by**
 27 **the department if such return is required to be filed**
 28 **electronically; or**
 29 ~~(5)~~ **(6) is required to make a payment by electronic funds transfer**
 30 **(as defined in IC 4-8.1-2-7), overnight courier, ~~or~~ personal**
 31 **delivery, or any other electronic means and the payment is not**
 32 **received by the department by the due date in such manner and**
 33 **in funds acceptable to the department;**
 34 is subject to a penalty.
 35 (b) Except as provided in subsection (g), the penalty described in
 36 subsection (a) is ten percent (10%) of:
 37 (1) the full amount of the tax due if the person failed to file the
 38 return **or, in the case of a return required to be filed**
 39 **electronically, the return is not filed in the electronic manner**
 40 **required by the department;**
 41 (2) the amount of the tax not paid, if the person filed the return
 42 but failed to pay the full amount of the tax shown on the return;



1 (3) the amount of the tax held in trust that is not timely remitted;

2 (4) the amount of deficiency as finally determined by the
3 department; or

4 (5) the amount of tax due if a person failed to make payment
5 **required to be made** by electronic funds transfer, overnight
6 courier, ~~or~~ personal delivery, **or any other electronic means** by
7 the due date **in such manner**.

8 (c) For purposes of this section, the filing of a substantially blank or
9 unsigned return does not constitute a return.

10 (d) If a person subject to the penalty imposed under this section can
11 show that the failure to file a return, pay the full amount of tax shown
12 on the person's return, timely remit tax held in trust, or pay the
13 deficiency determined by the department was due to reasonable cause
14 and not due to willful neglect, the department shall waive the penalty.

15 (e) A person who wishes to avoid the penalty imposed under this
16 section must make an affirmative showing of all facts alleged as a
17 reasonable cause for the person's failure to file the return, pay the
18 amount of tax shown on the person's return, pay the deficiency, or
19 timely remit tax held in trust, in a written statement containing a
20 declaration that the statement is made under penalty of perjury. The
21 statement must be filed with the return or payment within the time
22 prescribed for protesting departmental assessments. A taxpayer may
23 also avoid the penalty imposed under this section by obtaining a ruling
24 from the department before the end of a particular tax period on the
25 amount of tax due for that tax period.

26 (f) The department shall adopt rules under IC 4-22-2 to prescribe the
27 circumstances that constitute reasonable cause and negligence for
28 purposes of this section.

29 (g) A person who fails to file a return for a listed tax that shows no
30 tax liability for a taxable year, other than an information return (as
31 defined in section 6 of this chapter), on or before the due date of the
32 return shall pay a penalty of ten dollars (\$10) for each day that the
33 return is past due, up to a maximum of two hundred fifty dollars
34 (\$250).

35 (h) A:

36 (1) corporation which otherwise qualifies under IC 6-3-2-2.8(2);

37 (2) partnership; or

38 (3) trust;

39 that fails to withhold and pay any amount of tax required to be withheld
40 under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15 shall pay a penalty
41 equal to twenty percent (20%) of the amount of tax required to be
42 withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15. This penalty



1 shall be in addition to any penalty imposed by section 6 of this chapter.
 2 (i) Subsections (a) through (c) do not apply to a motor carrier fuel
 3 tax return.
 4 (j) If a partnership or an S corporation fails to include all
 5 nonresidential individual partners or nonresidential individual
 6 shareholders in a composite return as required by IC 6-3-4-12(i) or
 7 IC 6-3-4-13(j), a penalty of five hundred dollars (\$500) per partnership
 8 or S corporation is imposed on the partnership or S corporation.
 9 (k) If a person subject to the penalty imposed under this section
 10 provides the department with documentation showing that the person
 11 is or has been subject to incarceration for a period of a least one
 12 hundred eighty (180) days, the department shall waive any penalty
 13 under this section and interest that accrues during the time the person
 14 was incarcerated, but not to an extent greater than the penalty or
 15 interest relief to which a person would otherwise have been entitled
 16 under the federal Servicemembers Civil Relief Act (50 U.S.C.
 17 3901-4043), if the person was in military service. Nothing in this
 18 subsection shall preclude the department from issuing a proposed
 19 assessment, demand notice, jeopardy proposed assessment, jeopardy
 20 demand notice, or warrant otherwise permitted by law.

21 SECTION 37. IC 9-18.1-5-8, AS AMENDED BY P.L.108-2019,
 22 SECTION 167, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2021]: Sec. 8. (a) Except as provided in section
 24 11 of this chapter, the fee to register a trailer is as follows:

Declared Gross	Weight (Pounds)	Fee (\$)
Greater than	Equal to or less than	
0	3,000	\$ 16.35
3,000	9,000	25.35
9,000	12,000	72
12,000	16,000	108
16,000	22,000	168
22,000		228

34 (b) A fee described in subsection (a) that is collected by the
 35 **department from a person registering** under the International
 36 Registration Plan shall be **prorated based on the Indiana mileage**
 37 **percentage of the trucks and tractors registered by the person**
 38 **under the International Registration Plan pursuant to section 9 of**
 39 **this chapter. The prorated amount shall be** distributed as set forth
 40 in section 10.5 of this chapter.

41 (c) A fee described in subsection (a) that is not required to be
 42 distributed under subsection (b) shall be distributed as follows:



- 1 (1) Twenty-five cents (\$0.25) to the state construction fund.
- 2 (2) Fifty cents (\$0.50) to the state motor vehicle technology fund.
- 3 (3) Two dollars and ninety cents (\$2.90) to the highway, road and
- 4 street fund.
- 5 (4) Four dollars (\$4) to the crossroads 2000 fund.
- 6 (5) One dollar and twenty-five cents (\$1.25) to the integrated
- 7 public safety communications fund.
- 8 (6) Three dollars and ten cents (\$3.10) to the commission fund.
- 9 (7) Any remaining amount to the motor vehicle highway account.
- 10 SECTION 38. IC 13-20-13-7 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7. (a) A fee of
- 12 twenty-five cents (\$0.25) is imposed on the sale of the following:
- 13 (1) Each new tire that is sold at retail.
- 14 (2) Each new tire mounted on a new vehicle sold at retail.
- 15 (b) The person that sells the new tire or vehicle at retail (**including**
- 16 **a retail merchant that meets one (1) or both of the economic**
- 17 **thresholds under IC 6-2.5-2-1(d)**) to the ultimate consumer of the tire
- 18 or vehicle shall collect the fee imposed by this section.
- 19 (c) A person that collects a fee under subsection (b):
- 20 (1) shall pay the fees collected under subsection (b):
- 21 (A) to the department of state revenue; and
- 22 (B) at the same time and in the same manner that the person
- 23 pays the state gross retail tax collected by the person to the
- 24 department of state revenue;
- 25 (2) shall indicate on the return:
- 26 (A) prescribed by the department of state revenue; and
- 27 (B) used for the payment of state gross retail taxes;
- 28 that the person is also paying fees collected under subsection (b);
- 29 and
- 30 (3) is entitled to deduct and retain one percent (1%) of the fees
- 31 required to be paid to the department of state revenue under this
- 32 subsection.
- 33 (d) The department of state revenue shall deposit fees collected
- 34 under this section in the waste tire management fund established by
- 35 this chapter.
- 36 SECTION 39. IC 22-4-25-1, AS AMENDED BY P.L.122-2019,
- 37 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 38 JULY 1, 2021]: Sec. 1. (a) There is created in the state treasury a
- 39 special fund to be known as the special employment and training
- 40 services fund. All interest on delinquent contributions and penalties
- 41 collected under this article, together with any voluntary contributions
- 42 tendered as a contribution to this fund, shall be paid into this fund. The



1 money shall not be expended or available for expenditure in any
2 manner which would permit their substitution for (or a corresponding
3 reduction in) federal funds which would in the absence of the money
4 be available to finance expenditures for the administration of this
5 article, but nothing in this section shall prevent the money from being
6 used as a revolving fund to cover expenditures necessary and proper
7 under the law for which federal funds have been duly requested but not
8 yet received, subject to the charging of expenditures against the funds
9 when received. The money in this fund shall be used by the department
10 for the payment of refunds of interest on delinquent contributions and
11 penalties so collected, for the payment of costs of administration which
12 are found not to have been properly and validly chargeable against
13 federal grants or other funds received for or in the employment and
14 training services administration fund, on and after July 1, 1945. The
15 money shall be available either to satisfy the obligations incurred by
16 the department directly, or by transfer by the department of the
17 required amount from the special employment and training services
18 fund to the employment and training services administration fund. The
19 department shall order the transfer of the funds or the payment of any
20 obligation or expenditure and the funds shall be paid by the treasurer
21 of state on requisition drawn by the department and certified by the
22 commissioner. The money in this fund is specifically made available
23 to replace within a reasonable time any money received by this state
24 pursuant to 42 U.S.C. 502, as amended, which, because of any action
25 or contingency, has been lost or has been expended for purposes other
26 than or in amounts in excess of those approved by the United States
27 Department of Labor. The money in this fund shall be continuously
28 available to the department for expenditures in accordance with the
29 provisions of this section and for the prevention, detection, and
30 recovery of delinquent contributions, penalties, and improper benefit
31 payments, and shall not lapse at any time or be transferred to any other
32 fund, except as provided in this article. Except as provided in
33 subsection (e), after making the grants required under subsection (c),
34 the department may expend an amount not to exceed ten million dollars
35 (\$10,000,000) in a state fiscal year for the purpose of prevention,
36 detection, and recovery of delinquent contributions, penalties, and
37 improper benefit payments, unless an additional amount is approved by
38 the budget committee. Nothing in this section shall be construed to
39 limit, alter, or amend the liability of the state assumed and created by
40 IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the
41 satisfaction of the liability, except to the extent that the liability may be
42 satisfied by and out of the funds of the special employment and training



1 services fund created by this section. Each state fiscal year, the
 2 commissioner shall make the training grants required under subsection
 3 (c) before amounts are expended from the fund in accordance with this
 4 section for any other purpose.

