Reprinted
February 4, 2020

SENATE BILL No. 408

DIGEST OF SB 408 (Updated February 3, 2020 7:51 pm - DI 120)

Citations Affected: IC 4-23; IC 4-38; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-5.5; IC 6-6; IC 6-8.1; IC 8-2.1; IC 36-8; noncode.

Synopsis: Various tax matters. Removes references to an out-of-state merchant's collection of the state use tax. (Under current law, an out-of-state merchant is required to collect the state gross retail tax (not the use tax) on retail transactions made in Indiana if certain threshold conditions are met.) Requires the state GIS officer, in coordination with the office of technology and the management performance hub, to establish a geographic information system with parcel level data for each county that may be used by the department of state revenue's tax system. Requires each county to periodically submit certain date to the GIS officer. Makes clarifying and technical changes to the definitions of "bundled transaction", "unitary transaction", and "gross retail

(Continued next page)

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

Holdman, Mishler,
Randolph Lonnie M

January 14, 2020, read first time and referred to Committee on Tax and Fiscal Policy.
January 30, 2020, amended, reported favorably — Do Pass.
February 3, 2020, read second time, amended, ordered engrossed.

income" in the state sales tax statute, and "adjusted gross receipts" in the sports wagering statute. Removes outdated references to the gross income tax and adjusted gross income tax. Makes a technical correction in the gasoline use tax statute. Clarifies the allowable state income tax deductions and credits for a married individual filing a separate return. Imposes a tax on the first payment of prize money related to a racing event at the Indianapolis Motor Speedway and requires the entity that makes payment of the prize money to withhold and remit the tax to the department of state revenue. Specifies the amount of the tax and provides related provisions that apply to the recipients of the prize money. Provides that a taxpayer is entitled to claim a historic rehabilitation tax credit granted for a year other than the year in which the preservation or rehabilitation of the historic property was performed and certification provided, notwithstanding the expiration of the historic rehabilitation tax credit chapter on January 1, 2019, and the cap on the amount of credits allowed in a state fiscal year beginning after June 30, 2016. Defines "loans arising in factoring" under the financial institutions tax statute. Specifies the duties of the department of state revenue's motor carrier service division. Removes obsolete provisions related to transporting gasoline or special fuel. Eliminates a redundant penalty provision for failure to file a quarterly motor carrier fuel tax report (this penalty is currently assessed and calculated under the penalty provisions of the International Fuel Tax Agreement as set forth in another section of the Indiana Code). Allows a taxpayer to request a secondary review of adjustments to tax attributes in certain circumstances. Makes clarifying changes to the statute of limitations for tax assessments and tax refunds. Extends the statute of limitations for assessments for certain partners and partnerships. Extends the statute of limitations to allow a refund of state and local income tax with regard to veterans' disability severance payments that were determined to qualify for a refund of federal income tax under the Combat-Injured Veterans Tax Fairness Act of 2016. Revises the penalty provisions related to returned or dishonored checks made to the department of state revenue. Expands the functions of the taxpayer rights advocate office within the department of state revenue. Repeals the state revenue pilot program fund. Provides that any money in the state revenue pilot program fund before its repeal is transferred to the motor carrier regulation fund. Amends the definition of "seller" under the enhanced prepaid wireless charge statute to include a marketplace facilitator. Makes conforming changes.

Reprinted
February 4, 2020

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

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

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

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

SENATE BILL No. 408

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

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

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

(1) Function as the chief officer for GIS matters for state agencies.

(2) Review and either veto or adopt both the:

(A) state's GIS data standards; and

(B) statewide data integration plan;

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

open use of data with various GIS software, applications, computer hardware, and computer operating systems.

(3) Act as the administrator of:

(A) the state standards and policies concerning GIS data and framework data; and

(B) the statewide data integration plan.

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

(A) GIS policies developed for state agencies; and

(B) data exchange agreements involving an entity other than a state agency.