5 (b) If on December 31 the balance in the special employment and
 6 training services fund exceeds eight million five hundred thousand
 7 dollars (\$8,500,000), the department shall order, not later than thirty
 8 (30) days after December 31, payment of the amount that exceeds eight
 9 million five hundred thousand dollars (\$8,500,000) into the
 10 unemployment insurance benefit fund.

11 (c) Subject to the availability of funds, on July 1 each year the
 12 commissioner shall release the following amounts before expenditures
 13 are made in accordance with this section for any other purpose:

14 (1) ~~One million dollars (\$1,000,000)~~ **Four million dollars**
 15 **(\$4,000,000)** to the state educational institution established under
 16 IC 21-25-2-1 for training provided to participants in
 17 apprenticeship programs approved by the United States
 18 Department of Labor, Bureau of Apprenticeship and Training.

19 (2) Four million dollars (\$4,000,000) to the state educational
 20 institution instituted and incorporated under IC 21-22-2-1 for
 21 training provided to participants in joint labor and management
 22 apprenticeship programs approved by the United States
 23 Department of Labor, Bureau of Apprenticeship and Training.

24 (3) Two hundred fifty thousand dollars (\$250,000) for
 25 journeyman upgrade training to each of the state educational
 26 institutions described in subdivisions (1) and (2).

27 (4) Four hundred thousand dollars (\$400,000) annually for
 28 training and counseling assistance:

29 (A) provided by Hometown Plans under 41 CFR 60-4.5; and

30 (B) approved by the United States Department of Labor,
 31 Bureau of Apprenticeship and Training;

32 to individuals who have been unemployed for at least four (4)
 33 weeks or whose annual income is less than twenty thousand
 34 dollars (\$20,000).

35 (5) Three hundred thousand dollars (\$300,000) annually for
 36 training and counseling assistance provided by the state
 37 institution established under IC 21-25-2-1 to individuals who
 38 have been unemployed for at least four (4) weeks or whose annual
 39 income is less than twenty thousand dollars (\$20,000) for the
 40 purpose of enabling those individuals to apply for admission to
 41 apprenticeship programs offered by providers approved by the
 42 United States Department of Labor, Bureau of Apprenticeship and



1 Training.

2 (d) Each state educational institution described in subsection (c) is
 3 entitled to keep ten percent (10%) of the funds released under
 4 subsection (c) for the payment of costs of administering the funds. On
 5 each June 30 following the release of the funds, any funds released
 6 under subsection (c) not used by the state educational institutions under
 7 subsection (c) shall be returned to the special employment and training
 8 services fund.

9 SECTION 40. IC 22-11-14-1, AS AMENDED BY P.L.177-2007,
 10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2021]: Sec. 1. As used in this chapter and IC 22-11-14.5:

12 "Auto burglar alarm" means a tube that contains pyrotechnic
 13 composition that produces a loud whistle or smoke when ignited. A
 14 small quantity of explosive, not exceeding fifty (50) milligrams, may
 15 also be used to produce a small report. A squib is used to ignite the
 16 device.

17 "Booby trap" means a small tube with string protruding from both
 18 ends, similar to a party popper in design. The ends of the string are
 19 pulled to ignite the friction sensitive composition, producing a small
 20 report.

21 "Chaser" means a device, containing fifty (50) milligrams or less of
 22 explosive composition, that consists of a small paper or cardboard tube
 23 that travels along the ground upon ignition. A whistling effect is often
 24 produced, and a small noise may be produced.

25 "Cigarette load" means a small wooden peg that has been coated
 26 with a small quantity of explosive composition. Upon ignition of a
 27 cigarette containing one (1) of the pegs, a small report is produced.

28 "Consumer firework" means a small firework that is designed
 29 primarily to produce visible effects by combustion, and that is required
 30 to comply with the construction, chemical composition, and labeling
 31 regulations promulgated by the United States Consumer Product Safety
 32 Commission under 16 CFR 1507. The term also includes some small
 33 devices designed to produce an audible effect, such as whistling
 34 devices, ground devices containing fifty (50) milligrams or less of
 35 explosive composition, and aerial devices containing one hundred
 36 thirty (130) milligrams or less of explosive composition. Propelling or
 37 expelling charges consisting of a mixture of charcoal, sulfur, and
 38 potassium nitrate are not considered as designed to produce an audible
 39 effect. Consumer fireworks:

40 (1) include:

41 (A) aerial devices, which include sky rockets, missile type
 42 rockets, helicopter or aerial spinners, roman candles, mines,



- 1 and shells;
- 2 (B) ground audible devices, which include firecrackers,
- 3 salutes, and chasers; and
- 4 (C) firework devices containing combinations of the effects
- 5 described in clauses (A) and (B); and
- 6 (2) do not include the items referenced in section 8(a) of this
- 7 chapter.
- 8 "Cone fountain" means a cardboard or heavy paper cone which
- 9 contains up to fifty (50) grams of pyrotechnic composition, and which
- 10 produces the same effect as a cylindrical fountain.
- 11 "Cylindrical fountain" means a cylindrical tube not exceeding
- 12 three-quarters (3/4) inch in inside diameter and containing up to
- 13 seventy-five (75) grams of pyrotechnic composition. Fountains produce
- 14 a shower of color and sparks upon ignition, and sometimes a whistling
- 15 effect. Cylindrical fountains may contain a spike to be inserted in the
- 16 ground (spike fountain), a wooden or plastic base to be placed on the
- 17 ground (base fountain), or a wooden handle or cardboard handle for
- 18 items designed to be hand held (handle fountain).
- 19 "Dipped stick" or "wire sparkler" means a stick or wire coated with
- 20 pyrotechnic composition that produces a shower of sparks upon
- 21 ignition. Total pyrotechnic composition does not exceed one hundred
- 22 (100) grams per item. Those devices containing chlorate or perchlorate
- 23 salts do not exceed five (5) grams in total composition per item. Wire
- 24 sparklers that contain no magnesium and that contain less than one
- 25 hundred (100) grams of composition per item are not included in the
- 26 category of consumer fireworks.
- 27 "Distributor" means a person who sells fireworks to wholesalers and
- 28 retailers for resale.
- 29 "Explosive composition" means a chemical or mixture of chemicals
- 30 that produces an audible effect by deflagration or detonation when
- 31 ignited.
- 32 "Firecracker" or "salute" is a device that consists of a small paper
- 33 wrapped or cardboard tube containing not more than fifty (50)
- 34 milligrams of pyrotechnic composition and that produces, upon
- 35 ignition, noise, accompanied by a flash of light.
- 36 "Firework" means any composition or device designed for the
- 37 purpose of producing a visible or audible effect by combustion,
- 38 deflagration, or detonation. Fireworks consist of consumer fireworks,
- 39 items referenced in section 8(a) of this chapter, and special fireworks.
- 40 The following items are excluded from the definition of fireworks:
- 41 (1) Model rockets.
- 42 (2) Toy pistol caps.



- 1 (3) Emergency signal flares.
 2 (4) Matches.
 3 (5) Fixed ammunition for firearms.
 4 (6) Ammunition components intended for use in firearms, muzzle
 5 loading cannons, or small arms.
 6 (7) Shells, cartridges, and primers for use in firearms, muzzle
 7 loading cannons, or small arms.
 8 (8) Indoor pyrotechnics special effects material.
 9 (9) M-80s, cherry bombs, silver salutes, and any device banned by
 10 the federal government.
- 11 "Flitter sparkler" means a narrow paper tube filled with pyrotechnic
 12 composition that produces color and sparks upon ignition. These
 13 devices do not use a fuse for ignition, but rather are ignited by igniting
 14 the paper at one (1) end of the tube.
- 15 "Ground spinner" means a small spinning device that is similar to
 16 wheels in design and effect when placed on the ground and ignited, and
 17 that produces a shower of sparks and color when spinning.
- 18 "Helicopter" or "aerial spinner" is a spinning device:
 19 (1) that consists of a tube up to one-half (1/2) inch in inside
 20 diameter and that contains up to twenty (20) grams of pyrotechnic
 21 composition;
 22 (2) to which some type of propeller or blade device is attached;
 23 and
 24 (3) that lifts into the air upon ignition, producing a visible or
 25 audible effect at the height of flight.
- 26 "Illuminating torch" means a cylindrical tube that:
 27 (1) contains up to one hundred (100) grams of pyrotechnic
 28 composition;
 29 (2) produces, upon ignition, a colored fire; and
 30 (3) is either a spike, base, or handle type device.
- 31 "Importer" means:
 32 (1) a person who imports fireworks from a foreign country; or
 33 (2) a person who brings or causes fireworks to be brought within
 34 this state for subsequent sale.
- 35 "Indoor pyrotechnics special effects material" means a chemical
 36 material that is clearly labeled by the manufacturer as suitable for
 37 indoor use (as provided in National Fire Protection Association
 38 Standard 1126 (2001 edition)).
- 39 "Interstate wholesaler" means a person who is engaged in interstate
 40 commerce selling fireworks.
- 41 "Manufacturer" means a person engaged in the manufacture of
 42 fireworks.



- 1 "Mine" or "shell" means a device that:
2 (1) consists of a heavy cardboard or paper tube up to two and
3 one-half (2 1/2) inches in inside diameter, to which a wooden or
4 plastic base is attached;
5 (2) contains up to forty (40) grams of pyrotechnic composition;
6 and
7 (3) propels, upon ignition, stars (pellets of pressed pyrotechnic
8 composition that burn with bright color), whistles, parachutes, or
9 combinations thereof, with the tube remaining on the ground.
- 10 "Missile-type rocket" means a device that is similar to a sky rocket
11 in size, composition, and effect, and that uses fins rather than a stick for
12 guidance and stability.
- 13 "Municipality" has the meaning set forth in IC 36-1-2-11.
- 14 "Party popper" means a small plastic or paper item containing not
15 more than sixteen (16) milligrams of explosive composition that is
16 friction sensitive. A string protruding from the device is pulled to ignite
17 it, expelling paper streamers and producing a small report.
- 18 "Person" means an individual, an association, an organization, a
19 limited liability company, or a corporation.
- 20 "Pyrotechnic composition" means a mixture of chemicals that
21 produces a visible or audible effect by combustion rather than
22 deflagration or detonation. Pyrotechnic compositions will not explode
23 upon ignition unless severely confined.
- 24 "Responding fire department" means the paid fire department or
25 volunteer fire department that renders fire protection services to a
26 political subdivision.
- 27 "Retail sales stand" means a temporary business site or location
28 where goods are to be sold.
- 29 "Retailer" means a person who purchases fireworks for resale to
30 consumers, **including a retail merchant that meets one (1) or both**
31 **of the economic thresholds under IC 6-2.5-2-1(d).**
- 32 "Roman candle" means a device that consists of a heavy paper or
33 cardboard tube not exceeding three-eighths (3/8) inch in inside
34 diameter and that contains up to twenty (20) grams of pyrotechnic
35 composition. Upon ignition, up to ten (10) stars (pellets of pressed
36 pyrotechnic composition that burn with bright color) are individually
37 expelled at several second intervals.
- 38 "Sky rocket" means a device that:
39 (1) consists of a tube that contains pyrotechnic composition;
40 (2) contains a stick for guidance and stability; and
41 (3) rises into the air upon ignition, producing a burst of color or
42 noise at the height of flight.



1 "Smoke device" means a tube or sphere containing pyrotechnic
2 composition that produces white or colored smoke upon ignition as the
3 primary effect.

4 "Snake" or "glow worm" means a pressed pellet of pyrotechnic
5 composition that produces a large, snake-like ash upon burning. The
6 ash expands in length as the pellet burns. These devices do not contain
7 mercuric thiocyanate.

8 "Snapper" means a small, paper wrapped item containing a minute
9 quantity of explosive composition coated on small bits of sand. When
10 dropped, the device explodes, producing a small report.

11 "Special discharge location" means a location designated for the
12 discharge of consumer fireworks by individuals in accordance with
13 rules adopted under section 3.5 of this chapter.

14 "Special fireworks" means fireworks designed primarily to produce
15 visible or audible effects by combustion, deflagration, or detonation,
16 including firecrackers containing more than one hundred thirty (130)
17 milligrams of explosive composition, aerial shells containing more than
18 forty (40) grams of pyrotechnic composition, and other exhibition
19 display items that exceed the limits for classification as consumer
20 fireworks.

21 "Trick match" means a kitchen or book match that has been coated
22 with a small quantity of explosive or pyrotechnic composition. Upon
23 ignition of the match, a small report or a shower of sparks is produced.

24 "Trick noisemaker" means an item that produces a small report
25 intended to surprise the user.

26 "Wheel" means a pyrotechnic device that:

- 27 (1) is attached to a post or tree by means of a nail or string;
- 28 (2) contains up to six (6) driver units (tubes not exceeding
29 one-half (1/2) inch in inside diameter) containing up to sixty (60)
30 grams of composition per driver unit; and
- 31 (3) revolves, upon ignition, producing a shower of color and
32 sparks and sometimes a whistling effect.

33 "Wholesaler" means a person who purchases fireworks for resale to
34 retailers.

35 SECTION 41. IC 36-6-6-4, AS AMENDED BY P.L.266-2013,
36 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2021]: Sec. 4. (a) Except as provided in subsections (b) and
38 (c), two (2) members of the legislative body constitute a quorum.

39 (b) Before January 1, 2017, four (4) members of the legislative body
40 in a county containing a consolidated city constitute a quorum. After
41 December 31, 2016, three (3) members of the legislative body in a
42 county having a consolidated city constitute a quorum.



- 1 (c) This subsection applies to a township government that:
- 2 (1) is created by a merger of township governments under
- 3 IC 36-6-1.5; and
- 4 (2) elects a township board under section 2.1 of this chapter.

5 A majority of the members of the legislative body constitute a quorum.
 6 If a township board has an even number of members, the township
 7 executive shall serve as an ex officio member of the township board for
 8 the purpose of casting the deciding vote to break a tie.

9 **(d) For townships not described in subsection (c), the township**
 10 **executive shall serve as an ex officio member of the township board**
 11 **only for the purpose of casting the deciding vote to break a tie vote**
 12 **on the adoption of the township's budget and tax levies.**

13 SECTION 42. IC 36-8-16.6-10, AS ADDED BY P.L.113-2010,
 14 SECTION 151, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2021]: Sec. 10. As used in this chapter, "seller"
 16 means a person that sells prepaid wireless telecommunications service
 17 to another person, **including a retail merchant that meets one (1) or**
 18 **both of the economic thresholds under IC 6-2.5-2-1(d).**

19 SECTION 43. [EFFECTIVE JULY 1, 2021] (a) **IC 6-3-4.5-1**
 20 **through IC 6-3-4.5-8, as added by this act, and IC 6-3-4.5-14**
 21 **through IC 6-3-4.5-21, as added by this act, are effective for any**
 22 **audit completed or amended return filed after June 30, 2021.**

23 (b) **IC 6-3-4.5-9 through IC 6-3-4.5-13, as added by this act, are**
 24 **effective with regard to any federal partnership audit conducted**
 25 **under Section 6221 through 6241 of the Internal Revenue Code**
 26 **with regard to partnerships whose taxable year:**

- 27 (1) begins after December 31, 2017;
- 28 (2) ends after August 12, 2018; or
- 29 (3) begins after November 2, 2015, and before January 1,
- 30 2018, and for which a valid election under United States
- 31 Treasury Regulation 301.9100-22 is in effect;

32 **and to the partners of such partnerships, including any partners,**
 33 **shareholders, or beneficiaries of a pass through entity that is a**
 34 **partner in such partnership. In addition, if the partnership**
 35 **received final federal adjustments described in this subsection**
 36 **before July 1, 2021, such adjustments shall be deemed to have been**
 37 **received by the partnership on July 1, 2021, with a final**
 38 **determination date of July 1, 2021.**

39 SECTION 44. 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. 383, 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 3, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 3. IC 6-2.5-1-5, AS AMENDED BY P.L.146-2020, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), "gross retail income" means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:

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

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

(b) "Gross retail income" does not include that part of the gross



receipts attributable to:

- (1) the value of any tangible personal property received in a like kind exchange in the retail transaction, if the value of the property given in exchange is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
- (2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a promissory note or an installment sales contract;
- (3) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
- (4) interest, financing, and carrying charges from credit extended on the sale of personal property if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
- (5) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser, including an excise tax imposed under IC 6-6-15;
- (6) installation charges that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;
- (7) telecommunications nonrecurring charges;
- (8) postage charges that are separately stated on the invoice, bill of sale, or similar document; or
- (9) charges for serving or delivering food and food ingredients furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant, to the extent that the charges for the serving or delivery are stated separately from the price of the food and food ingredients when the purchaser pays the charges.

(c) Notwithstanding subsection (b)(5):

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

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

- (1) the price of the property transferred, without the rendition of



any services; and

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

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

SECTION 4. IC 6-2.5-5-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2021 (RETROACTIVE)]: **Sec. 10.5. (a) Transactions occurring on or after May 1, 2021, involving tangible personal property are exempt from the state gross retail tax, if:**

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

(2) the person acquiring the property is:

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

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

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

(b) As used in this section, a "utility scale battery energy storage system" means a system capable of storing and releasing greater than 1MW of electrical energy for a minimum of one (1) hour utilizing an AC inverter and DC storage, but does not include foundations or property used to directly or indirectly connect to the AC inverter or DC storage of such system to electrical energy production equipment or the customer meter.