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

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

(A) requesting grants available for the acquisition or enhancement of GIS resources; and

(B) preparing funding proposals for grants to enhance coordination and implementation of GIS.

(7) Review and approve, in accordance with the statewide data integration plan, the procurement of GIS goods and services involving the state data center or a state agency.

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

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

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

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

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

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

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

(15) Use personnel made available from state educational

institutions to provide technical support to the:

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

(B) IGIC.

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

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

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

(2) the total of:

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

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

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

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

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

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

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

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

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

SECTION 4. IC 6-2.5-1-5, AS AMENDED BY P.L.188-2018, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: 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; ~~or~~

(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

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.

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

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

(1) distinct;

(2) identifiable; and

(3) sold for one (1) nonitemized price.

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

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

(1) is comprised of:

(A) a service that is the true object of the transaction; and

(B) tangible personal property that:

(i) is essential to the use of the service; and

(ii) is provided exclusively in connection with the service;

(2) includes both taxable and nontaxable products in which:

(A) the seller's purchase price; or

(B) the sales price;

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

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

(A) any of which is classified as:

(i) food and food ingredients;

(ii) drugs;

(iii) durable medical equipment;

(iv) mobility enhancing equipment;

(v) over-the-counter drugs;
(vi) prosthetic devices; or
(vii) medical supplies; and
(B) for which:
(i) the seller's purchase price; or
(ii) the sales price;
of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or the total sales price of the bundled tangible personal property.
The determination under clause (B) must be made on the basis of either individual item purchase prices or individual item sale prices.

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

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

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

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

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

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

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

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

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

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

(B) a product transferred electronically into Indiana; or

(C) a service delivered in Indiana;

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

(2) The retail merchant sells any combination of:

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

(B) a product transferred electronically into Indiana; or

(C) a service delivered in Indiana;

in two hundred (200) or more separate transactions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

shall not be considered to be, or to create, an office, a place of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. IC 6-2.5-3.5-26, AS ADDED BY P.L.227-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014 (RETROACTIVE)]: Sec. 26. (a) The gasoline use tax collected under this chapter is considered equivalent to the state gross retail tax that would be collected by a retail merchant in a retail sale and replaces the obligation of the retail merchant to collect the state gross retail tax on the sale of gasoline.

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

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

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

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

(1) acquires tangible personal property for the purpose of resale; and

(2) transfers that property to another person for consideration.

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

(1) the property is transferred in the same form as when it was acquired;

(2) the property is transferred alone or in conjunction with other property or services; or

(3) the property is transferred conditionally or otherwise.

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

~~(e) The gross retail income received from selling at retail 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 service; and~~

~~(2) except as provided in subsection (g), any bona fide 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 subsection, a transfer is considered to have occurred after delivery of the property to the purchaser.~~

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

~~(1) in the case of retail sales of special fuel (as defined in IC 6-6-2.5-22), the gross retail income received from selling at retail 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(a) 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 received from selling at retail is the total sales price of the cigarettes including the tax imposed under IC 6-7-1.~~

~~(g) Gross retail income does not include income that represents 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. However, the exclusion under this~~

~~subsection only applies if 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.~~

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

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

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

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

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

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

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

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

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

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

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

SECTION 16. IC 6-2.5-6-14.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14.1. ~~Notwithstanding~~

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

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

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

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

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

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

(1) failed to:

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

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

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

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

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

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

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

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

(3) Any other information that the department requests.

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

(i) If:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 18. IC 6-2.5-9-9, AS ADDED BY P.L.247-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. (a) Notwithstanding any other law and regardless of whether the department initiates an audit or any other collection or enforcement procedure, the department may bring a

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

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

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

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

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

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

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

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

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

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

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

SECTION 19. IC 6-2.5-9-10, AS ADDED BY P.L.247-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. (a) A taxpayer complying with ~~IC 6-2.5-2-1(c),~~ **IC 6-2.5-2-1(d),** voluntarily or otherwise, may seek

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

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

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

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

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

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

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

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

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

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

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

computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit gross retail taxes associated with sales into Indiana.

(7) The Supreme Court of the United States should reconsider its doctrine that prevents, under certain circumstances, states from requiring remote sellers to collect gross retail tax, and as the findings of this section make clear, this argument has grown stronger, and the cause more urgent, with time.

(8) Given the urgent need for the Supreme Court of the United States to reconsider this doctrine, it is necessary for the general assembly to enact ~~IC 6-2.5-2-1(c),~~ **IC 6-2.5-2-1(d),** clarifying the state's immediate intent to require collection of gross retail taxes by remote sellers.

(9) Expeditious review is necessary and appropriate because, while it may be reasonable notwithstanding this law for remote sellers to continue to refuse to collect the gross retail tax in light of existing federal constitutional doctrine, such a refusal causes imminent harm to Indiana.

(10) It is the intent of the general assembly to apply Indiana's gross retail tax and use tax obligations to the limit of federal and state constitutional doctrines and to specify that Indiana law permits the state to immediately argue in any litigation that such a constitutional doctrine should be changed to permit the obligation to collect state gross retail tax as provided in ~~IC 6-2.5-2-1(c).~~ **IC 6-2.5-2-1(d).**

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

~~(1) Filing of returns.~~

~~(2) Auditing of returns.~~

~~(3) Investigation of tax liability.~~

~~(4) Determination of tax liability.~~

~~(5) Notification of tax liability.~~

~~(6) Assessment of tax liability.~~

~~(7) Collection of tax liability.~~

~~(8) Examination of taxpayer's books and records.~~

~~(9) Legal proceedings.~~

~~(10) Court actions.~~

~~(11) Remedies.~~

~~(12) Privileges.~~
~~(13) Taxpayer and departmental relief.~~
~~(14) Statutes of limitations.~~
~~(15) Hearings.~~
~~(16) Refunds.~~
~~(17) Remittances.~~
~~(18) Imposition of penalties and interest.~~
~~(19) Maintenance of departmental records.~~
~~(20) Confidentiality of taxpayer's returns.~~
~~(21) Duties of the secretary of state and the treasurer of state.~~
~~(22) Administration.~~

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

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

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

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

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

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

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

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

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

(5) Subtract:

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

(B) one thousand five hundred dollars ($1,500) for each exemption allowed under Section 151(c) of the Internal Revenue Code (as effective January 1, 2017) for an individual:

(i) who is less than nineteen (19) years of age or is a full-time student who is less than twenty-four (24) years of age;

(ii) for whom the taxpayer is the legal guardian; and

(iii) for whom the taxpayer does not claim an exemption under clause (A); and

(C) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the **federal** adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000). **In the case of a married individual filing a separate return, the qualifying dollar amount in this clause shall be reduced by fifty percent (50%).**

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(7) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(8) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(9) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), and (5) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(10) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and

local income taxes.

(11) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(12) Subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse ~~or both.~~ **if the taxpayer and the taxpayer's spouse file a joint income tax return or the taxpayer is otherwise entitled to a deduction under this subdivision for the taxpayer's spouse, or both.**

(13) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars ($2,500), or **one thousand two hundred fifty dollars ($1,250) in the case of a married individual filing a separate return; or**

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(14) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

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

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

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

(A) twenty-five thousand dollars ($25,000) to the extent

deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

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

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

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

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

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

(18) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

(19) Subtract income that is:

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

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

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

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

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

(22) Subtract an amount as described in Section 1341(a)(2) of the Internal Revenue Code to the extent, if any, that the amount was previously included in the taxpayer's adjusted gross income for a prior taxable year.

(23) For taxable years beginning after December 25, 2016, add an amount equal to the deduction for deferred foreign income that was claimed by the taxpayer for the taxable year under Section 965(c) of the Internal Revenue Code.

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

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

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

~~(26)~~ **(27)** Subtract any other amounts the taxpayer is entitled to deduct under IC 6-3-2.