SECTION 5. IC 6-2.5-5-55 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 55. (a) For purposes of this section, "public safety equipment and materials" means equipment and materials used at the site of a public works project or projects that act as a direct physical barrier or serve to inform the general public or workers of the public works project and associated dangers. Public safety equipment and materials include, but are not limited to, concrete**



or metal barriers, barrels, barricades, temporary pavement markings, materials to construct temporary traffic lanes, roads and bridges, erosion control and drainage materials, aggregates used to set grades, cones, rumble stripes, temporary curbs or speed bumps, and static and electronic signage and signals. Public safety equipment and materials do not include items used or worn by employees of the construction contractor or subcontractors, and these items are not exempt under this section. Examples of taxable equipment or materials include, but are not limited to, hardhats, safety glasses, safety vests, and pest control.

(b) Transactions involving public safety equipment and materials are exempt from the state gross retail tax if the equipment or material is predominately used by the purchaser to protect the general public and workers during the purchaser's performance of public works construction or maintenance."

Page 34, line 4, delete "A" and insert "**(a) For taxable years ending after December 31, 2021, a**".

Page 34, line 4, after "corporation" insert "**other than a corporation described in IC 6-3-2-2.8(2)**".

Page 34, line 9, delete "However, if ", begin a new paragraph and insert:

"(b) If "

Page 34, line 10, delete "form" and insert "**return**".

Page 34, line 10, delete "such".

Page 34, line 12, delete "format." and insert "**manner.**".

Page 34, between lines 12 and 13, begin a new paragraph and insert:

"(c) Notwithstanding any other provision of this section, the department may provide exceptions to the requirement to file a return in an electronic manner specified by the department. Such exceptions shall be published in the Indiana Register.

(d) For purposes of this requirement, a return for a corporation shall include any amended return for the corporation."

Page 37, line 15, after "amount" insert "**or status**".

Page 38, between lines 18 and 19, begin a new line block indented and insert:

"(5) In the case of a state adjustment, the change shall be treated as occurring in the taxable year to which the state adjustment relates, unless the adjustment is treated as occurring in a different year as a result of subdivision (4)."

Page 38, line 19, delete "(5)" and insert "**(6)**".

Page 38, between lines 21 and 22, begin a new line block indented and insert:



"(7) A partnership subject to this chapter may, for purposes of composite tax or withholding tax under IC 6-3-4-12 or IC 6-5.5-2-8, remit tax on behalf of resident partners and corporate partners domiciled in Indiana. However, in no case shall such remittance be treated as relieving the partner of any requirement to file amended returns otherwise required under this article or IC 6-5.5."

Page 39, line 16, after "refunds." insert **"In the case of partnership adjustments otherwise described in this subsection that result from a partnership adjustment described in subsection (c), all such partnership adjustments shall be treated as adjustments to which subsection (c) applies."**

Page 39, line 39, delete "thirty (30)" and insert **"one hundred eighty (180)"**.

Page 39, line 39, delete "determination, even if the" and insert **"determination is otherwise determined to be final under subsection (a)(1) through (a)(3)."**

Page 39, delete line 40.

Page 40, line 4, delete "thirty (30)" and insert **"one hundred eighty (180)"**.

Page 40, line 33, delete "." and insert **"; and"**.

Page 40, line 33, delete "However, not more than ninety (90) days from the".

Page 40, delete lines 34 through 35.

Page 41, line 10, after "adjustments" insert **"along with any other taxable year affected by the adjustment"**.

Page 41, between lines 15 and 16, begin a new paragraph and insert:
"(f) Notwithstanding any other provision of this chapter or IC 6-3-4-11:

(1) A partnership that has issued a report of partnership adjustments, or a tiered partner that is a partnership that has received a partner level adjustment report or statement arising from a report of partnership adjustments, may elect to pay any tax due arising from a report of partnership adjustments.

(2) Such election must be filed with the department not later than sixty (60) days after the department issues the report of partnership adjustments or, in the case of an election by a tiered partner, not later than the date by which the tiered partner is required to file an amended return under this section.

(3) The computation of tax and other provisions governing



this election shall be in a manner consistent with section 10 of this chapter.

(4) If a partnership has made an election under section 10(c) of this chapter, the partnership shall be considered to have made a timely election under this subsection with regard to any adjustments in the report of partnership adjustments arising from final federal adjustments for which an election under section 10(c) of this chapter was made.

(5) If a partnership has made an election under section 8 of this chapter relating to an amended return filed by the partnership, the partnership shall be considered to have made a timely election under this subsection with regard to any adjustments in the report of partnership adjustments arising from the amended return for which an election under section 8 of this chapter was made.

(6) If the partners in a partnership report final federal adjustments in the manner prescribed under section 9 of this chapter, the partnership may not make an election under this section with regard to a report of partnership adjustments that pertain to changes otherwise reported under section 9 of this chapter."

Page 41, line 16, delete "(f)" and insert "(g)".

Page 41, line 29, after "any" insert "assessment,".

Page 41, line 29, after "protest" insert ",".

Page 41, line 32, delete "partnership" and insert "partner".

Page 42, line 14, after "department" insert "**for any taxable year affected by the amended partnership return**".

Page 42, line 32, delete "tier, but not more than ninety (90) days from the date in" and insert "**tier**".

Page 42, delete line 33.

Page 43, between lines 6 and 7, begin a new paragraph and insert:

"(d) Notwithstanding any other provision of this chapter or

IC 6-3-4-11:

(1) A partnership that has filed an amended partnership return under subsection (b)(1), or a tiered partner that is a partnership and that is a partner of a partnership that has filed an amended partnership return under subsection (b)(1), may elect to pay any tax due arising from a report or partnership adjustments.

(2) Such election must be filed with the department not later than the date on which the amended partnership return is filed with the department or, in the case of an election by a



tiered partner that is a partnership, not later than the date by which the tiered partner is required to file an amended return under this section.

(3) The computation and payment of tax and other provisions governing this election shall be made in a manner consistent with section 10 of this chapter.

(4) If a partnership has made an election under section 10 of this chapter, the partnership shall be considered to have made a timely election under this subsection with regard to any changes arising from an amended return under this section arising from final federal adjustments for which such election was made.

(5) If the partners in a partnership report final federal adjustments in the manner prescribed in section 9 of this chapter, the partnership may not make an election under this section with regard to adjustments made in an amended return that pertain to changes otherwise reported under section 9 of this chapter."

Page 43, line 7, delete "(d)" and insert "(e)".

Page 43, line 35, after "income" insert ",".

Page 43, line 35, delete "or".

Page 43, line 36, after "income" insert ", credits, or other tax attributes".

Page 49, line 11, delete "," and insert "for a taxable year of the taxpayer affected by the partner level adjustments report,".

Page 49, line 13, delete "twenty (120)" and insert "eighty (180)".

Page 49, line 35, delete "attributes," and insert "attributes for any year affected by the partnership return or amended return,".

Page 49, line 36, delete "ninety (90)" and insert "one hundred eighty (180)".

Page 49, line 42, delete "ninety (90)" and insert "one hundred eighty (180)".

Page 50, line 14, delete "federal".

Page 50, line 15, delete "determination," and insert "determination date,".

Page 52, between lines 3 and 4, begin a new paragraph and insert:

"Sec. 20. If a partnership or tiered partner remits a payment on behalf of a partner, shareholder, or beneficiary as a result of this chapter, the partner, shareholder, or beneficiary may file a claim for refund with regard to any overpayment remitted on its behalf not later than the date on which the partner, shareholder, or beneficiary is required to file an amended return under this



chapter or the date otherwise prescribed under IC 6-8.1-9-1, whichever is later."

Page 52, line 4, delete "20." and insert "21."

Page 52, line 6, delete "be".

Page 52, line 6, after "take" insert "an".

Page 65, line 26, after "assessment" insert "**for the refunded or returned credit**".

Page 72, line 18, strike "and".

Page 72, line 18, after "(l)," insert "**(m), and (n),**".

Page 75, line 18, after "than" insert "**the date otherwise prescribed in this section or**".

Page 79, line 18, delete "corporate income tax".

Page 79, line 18, delete "electronically as" and insert "**in the electronic manner required by the department if such return is required to be filed electronically; or**".

Page 79, delete line 19.

Page 87, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 35. [EFFECTIVE JULY 1, 2021] (a) IC 6-3-4.5-1 through IC 6-3-4.5-8, as added by this act, and IC 6-3-4.5-14 through IC 6-3-4.5-21, as added by this act, are effective for any audit completed or amended return file after June 30, 2021.