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

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

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

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

the United States.

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

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

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

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

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

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

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

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

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

The amount of deductions allowable for an item of property under this clause may not exceed the amount of adjusted gross income realized on the property that would have been deferred

under the Internal Revenue Code in effect on January 1, 2017.

(8) Add to the extent required by IC 6-3-2-20:

(A) the amount of intangible expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes; and

(B) any directly related interest expenses (as defined in IC 6-3-2-20) that reduced the corporation's adjusted gross income (determined without regard to this subdivision).

For purposes of this ~~subdivision,~~ **clause,** any directly related interest expense that constitutes business interest within the meaning of Section 163(j) of the Internal Revenue Code shall be considered to have reduced the taxpayer's federal taxable income only in the first taxable year in which the deduction otherwise would have been allowable under Section 163 of the Internal Revenue Code if the limitation under Section 163(j)(1) of the Internal Revenue Code did not exist.

(9) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

(10) Subtract income that is:

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

(B) included in the corporation's taxable income under the Internal Revenue Code.

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

(12) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political

subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

(13) For taxable years beginning after December 25, 2016:

(A) for a corporation other than a real estate investment trust, add:

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

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

(B) for a real estate investment trust, add an amount equal to the deduction for deferred foreign income that was claimed by the taxpayer for the taxable year under Section 965(c) of the Internal Revenue Code, but only to the extent that the taxpayer included income pursuant to Section 965 of the Internal Revenue Code in its taxable income for federal income tax purposes or is required to add back dividends paid under subdivision (9).

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

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

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

(17) If a taxpayer receives prize money on which tax was

imposed under IC 6-3-9, subtract the amount of the prize money received during the taxable year.

~~(17)~~ **(18)** Add or subtract any other amounts the taxpayer is:

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(c) The following apply to taxable years beginning after December 31, 2018, for purposes of the add back of any deduction allowed on the taxpayer's federal income tax return for wagering taxes, as provided in subsection (a)(2) if the taxpayer is an individual or subsection (b)(3) if the taxpayer is a corporation:

(1) For taxable years beginning after December 31, 2018, and before January 1, 2020, a taxpayer is required to add back under this section eighty-seven and five-tenths percent (87.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(2) For taxable years beginning after December 31, 2019, and before January 1, 2021, a taxpayer is required to add back under this section seventy-five percent (75%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(3) For taxable years beginning after December 31, 2020, and before January 1, 2022, a taxpayer is required to add back under this section sixty-two and five-tenths percent (62.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(4) For taxable years beginning after December 31, 2021, and before January 1, 2023, a taxpayer is required to add back under this section fifty percent (50%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(5) For taxable years beginning after December 31, 2022, and before January 1, 2024, a taxpayer is required to add back under this section thirty-seven and five-tenths percent (37.5%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(6) For taxable years beginning after December 31, 2023, and before January 1, 2025, a taxpayer is required to add back under this section twenty-five percent (25%) of any deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(7) For taxable years beginning after December 31, 2024, and before January 1, 2026, a taxpayer is required to add back under this section twelve and five-tenths percent (12.5%) of any deduction allowed on the taxpayer's federal income tax return for

wagering taxes.

(8) For taxable years beginning after December 31, 2025, a taxpayer is not required to add back under this section any amount of a deduction allowed on the taxpayer's federal income tax return for wagering taxes.

(d) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

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

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

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

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

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

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

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

(A) twenty-five thousand dollars ($25,000) to the extent

deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and

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

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

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

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

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

(8) Subtract income that is:

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

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

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

(10) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

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

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

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

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

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

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

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

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

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

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

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

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

(iii) the taxpayer made an election to take deductions under

Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

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

(8) Subtract income that is:

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

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

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

(10) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

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

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

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

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

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

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

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

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

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

(f) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

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

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

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

service.