(b) IC 6-3-4.5-9 through IC 6-3-4.5-13, as added by this act, are effective with regard to any federal partnership audit conducted under Section 6221 through 6241 of the Internal Revenue Code with regard to partnerships whose taxable year:

(1) begins after December 31, 2017;

(2) ends after August 12, 2018; or

(3) begins after November 2, 2015, and before January 1, 2018, and for which a valid election under United States

Treasury Regulation 301.9100-22 is in effect;

and to the partners of such partnerships, including any partners, shareholders, or beneficiaries of a pass through entity that is a partner in such partnership. In addition, if the partnership received final federal adjustments described in this subsection before July 1, 2021, such adjustments shall be deemed to have been received by the partnership on July 1, 2021."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 383 as introduced.)

ES 383—LS 7266/DI 120



HOLDMAN, Chairperson

Committee Vote: Yeas 13, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 383 be amended to read as follows:

Page 5, line 32, after "DC storage," insert "**or equipment which receives, stores, and delivers energy using batteries, compressed air, pumped hydropower, hydrogen storage (including hydrolysis), thermal energy storage, regenerative fuel cells, flywheels, capacitors, and superconducting magnets,**".

(Reference is to SB 383 as printed February 17, 2021.)

HOLDMAN

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 383, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 34 with "[EFFECTIVE JULY 1, 2021]".

Page 3, delete lines 6 through 8 and insert "**A payment required to be made in the manner prescribed in subsection (d), but not paid in such a prescribed manner, shall be subject to the penalty provided in IC 6-8.1-10-2.1(b)(5).**".

Page 5, line 28, delete "customer" and insert "**customer's**".

Page 5, line 32, delete "or equipment which".

Page 5, delete lines 33 through 35.

Page 5, line 36, delete "capacitors, and superconducting magnets,".

Page 5, line 39, delete "customer" and insert "**customer's**".

Page 5, line 42, delete "For purposes of" and insert "**As used in**".

Page 6, line 2, delete "act as a direct" and insert "**directly contribute to the safety of the general public or workers of the public works project or serve to inform them of the associated**



dangers. The term includes:

- (1) concrete or metal barriers;
- (2) barrels;
- (3) barricades;
- (4) temporary pavement markings;
- (5) materials to construct temporary traffic lanes, roads, and bridges;
- (6) erosion control and drainage materials;
- (7) aggregates used to set grades;
- (8) cones;
- (9) rumble stripes;
- (10) temporary curbs or speed bumps; and
- (11) static and electronic signage and signals.

The term does not include hard hats, safety glasses, safety vests, pest control, or other personal protective equipment used or worn by employees of the construction contractor or subcontractors.

(b) Transactions involving public safety equipment and materials are exempt from the state gross retail tax if the equipment or material is predominately used by the purchaser to protect the general public and workers during the purchaser's performance of public works construction or maintenance. However, transactions involving hard hats, safety glasses, safety vests, pest control, or other personal protective equipment used or worn by employees of the construction contractor or subcontractors are not exempt from the state gross retail tax under this section."

Page 6, delete lines 3 through 20.

Page 9, line 17, after "6-2.5-4-5(b)" delete "." and insert ", unless the department revokes the exemption certificate."

Page 9, line 17, reset in roman "Within thirty (30) days after the final day of each".

Page 9, reset in roman lines 18 through 22.

Page 9, line 23, reset in roman "during the calendar year quarter."

Page 27, delete lines 9 through 17, begin a new paragraph and insert:

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



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

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

Page 27, line 25, delete "taxation".

Page 27, line 26, delete "under" and insert "**the requirements of**".

Page 29, line 23, delete "and" and insert ",".

Page 29, line 23, after "IC 6-3.1," insert "**and IC 6-3.6,**".

Page 30, line 29, delete "For purposes of this" and insert "**A payment required to be made in the manner prescribed in subsection (f), but not paid in such a prescribed manner, shall be subject to the penalty provided in IC 6-8.1-10-2.1(b)(5).**".

Page 30, delete lines 30 through 32.

Page 37, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 16. IC 6-3-4-15.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 15.1. For purposes of IC 6-3-4-12, IC 6-3-4-13, and IC 6-3-4-15, the department may:**

(1) prescribe procedures by which a pass through entity remits tax on behalf of partners, shareholders, and beneficiaries who are considered residents for purposes of those sections in the same manner as tax is remitted for partners, shareholders, and beneficiaries who are considered nonresidents for purposes of those sections, provided that such procedures do not relieve filing requirements otherwise applicable to partners, shareholders, and beneficiaries who are considered residents for purposes of those sections;

(2) prescribe special procedures for persons or entities that are otherwise subject to withholding under those sections but who may have circumstances such that a standard tax computation may result in excess withholding;

(3) prescribe procedures for individuals and trusts that are residents for part of the taxable year and nonresidents for part of the taxable year; and

(4) prescribe procedures by which an entity subject to those sections may request alternative withholding arrangements, provided that such arrangements do not jeopardize the tax



otherwise due under IC 6-3 or IC 6-5.5."

Page 37, line 36, delete "Federal".

Page 38, between lines 3 and 4, begin a new line block indented and insert:

"(3) "Affected year" means any taxable year for a taxpayer that is affected by an adjustment under this chapter, regardless of whether the partnership has received an adjustment for that taxable year."

Page 38, line 4, delete "(3)" and insert "(4)".

Page 38, line 6, delete "(4)" and insert "(5)".

Page 38, line 13, delete "(5)" and insert "(6)".

Page 38, line 15, delete "(6)" and insert "(7)".

Page 38, line 19, delete "(7)" and insert "(8)".

Page 38, line 25, after "return," insert "a".

Page 38, line 32, delete "(8)" and insert "(9)".

Page 38, line 37, delete "(9)" and insert "(10)".

Page 39, line 1, delete "(10)" and insert "(11)".

Page 39, line 23, delete "(11)" and insert "(12)".

Page 39, line 26, delete "(12)" and insert "(13)".

Page 39, line 30, delete "(13)" and insert "(14)".

Page 39, line 32, delete "(14)" and insert "(15)".

Page 39, line 34, delete "(15)" and insert "(16)".

Page 39, line 37, delete "(16)" and insert "(17)".

Page 40, line 1, delete "(17)" and insert "(18)".

Page 40, line 2, delete "(18)" and insert "(19)".

Page 40, line 7, delete "(19)" and insert "(20)".

Page 40, line 13, delete "(20)" and insert "(21)".

Page 40, line 16, delete "(21)" and insert "(22)".

Page 40, line 27, after "partners" delete "." and insert ", **according to Section 6225 of the Internal Revenue Code and the regulations under that section.**"

Page 40, line 28, delete "(22)" and insert "(23)".

Page 40, line 30, delete "(23)" and insert "(24)".

Page 40, line 33, delete "(24)" and insert "(25)".

Page 40, line 36, delete "(25)" and insert "(26)".

Page 40, line 40, delete "(26)" and insert "(27)".

Page 41, line 3, delete "(27)" and insert "(28)".

Page 41, line 10, delete "(28)" and insert "(29)".

Page 41, line 12, delete "(29)" and insert "(30)".

Page 41, line 27, after "paid" insert "**or otherwise reported**".

Page 41, line 34, after "return" insert "**or in any other manner**".

Page 41, line 37, after "return" insert "**or in any other manner**".



Page 42, delete lines 6 through 12, begin a new line block indented and insert:

"(7) With respect to partnerships and tiered partners:

(A) a partner that is a partnership that receives a report of partnership adjustments, receives a final federal adjustment, or files an amended return is considered a tier one (1) entity;

(B) a tiered partner that is a direct partner of a tier one (1) entity is considered a tier two (2) entity; and

(C) each tiered partner that is an owner, beneficiary, or partner of an entity that is a tier two (2) entity or higher shall be assigned a tier number that is one (1) tier higher and is considered an entity in that tier.

If, after application of this subdivision, a tiered partner is assigned to more than one (1) tier, the tiered partner shall be treated as being assigned to the highest numerical tier to which the tiered partner could be assigned.

(8) In the case of a partnership or tiered partner that is assigned a numerical tier, the applicable deadline for purposes of this chapter is:

(A) in the case of a tier one (1) entity receiving a report of partnership adjustments, ninety (90) days from the date the report of partnership adjustments is final;

(B) in the case of a tier one (1) entity that has received a final federal determination, one hundred eighty (180) days from the final determination date;

(C) in the case of a tier one (1) entity that has filed an amended return under this chapter other than an amended return resulting from a final federal determination, zero (0) days; and

(D) in the case of a tiered partner that has received adjustments resulting from a tier one (1) partnership, a number of days equal to:

(i) the number of days described in clauses (A) through (C), as applicable; plus

(ii) thirty (30) multiplied by the tier number assigned to the tiered partner; minus

(iii) thirty (30).

However, if a tiered partner receives an adjustment reported on a partnership audit tracking report under Section 6226 of the Internal Revenue Code, the time period applicable for the tiered partner is the longer of the time period described in



clause (D) or ninety (90) days from the date prescribed in Section 6226(b)(4)(B) of the Internal Revenue Code, and any other applicable deadlines under this subdivision or subdivision (9).

(9) In the case of a direct partner or indirect partner that is not a tiered partner, the applicable deadline for purposes of this chapter is ninety (90) days after the applicable deadline that is determined for the partnership or tiered partner under subdivision (8). If a direct partner or indirect partner described in this subdivision is subject to more than one (1) applicable deadline, the applicable deadline is the latest date determined under this subdivision."

Page 42, line 24, after "The" insert "**preliminary**".

Page 42, line 28, after "If the" insert "**preliminary**".

Page 42, line 35, delete "an assessment under IC 6-8.1-5-2" and insert "**a proposed assessment under IC 6-8.1-5**".

Page 43, line 1, after "report of" insert "**proposed**".

Page 43, line 3, after "report of" insert "**proposed**".

Page 43, line 10, after "report of" insert "**proposed**".

Page 43, line 12, delete "6-8.1-5-2," and insert "**6-8.1-5**".

Page 43, line 13, after "report of" insert "**proposed**".

Page 43, line 16, delete "final" and insert "**a final report of partnership adjustments**".

Page 43, line 18, after "report of" insert "**proposed**".

Page 43, line 22, delete "6-8.1-5-2," and insert "**6-8.1-5**".

Page 43, line 28, delete "to a tax attribute".

Page 43, line 29, after "report of" insert "**proposed**".

Page 43, line 30, delete "an adjusted report of" and insert "**a report of final**".

Page 43, line 34, after "(a)(3)." insert "**If the report of final partnership adjustments is not issued within one hundred eighty (180) days, one (1) day for each day that the report of final partnership adjustments is issued after the one hundred eighty (180) day deadline is added to the deadline for which a partnership or tiered partner may act without being subject to assessment under section 18 of this chapter. In the case of a partnership with multiple tiers, this extension applies to each tier.**".

Page 43, line 37, after "report of" insert "**proposed**".

Page 43, line 38, after "report of" insert "**final**".

Page 43, line 40, delete "considered" and insert "**issued**".

Page 44, line 2, delete "ninety (90)" and insert "**the applicable deadline**".



Page 44, line 3, delete "days thereafter:".

Page 44, line 9, after "shall" insert ", **not later than the applicable deadline for the tiered partner:**".

Page 44, delete lines 10 through 11.

Page 44, line 12, after "return" insert "**for the taxable year and for any other affected year**".

Page 44, line 16, after "beneficiary" insert ", **or a report,**".

Page 44, delete lines 21 through 40.

Page 44, line 41, delete "(e) Except as provided under subsection (b) or (c), upon" and insert "**(c) Upon**".

Page 45, line 4, delete "taxable year affected by the adjustment" and insert "**affected year**".

Page 45, line 5, delete "not more than ninety (90) days after receiving the report" and insert "**not later than the applicable deadline for the partner.**".

Page 45, delete lines 6 through 9.

Page 45, line 10, delete "(f)" and insert "**(d)**".

Page 45, line 12, after "has" insert "**been**".

Page 45, line 12, after "report of" insert "**proposed**".

Page 45, line 15, after "report of" insert "**final**".

Page 45, line 16, after "report of" insert "**final**".

Page 45, line 19, after "report of" insert "**proposed**".

Page 45, line 25, delete "section 10" and insert "**an election under section 9(c)**".

Page 45, line 27, delete "section 10(c)".

Page 45, line 28, delete "of this chapter," and insert "**this chapter to report and remit any tax due at the partnership level for a taxable year,**".

Page 45, line 30, after "partnership adjustments" insert "**for that taxable year.**".

Page 45, delete lines 31 through 42.

Page 46, delete lines 1 through 10.

Page 46, line 29, delete "year that is treated as being attributable to a review" and insert "**year;**".

Page 46, delete line 30.

Page 46, line 33, delete "in the" and insert "**or a report in the form and**".

Page 46, line 41, delete "and", begin a new line block indented and insert:

"(2) any tiered partners shall, not later than the applicable deadline for the tiered partner:

(A) file an amended return and, if applicable, remit any tax



due under IC 6-3, IC 6-3.6, or IC 6-5.5, including any amounts due under IC 6-3-4-12, IC 6-3-4-13, IC 6-3-4-15, or IC 6-5.5-2-8; and

(B) report any adjustments to the tiered partner's owners or beneficiaries by providing amended statements to the tiered partner's owners or beneficiaries, or a report in the form and manner prescribed by the department; and".

Page 47, line 1, delete "(2) any partners" and insert "**(3) any direct or indirect partners who are not tiered partners and who are**".

Page 47, line 5, delete "not more than:" and insert "**not later than the applicable deadline for the partner.**".

Page 47, delete lines 6 through 37.

Page 47, line 38, delete "(d)" and insert "**(c)**".

Page 47, line 41, delete "subsection (b)(1)," and insert "**this section,**".

Page 48, line 1, delete "subsection (b)(1)," and insert "**this section,**".

Page 48, line 2, delete "a report or" and insert "**an amended partnership return.**".

Page 48, delete line 3.

Page 48, line 12, delete "section 10" and insert "**an election under section 9(c)**".

Page 48, line 13, delete "section 10 of".

Page 48, line 14, delete "chapter," and insert "**chapter to report and remit all tax otherwise due at the partnership level for a taxable year,**".

Page 48, line 16, after "section" insert "**for that taxable year.**".

Page 48, delete lines 17 through 24.

Page 48, line 25, delete "(e)" and insert "**(d)**".

Page 48, delete lines 32 through 42.

Page 49, delete lines 1 through 13.

Page 49, line 14, delete "10. (a) Except for the distributive share of adjustments that" and insert "**9. (a)**".

Page 49, delete lines 15 through 16.

Page 49, line 17, delete "to section 2(4)(B) of this chapter, partnerships" and insert "**Partnerships**".

Page 49, line 24, delete "one hundred eighty (180) days after the".

Page 49, line 25, delete "final determination date," and insert "**the applicable deadline,**".

Page 49, line 35, delete "return;" and insert "**return by an amended statement or a report in the form and manner prescribed by the department;**".

Page 49, line 36, delete "a" and insert "**an amended**".



Page 49, line 36, delete "a" and insert "**an amended**".

Page 50, line 2, delete "date prescribed in" and insert "**applicable deadline:**".

Page 50, delete line 3.

Page 50, line 4, after "return" insert "**as provided in section 8 of this chapter**".

Page 50, line 19, delete "one hundred eighty (180) days after the final" and insert "**the applicable deadline,**".

Page 50, line 20, delete "determination date,".

Page 50, line 25, delete "two hundred seventy (270)" and insert "**ninety (90)**".

Page 50, line 26, delete "final determination date," and insert "**applicable deadline,**".

Page 51, line 6, after "determine" insert "**in**".

Page 51, line 7, after "subject" insert "**to tax**".

Page 51, line 33, delete "estate" and insert "**estate,**".

Page 52, between lines 2 and 3, begin a new line blocked left and insert:

"If a partnership has made an election under this chapter to report and remit all tax otherwise due at the partnership level for a taxable year, the partnership shall be considered to have made a timely election under this subsection with regard to any changes arising from an amended return under this section for that taxable year."

Page 52, line 6, delete "unitary".

Page 52, line 7, delete "partner; and" and insert "**partner that is either a corporation taxable under IC 6-3-2-1(b), IC 6-3-2-1.5, or IC 6-5.5-2-1 and is considered unitary to the partnership;**".

Page 52, line 9, delete "request." and insert "**request; or**".

Page 52, between lines 9 and 10, begin a new line block indented and insert:

"(3) any other circumstances that the department determines would result in avoidance or evasion of any tax otherwise due from one (1) or more partners under IC 6-3 or IC 6-5.5."

Page 52, line 15, delete "11." and insert "**10.**".

Page 52, line 21, delete "10(c)" and insert "**9(c)**".

Page 52, line 24, delete "8(c)(4)" and insert "**8(b)(2)**".

Page 52, line 29, delete "10(c)" and insert "**9(c)**".

Page 52, line 31, delete "12." and insert "**11.**".

Page 52, line 35, delete "10" and insert "**9**".

Page 52, line 41, delete "10(c)" and insert "**9(c)**".

Page 52, line 42, delete "13." and insert "**12.**".



Page 52, line 42, delete "10(c)" and insert "**9(c)**".

Page 53, line 4, delete "10(c)(2)" and insert "**9(c)(2)**".

Page 53, line 6, delete "12" and insert "**11**".

Page 53, line 17, delete "10(c)" and insert "**9(c)**".

Page 53, line 20, delete "adjustments." and insert "**adjustments and treat any tax applicable to such partners as tax withheld by the partnership on any affected partner's behalf.**".

Page 53, line 21, delete "14." and insert "**13.**".

Page 53, line 23, delete "sections 9 through 13" and insert "**section 12**".

Page 54, line 2, delete "15." and insert "**14.**".

Page 54, line 4, after "a" insert "**proposed or**".

Page 54, line 4, after "of" insert "**final**".

Page 54, line 5, after "of" insert "**proposed**".

Page 54, line 19, after "of" insert "**proposed**".

Page 54, line 26, delete "." and insert "**; or**".