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

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

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

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

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

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

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

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

(6) Subtract income that is:

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

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(7) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

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

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

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

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

SECTION 23. IC 6-3-2-2.5, AS AMENDED BY P.L.234-2019, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 2.5. (a) This section applies to a resident person.

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

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

(c) An Indiana net operating loss equals:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 24. IC 6-3-2-2.6, AS AMENDED BY P.L.234-2019, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

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

(c) An Indiana net operating loss equals:

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

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

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

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

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

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

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

(D) ~~IC 6-3-1-3.5(a)(26);~~ **IC 6-3-1-3.5(a)(27);**
(E) IC 6-3-1-3.5(b)(14);
(F) ~~IC 6-3-1-3.5(b)(17);~~ **IC 6-3-1-3.5(b)(18);**
(G) IC 6-3-1-3.5(d)(13);
(H) IC 6-3-1-3.5(d)(16);
(I) IC 6-3-1-3.5(e)(13);
(J) IC 6-3-1-3.5(e)(16);
(K) IC 6-3-1-3.5(f)(11); and
(L) ~~IC 6-3-1-3.5(f)(13).~~ **IC 6-3-1-3.5(f)(14).**

(2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's adjusted gross income derived from sources within Indiana is determined under section 2 of this chapter for the same taxable year during which each loss was incurred.

(3) An Indiana net operating loss includes a net operating loss that arises when the applicable modifications required by IC 6-3-1-3.5 as set forth in subdivision (1) exceed the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, or when the applicable modifications required by IC 6-3-1-3.5 as set forth in subdivision (1) exceed the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident person, for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryover year provided in subsection (f).

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

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

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

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried over as

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) The signing bonus is nonrefundable.

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

days spent in Indiana that do not involve either a race, practice, qualification, training, testing, team meeting, promotional caravan, or other similar race team event.

(3) "Race team" includes a professional motorsports racing team that has services rendered by a race team member in Indiana or participated in a racing event at a qualified motorsports facility (as defined in IC 5-1-17.5-14).

(4) "Race team member" includes employees or independent contractors who render services on behalf of the race team. The term includes but is not limited to drivers, pit crew members, mechanics, technicians, spotters, and crew chiefs.

(5) "Total duty days" means all days during the taxable year that a race team member renders a service for the race team. The term includes:

(A) race days, practice days, qualification days, training days, testing days, days spent at team meetings, days spent with a promotional caravan, and days served with the team in which the team competes or is scheduled to compete;

(B) days spent conducting training and rehabilitation activities, but only if the service is conducted at the facilities of the race team; and

(C) travel days that do not involve either a race, practice, qualification, training, testing, team meeting, promotional caravan, or other similar team event.

Total duty days for an individual who joins a race team during the season begin on the day the individual joins the team, and, for an individual who leaves a team, end on the day the individual leaves the team. When an individual changes teams during a taxable year, a separate duty day calculation must be made for the period the individual was with each team. Total duty days do not include those days for which a team member is not compensated and is not rendering a service for the team in any manner, including days when the team member has been suspended without pay and prohibited from performing any services for the team.

(6) "Total income" means the total compensation received during the taxable year for services rendered. The term includes salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a race team member for services rendered in that year. The term does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services rendered to the race team.

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

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

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

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

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

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

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

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

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

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

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

SECTION 26. IC 6-3-2-6, AS AMENDED BY P.L.146-2008,

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

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

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

(b) Notwithstanding subsection (a):

(1) ~~a husband and wife~~ **a married couple** filing a joint ~~adjusted gross income tax~~ return for a particular taxable year may not claim a deduction under this section of more than three thousand dollars ($3,000); **and**

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

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

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

SECTION 27. IC 6-3-2-9, AS AMENDED BY P.L.99-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 9. (a) An individual who:

(1) retired on disability before the end of the taxable year; and

(2) had a permanent and total disability, as determined under subsection (c), at the time of retirement;

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

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

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

(A) these amounts are attributable to contributions by the individual's employer that were not includable in the individual's gross income or are paid by the employer; and

(B) these amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work because of permanent and total disability.

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

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

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

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

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

SECTION 28. IC 6-3-3-12, AS AMENDED BY P.L.214-2018(ss), SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]: Sec. 12. (a) As used in this section, "account" has the meaning set forth in IC 21-9-2-2.

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

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

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

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

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

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

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

the Internal Revenue Code).

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

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

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

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

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

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

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

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

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

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

(1) an individual filing a single return; ~~or~~

(2) a married couple filing a joint return; **or**

(3) for taxable years beginning after December 31, 2019, a married individual filing a separate return.

(k) A taxpayer is entitled to a credit against the taxpayer's adjusted

gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

(1) The following amount:

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

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

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

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

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

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

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

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

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

(1) qualified higher education expenses that are not qualified

K-12 education expenses; or

(2) qualified K-12 education expenses.

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

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

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

(2) the taxpayer's electronic funds transfer is initiated, for contributions that are submitted to a college choice 529 education savings plan by electronic funds transfer.

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

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

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

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

(1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or

(2) the excess of:

(A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over

(B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

(r) Any required repayment under subsection (q) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(s) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form

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

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

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

(2) account closings for the taxable year.

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

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

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

SECTION 30. IC 6-3-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]:

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

Sec. 1. As used in this chapter, "prize money" means any amount paid as a result of a qualification, placement, or performance related to a racing event at a qualified motorsports facility. However, the term does not include any amounts paid by reference to a qualification, placement, or performance in multiple

races unless all such races are conducted at a qualified motorsports facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. An individual or entity receiving prize money subject to tax under this chapter shall file an annual return reporting the total amount of the prize money received by the individual or

entity. Such return shall be due on the fifteenth day of the fourth month after the end of the calendar year in which the payment of prize money was made to the individual or entity recipient. However, if the entity receiving the prize money during a taxable year is a pass through entity, any partners, shareholders, beneficiaries, or members of the pass through entity that receive such prize money shall not be required to file a return described in this section.

SECTION 31. IC 6-3.1-16.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]:

Chapter 16.1. Historic Rehabilitation Tax Credit

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

(1) the department of natural resources; or

(2) the office of community and rural affairs.

(b) This section applies notwithstanding:

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

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

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

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

taxable year in which the taxpayer is first entitled to claim the credit under this chapter.

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

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

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

SECTION 32. IC 6-3.1-20-4, AS AMENDED BY P.L.250-2015, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 4. (a) Except as provided in ~~subsection~~ **subsections** (b) **and (c),** an individual is entitled to a credit under this chapter if:

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

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

(A) the individual:

(i) owns; or

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

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

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

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

SECTION 33. IC 6-3.1-20-5, AS AMENDED BY P.L.166-2014, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 5. (a) Each year, an individual described in section 4 of this chapter is entitled to a refundable credit against the individual's state income tax liability in the amount determined under

this section.

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

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

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

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

(1) An amount determined under the following STEPS:

STEP ONE: Determine the result of:

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

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

STEP TWO: Determine the result of:

(i) the STEP ONE amount; multiplied by

(ii) five-tenths (0.5).

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

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

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

SECTION 34. IC 6-5.5-1-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: **Sec. 21. (a) "Loans arising in factoring" means:**

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

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

(b) The term does not refer to:

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

(2) an assignment of an account receivable.

SECTION 35. IC 6-6-1.1-606.5 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 606.5. (a) Every person included within the terms of section 606(a) and 606(c) of this chapter shall register with the

administrator before engaging in those activities. The administrator shall issue a transportation license to a person who registers with the administrator under this section.

(b) Every person included within the terms of section 606(a) of this chapter who transports gasoline in a vehicle on the highways in Indiana for purposes other than use and consumption by that person may not make a delivery of that gasoline to any person in Indiana other than a licensed distributor except:

(1) when the tax imposed by this chapter on the receipt of the transported gasoline was charged and collected by the parties; and

(2) under the circumstances described in section 205 of this chapter.