Page 54, between lines 26 and 27, begin a new line block indented and insert:

"(6) in the case of a report of proposed partnership adjustments issued to a tiered partner that is a partnership as a direct or indirect result of another partnership's report of final partnership adjustments, final federal adjustments, or an amended return, one hundred eighty (180) days after the applicable deadline for the tiered partner or the date otherwise determined under this section for the partnership, whichever is later."

Page 54, line 27, delete "16." and insert "**15.**".

Page 54, line 28, delete "report or" and insert "**report,**".

Page 54, line 28, delete "statement" and insert "**statement, or similar report**".

Page 54, line 30, delete "remitted" and insert "**reported**".

Page 54, line 32, delete "an" and insert "**a proposed**".

Page 54, line 35, delete "statement; or" and insert "**amended statement arising from the partner level adjustments report from the entity required to provide the report or statement to the department;**".

Page 54, between lines 35 and 36, begin a new line block indented and insert:

"(2) one hundred eighty (180) days after the applicable deadline for the taxpayer; or"

Page 54, line 36, delete "(2)" and insert "**(3)**".

Page 54, line 38, delete "later." and insert "**latest.**".



- Page 54, line 41, delete "an" and insert "**a proposed**".
- Page 55, line 5, delete "IC 6-8.1-5-2" and insert "**IC 6-8.1-5**".
- Page 55, line 9, delete "17." and insert "**16.**".
- Page 55, line 13, delete "remit" and insert "**report**".
- Page 55, line 15, delete "an" and insert "**a proposed**".
- Page 55, line 17, delete "last date determined under section 8(b) of this chapter" and insert "**applicable deadline for the taxpayer**".
- Page 55, line 19, delete "The following".
- Page 55, delete lines 20 through 30.
- Page 55, line 32, after "more" insert "**direct or indirect**".
- Page 55, line 37, delete "two hundred seventy (270) days after the final".
- Page 55, line 38, delete "determination date".
- Page 55, line 39, after "Service," insert "**the applicable deadline for the partner,**".
- Page 55, line 39, delete "plus any additional time".
- Page 55, delete line 40.
- Page 55, line 41, delete "partners under section 8(c) of this chapter,".
- Page 56, line 5, delete "18." and insert "**17.**".
- Page 56, line 7, delete "attribute," and insert "**attribute and the taxpayer does not disclose the inconsistent reporting in a manner prescribed by the department,**".
- Page 56, line 30, delete "attribute." and insert "**attributes.**".
- Page 56, line 36, delete "19." and insert "**18.**".
- Page 56, line 39, delete "thirty (30) days" and insert "**the period**".
- Page 56, line 40, delete "after the date".
- Page 57, line 9, delete "apply." and insert "**apply, the partnership or tiered partner has made an election to be subject to tax under sections 6, 8, or 9 of this chapter, or to the extent the partnership, tiered partner, or the department can determine that the tax was otherwise properly reported and remitted.**".
- Page 57, line 10, after "partnership's" insert "**or tiered partner's**".
- Page 57, line 14, after "knows" insert "**or reasonably should know**".
- Page 57, delete lines 16 through 19, begin a new line block indented and insert:
- "(2) if the report, amended statement, or other information not described in subdivision (1) is returned and the partnership or tiered partner:**
- (A) fails to take reasonable steps to determine a proper address for reissuance within thirty (30) days after the**



report, amended statement, or other information is returned; or

(B) takes such steps and fails to reissue the report to a proper address within thirty (30) days after the report, amended statement, or other information is returned;"

Page 57, line 22, delete "an" and insert "**a proposed**".

Page 57, between lines 26 and 27, begin a new paragraph and insert:

"(d) If:

(1) a direct or indirect partner files and remits the tax otherwise due under this section, the assessment to the partnership under this section shall be reduced by the portion of the tax attributable to the direct or indirect partner; and

(2) a partnership or tiered partner files and remits the tax under this section, such tax shall be treated as payment of tax to the direct or indirect partners. However, in no event shall the direct or indirect partners be permitted a refund of tax paid by a partnership or tiered partner under this section unless otherwise permitted under this chapter or IC 6-8.1-9-1.

(e) Nothing in this section shall be construed to relieve a partnership or tiered partner from any duty to issue a report, amended statement, or other information otherwise required under this chapter or under any other provision of IC 6-3 or IC 6-5.5. If a partnership or tiered partner issues a report, amended statement, or other information provided under this chapter after the date otherwise required for issuance, the department may grant relief to any tiered partner, direct partner, or indirect partner affected by the late issuance, including extension of applicable deadlines."

Page 57, line 27, delete "20." and insert "**19**".

Page 57, line 35, delete "21." and insert "**20**".

Page 57, between lines 37 and 38, begin a new line block indented and insert:

"(1) in the case of a partnership or tiered partner that has more than ten thousand (10,000) direct owners, the department shall extend the time period one (1) time by sixty (60) days upon written request of the partnership or tiered partner, regardless of whether the department signs the extension."

Page 57, line 38, delete "(1)" and insert "**(2)**".

Page 58, line 1, delete "(2)" and insert "**(3)**".

Page 58, line 9, delete "(a)(1) or" and insert "**(a)**".

Page 58, line 10, delete "(a)(2)".



Page 58, line 10, after "the" insert "**request for automatic extension or**".

Page 58, line 14, delete "(a)(1) or" and insert "**(a)**".

Page 58, line 15, delete "(a)(2)".

Page 58, line 15, after "the" insert "**applicable deadlines and**".

Page 58, line 29, delete "is required to" and insert "**may**".

Page 58, between lines 39 and 40, begin a new paragraph and insert:
 "SECTION 19. IC 6-3.6-2-7.4, AS ADDED BY P.L.154-2020, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.4. "County with a single voting bloc" means a county that has a local income tax council in which one (1) city that is a member of the local income tax council or one (1) town that is a member of the local income tax council is allocated more than fifty percent (50%) of the total one hundred (100) votes allocated under IC 6-3.6-3-6(d). This section expires May 31, ~~2021~~ **2024**."

SECTION 20. IC 6-3.6-3-5, AS AMENDED BY P.L.154-2020, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The auditor of a county shall record all votes taken on ordinances presented for a vote under this article and not more than ten (10) days after the vote, send a certified copy of the results to:

- (1) the commissioner of the department of state revenue; and
- (2) the commissioner of the department of local government finance;

in an electronic format approved by the commissioner of the department of local government finance.

(b) Except as provided in subsection (c), this subsection applies only to a county that has a local income tax council. The county auditor may cease sending certified copies after the county auditor sends a certified copy of results showing that members of the local income tax council have cast a majority of the votes on the local income tax council for or against the proposed ordinance.

(c) This subsection applies only to a county with a single voting bloc that proposes to increase (but not decrease) a tax rate in the county. The county auditor may cease sending certified copies of the votes on the local income tax council voting as a whole under section 9.5 of this chapter after the county auditor sends a certified copy of results showing that the individuals who sit on the fiscal bodies of the county, cities, and towns that are members of the local income tax council have cast a majority of the votes on the local income tax council voting as a whole under section 9.5 of this chapter for or against the proposed ordinance. This subsection expires May 31, ~~2021~~ **2024**.



SECTION 21. IC 6-3.6-3-6, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies to a county in which the county adopting body is a local income tax council.

(b) In the case of a city or town that lies within more than one (1) county, the county auditor of each county shall base the allocations required by ~~subsection (c)~~ **subsections (d) and (e)** on the population of that part of the city or town that lies within the county for which the allocations are being made.

(c) Each local income tax council has a total of one hundred (100) votes.

(d) Each county, city, or town that is a member of a local income tax council is allocated a percentage of the total one hundred (100) votes that may be cast. The percentage that a city or town is allocated for a year equals the same percentage that the population of the city or town bears to the population of the county. The percentage that the county is allocated for a year equals the same percentage that the population of all areas in the county not located in a city or town bears to the population of the county.

(e) This subsection applies only to a county with a single voting bloc. Each individual who sits on the fiscal body of a county, city, or town that is a member of the local income tax council is allocated for a year the number of votes equal to the total number of votes allocated to the particular county, city, or town under subsection (d) divided by the number of members on the fiscal body of the county, city, or town. This subsection expires May 31, ~~2021~~. **2024**.

(f) On or before January 1 of each year, the county auditor shall certify to each member of the local income tax council the number of votes, rounded to the nearest one hundredth (0.01), each member has for that year.

(g) This subsection applies only to a county with a single voting bloc. On or before January 1 of each year, in addition to the certification to each member of the local income tax council under subsection (f), the county auditor shall certify to each individual who sits on the fiscal body of each county, city, or town that is a member of the local income tax council the number of votes, rounded to the nearest one hundredth (0.01), each individual has under subsection (e) for that year. This subsection expires May 31, ~~2021~~. **2024**.

SECTION 22. IC 6-3.6-3-8, AS AMENDED BY P.L.154-2020, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies to a county in



which the county adopting body is a local income tax council.

(b) Except as provided in subsection (e), any member of a local income tax council may present an ordinance for passage. To do so, the member must adopt a resolution to propose the ordinance to the local income tax council and distribute a copy of the proposed ordinance to the county auditor. The county auditor shall treat any proposed ordinance distributed to the auditor under this section as a casting of all that member's votes in favor of the proposed ordinance.