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

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

~~(1) points outside Indiana to points inside Indiana; and~~

~~(2) points inside Indiana to points outside Indiana.~~

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

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

~~(g)~~ **(e)** The operator of a vehicle to which this section applies shall at all times when engaged in the transporting of gasoline on the highways have with the vehicle an invoice or manifest showing the

origin, quantity, nature, and destination of the gasoline that is being transported.

~~(h)~~ **(f)** The department shall provide for relief if a shipment of gasoline is legitimately diverted from the represented destination state after the shipping paper has been issued by a terminal operator or if a terminal operator failed to cause proper information to be printed on the shipping paper. Provisions for relief under this subsection:

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

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

SECTION 36. IC 6-6-2.5-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 42. (a) Each application for a license under section 41 of this chapter shall be made upon a form prepared and furnished by the department. It shall be subscribed to by the applicant and shall contain the information as the department may reasonably require for the administration of this chapter, including the applicant's federal identification number and, with respect to the applicant for an exporter's license, a copy of the applicant's license to purchase or handle special fuel tax free in the specified destination state or states for which the export license is to be issued.

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

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

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

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

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

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

SECTION 37. IC 6-6-2.5-43 IS REPEALED [EFFECTIVE JULY 1, 2020]. ~~Sec. 43. (a) Each licensed transporter shall at the time of licensing and on an annual basis, list with the commissioner a description of all vehicles, including license numbers, to be used on the highways of Indiana in transporting special fuel from points outside Indiana to points inside Indiana and from points inside Indiana to points outside Indiana.~~

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

SECTION 38. IC 6-6-4.1-21 IS REPEALED [EFFECTIVE JULY 1, 2020]. ~~Sec. 21. A carrier subject to the taxes imposed under section 4 of this chapter, section 4.3 of this chapter (before its repeal), and section 4.5 of this chapter (before its repeal) who fails to file a quarterly report as required by section 10 of this chapter shall pay a civil penalty of three hundred dollars ($300) for each report that is not filed.~~

SECTION 39. IC 6-8.1-1-1, AS AMENDED BY P.L.285-2019, SECTION 1, AND AS AMENDED BY P.L.108-2019, SECTION 132, AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the supplemental wagering tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); **the tax on prize money awarded at the Indianapolis Motor Speedway (IC 6-3-9);** the county adjusted gross income tax (IC 6-3.5-1.1) (repealed); the county option income tax (IC 6-3.5-6) (repealed); the county economic development income tax (IC 6-3.5-7) (repealed); the local income tax (IC 6-3.6); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax

collected under a reciprocal agreement under IC 6-8.1-3; the vehicle excise tax (IC 6-6-5); the aviation fuel excise tax (IC 6-6-13); the commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6) (repealed); the heavy equipment rental excise tax (IC 6-6-15); *the vehicle sharing excise tax (IC 6-6-16);* the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); ~~*the malt excise tax (IC 7.1-4-5);*~~ the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-20-18); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-20-18); and any other tax or fee that the department is required to collect or administer.

SECTION 40. IC 6-8.1-3-17, AS AMENDED BY P.L.214-2018(ss), SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 17. (a) Before an original tax appeal is filed with the tax court under IC 33-26, the commissioner, **or the taxpayer rights advocate office to the extent granted the authority by the commissioner,** may settle any tax liability dispute if a substantial doubt exists as to:

(1) the constitutionality of the tax under the Constitution of the State of Indiana;

(2) the right to impose the tax;

(3) the correct amount of tax due;

(4) the collectability of the tax; or

(5) whether the taxpayer is a resident or nonresident of Indiana.

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

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

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

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

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

(B) IC 6-2.5-14.

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

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

(2) shall release any liens imposed;

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

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

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

with a taxpayer that prohibits the taxpayer from receiving amnesty in another amnesty program.