(c) Except as provided in subsection (f), the county auditor shall deliver copies of a proposed ordinance the auditor receives to all members of the local income tax council within ten (10) days after receipt. Subject to subsection (d), once a member receives a proposed ordinance from the county auditor, the member shall vote on it within thirty (30) days after receipt.

(d) Except as provided in subsection (h), if, before the elapse of thirty (30) days after receipt of a proposed ordinance, the county auditor notifies the member that the members of the local income tax council have cast a majority of the votes on the local income tax council for or against the proposed ordinance the member need not vote on the proposed ordinance.

(e) This subsection applies only to a county with a single voting bloc that proposes to increase (but not decrease) a tax rate in the county. The fiscal body of any county, city, or town that is a member of a local income tax council may adopt a resolution to propose an ordinance to increase a tax rate in the county to be voted on by the local income tax council as a whole as required under section 9.5 of this chapter and distribute a copy of the proposed ordinance to the county auditor. The county auditor shall treat the vote tally on the resolution adopted under this subsection for each individual who is a member of the fiscal body of the county, city, or town as the voting record for that individual either for or against the ordinance being proposed for consideration by the local income tax council as a whole under section 9.5 of this chapter. This subsection expires May 31, ~~2021~~. **2024**.

(f) This subsection applies only to a county with a single voting bloc that proposes to increase (but not decrease) a tax rate in the county. The county auditor shall deliver copies of a proposed ordinance the auditor receives under subsection (e) to the fiscal officers of all members of the local income tax council (other than the member proposing the ordinance under subsection (e)) within ten (10) days after receipt. Subject to subsection (h), once a member receives a proposed ordinance from the county auditor, the member shall vote on it within thirty (30) days after receipt. This subsection expires May 31, ~~2021~~.



2024.

(g) This subsection applies only to a county with a single voting bloc that proposes to increase (but not decrease) a tax rate in the county. The fiscal body of each county, city, or town voting on a resolution to propose an ordinance under subsection (e), or voting on a proposed ordinance being considered by the local income tax council as a whole under section 9.5 of this chapter, must take a roll call vote on the resolution or the proposed ordinance. If an individual who sits on the fiscal body is absent from the meeting in which a vote is taken or abstains from voting on the resolution or proposed ordinance, the fiscal officer of the county, city, or town shall nevertheless consider that individual's vote as a "no" vote against the resolution or the proposed ordinance being considered, whichever is applicable, for purposes of the vote tally under this section and shall note on the vote tally that the individual's "no" vote is due to absence or abstention. The fiscal body of each county, city, or town shall certify the roll call vote on a resolution or a proposed ordinance, either for or against, to the county auditor as set forth under this chapter. This subsection expires May 31, ~~2021~~. **2024.**

(h) This subsection applies only to a county with a single voting bloc that proposes to increase (but not decrease) a tax rate in the county. If, before the elapse of thirty (30) days after receipt of a proposed ordinance under subsection (e), the county auditor notifies the member that the individuals who sit on the fiscal bodies of the county, cities, and towns that are members of the local income tax council have cast a majority of the votes on the local income tax council for or against a proposed ordinance voting as a whole under section 9.5 of this chapter, the member need not vote on the proposed ordinance under subsection (e). This subsection expires May 31, ~~2021~~. **2024.**

SECTION 23. IC 6-3.6-3-9, AS AMENDED BY P.L.154-2020, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (d), this section applies to a county in which the county adopting body is a local income tax council.

(b) A member of the local income tax council may exercise its votes by passing a resolution and transmitting the resolution to the county auditor.

(c) A resolution passed by a member of the local income tax council exercises all votes of the member on the proposed ordinance, and those votes may not be changed during the year.

(d) This section does not apply to a county in which the county



adopting body is a local income tax council to which section 9.5 of this chapter applies. This subsection expires May 31, ~~2021~~. **2024**.

SECTION 24. IC 6-3.6-3-9.5, AS ADDED BY P.L.154-2020, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. (a) This section applies to a county:

- (1) in which the county adopting body is a local income tax council;
- (2) that is a county with a single voting bloc; and
- (3) that proposes to increase a tax rate in the county.

However, the provisions under section 9 of this chapter shall apply to a county described in subdivisions (1) and (2) that proposes to decrease a tax rate in the county.

(b) A local income tax council described in subsection (a) must vote as a whole to exercise its authority to increase a tax rate under this article.

(c) A resolution passed by the fiscal body of a county, city, or town that is a member of the local income tax council exercises the vote of each individual who sits on the fiscal body of the county, city, or town on the proposed ordinance, and the individual's vote may not be changed during the year.

(d) This section expires May 31, ~~2021~~. **2024**."

Page 64, delete lines 1 through 9, begin a new paragraph and insert:

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

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

Page 66, delete lines 18 through 20, begin a new paragraph and insert:

"A payment required to be made in the manner prescribed in IC 6-5.5-6-3(c), but not paid in such a prescribed manner, shall be



subject to the penalty provided in IC 6-8.1-10-2.1(b)(5)."

Page 69, delete lines 40 through 42.

Page 70, delete lines 1 through 3.

Page 71, line 14, delete "amounts" and insert **"taxes to a state or local jurisdiction outside Indiana or payments of amounts"**.

Page 71, between lines 20 and 21, begin a new line blocked left and insert:

"For purposes of this subsection, if a taxpayer receives a refund of an amount paid by or on behalf of the taxpayer for a listed tax, that refund shall not be considered the payment of an amount that is subsequently refunded or returned."

Page 81, line 16, delete "tax)." and insert **"tax)";**.

Page 81, between lines 16 and 17, begin a new line blocked left and insert:

"whichever is later."

Page 81, line 17, after "If" insert **"a"**.

Page 88, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 38. IC 22-4-25-1, AS AMENDED BY P.L.122-2019, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of the money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent the money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of expenditures against the funds when received. The money in this fund shall be used by the department for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. The money shall be available either to satisfy the obligations incurred by the department directly, or by transfer by the department of the required amount from the special employment and training services fund to the employment and training services administration fund. The



department shall order the transfer of the funds or the payment of any obligation or expenditure and the funds shall be paid by the treasurer of state on requisition drawn by the department and certified by the commissioner. The money in this fund is specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the United States Department of Labor. The money in this fund shall be continuously available to the department for expenditures in accordance with the provisions of this section and for the prevention, detection, and recovery of delinquent contributions, penalties, and improper benefit payments, and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Except as provided in subsection (e), after making the grants required under subsection (c), the department may expend an amount not to exceed ten million dollars (\$10,000,000) in a state fiscal year for the purpose of prevention, detection, and recovery of delinquent contributions, penalties, and improper benefit payments, unless an additional amount is approved by the budget committee. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of the liability, except to the extent that the liability may be satisfied by and out of the funds of the special employment and training services fund created by this section. Each state fiscal year, the commissioner shall make the training grants required under subsection (c) before amounts are expended from the fund in accordance with this section for any other purpose.

(b) If on December 31 the balance in the special employment and training services fund exceeds eight million five hundred thousand dollars (\$8,500,000), the department shall order, not later than thirty (30) days after December 31, payment of the amount that exceeds eight million five hundred thousand dollars (\$8,500,000) into the unemployment insurance benefit fund.

(c) Subject to the availability of funds, on July 1 each year the commissioner shall release the following amounts before expenditures are made in accordance with this section for any other purpose:

- (1) ~~One million dollars (\$1,000,000)~~ **Four million dollars (\$4,000,000)** to the state educational institution established under IC 21-25-2-1 for training provided to participants in apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training.



(2) Four million dollars (\$4,000,000) to the state educational institution instituted and incorporated under IC 21-22-2-1 for training provided to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

(3) Two hundred fifty thousand dollars (\$250,000) for journeyman upgrade training to each of the state educational institutions described in subdivisions (1) and (2).

(4) Four hundred thousand dollars (\$400,000) annually for training and counseling assistance:

(A) provided by Hometown Plans under 41 CFR 60-4.5; and

(B) approved by the United States Department of Labor, Bureau of Apprenticeship and Training;

to individuals who have been unemployed for at least four (4) weeks or whose annual income is less than twenty thousand dollars (\$20,000).

(5) Three hundred thousand dollars (\$300,000) annually for training and counseling assistance provided by the state institution established under IC 21-25-2-1 to individuals who have been unemployed for at least four (4) weeks or whose annual income is less than twenty thousand dollars (\$20,000) for the purpose of enabling those individuals to apply for admission to apprenticeship programs offered by providers approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

(d) Each state educational institution described in subsection (c) is entitled to keep ten percent (10%) of the funds released under subsection (c) for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds released under subsection (c) not used by the state educational institutions under subsection (c) shall be returned to the special employment and training services fund."

Page 93, line 33, delete "file" and insert "**filed**".

Page 94, line 6, delete "July 1, 2021." and insert "**July 1, 2021, with a final determination date of July 1, 2021.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 383 as reprinted February 19, 2021.)

BROWN T

ES 383—LS 7266/DI 120



Committee Vote: yeas 22, nays 0.