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

(1) the department has issued:

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

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

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

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

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

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

SECTION 41. IC 6-8.1-3-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 27. (a) The appropriate county officer, as designated by the county executive, in each county shall, before December 1, 2021, and before December 1 of every year thereafter, submit parcel level data to the state GIS officer to be used in establishing and updating the geographic information system described in IC 4-23-7.3-14(16).**

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

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

SECTION 42. IC 6-8.1-4-4, AS AMENDED BY P.L.257-2017, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) The department shall establish a registration center to service ~~owners of~~ **motor carriers or entities that otherwise own or operate** commercial motor vehicles.

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

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

(1) Vehicle registration (IC 9-18.1).

(2) Motor carrier fuel tax annual permit.

(3) Proportional use credit certificate (IC 6-6-4.1-4.7).

(4) Certificate of operating authority.

(5) Oversize vehicle permit (IC 9-20-3).

(6) Overweight vehicle permit (IC 9-20-4).

(7) Payment of the commercial vehicle excise tax imposed under IC 6-6-5.5.

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

(1) File all tax returns or information reports.

(2) Pay all taxes, penalties, and interest.

(e) The commissioner may:

(1) deny an application for an oversize vehicle permit, an overweight vehicle permit, or a single oversize-overweight permit; or

(2) suspend any permit issued to a person;

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

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

(1) File all tax returns or information reports.

(2) Pay all taxes, penalties, and interest.

(g) Funding for the development and operation of the registration center shall be taken from the motor carrier regulation fund (IC 8-2.1-23-1).

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

SECTION 43. IC 6-8.1-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 1.5. (a) This section applies to:**

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

(2) amended returns filed by a taxpayer;

that result in an adjustment to a net operating loss, capital loss,

credit, or other tax attribute that does not result in an assessment or refund denial for any taxable year at the time of the adjustment.

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

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

(2) the amended return filed by the taxpayer;

whichever is applicable.

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

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

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

(2) issue revised adjustments of relevant tax attributes.

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

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

SECTION 44. IC 6-8.1-5-2, AS AMENDED BY P.L.256-2017, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 2. (a) Except as otherwise provided in this section **and section 2.5 of this chapter,** the department may not issue a proposed assessment under section 1 of this chapter more than three (3) years after the latest of the date the return is filed, or ~~either of~~ the following:

(1) The due date of the return.

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

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

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

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

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

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

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

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

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

(2) whichever is applicable:

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

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

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

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

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

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

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

(j) The following apply:

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

(A) begins after December 31, 2017;

(B) ends after August 12, 2018; or

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

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

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

(A) the date on which a proposed assessment must otherwise be issued to the partner or the partnership under

this section with regard to the taxable year of the partnership to which the modification is taxed at the partnership level; or

(B) December 31, 2021.

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

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

(A) This section.

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

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

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

SECTION 45. IC 6-8.1-7-1, AS AMENDED BY P.L.234-2019, SECTION 32, AND AS AMENDED BY P.L.285-2019, SECTION 2, AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to any of the

following when it is agreed that the information is to be confidential and to be used solely for official purposes:

(1) Members and employees of the department.

(2) The governor.

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

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

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

(6) Any authorized officers of the United States.

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

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

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

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a county office of the division of family resources located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This

information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

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

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

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

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

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

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

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

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

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the

purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

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

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

(n) This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

(1) IC 5-28-26;

(2) IC 36-7-13;

(3) IC 36-7-26;

(4) IC 36-7-27;

(5) IC 36-7-31;

(6) IC 36-7-31.3; or

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

to the fiscal officer of the political subdivision or other entity that

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

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

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

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

(3) the covered taxes allocated to a professional sports development area fund, sports and convention facilities operating fund, or other fund under IC 36-7-31 and IC 36-7-31.3.

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

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

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

(2) the taxpayer's spouse, if:

(A) the taxpayer is deceased or incapacitated; and

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

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

SECTION 46. IC 6-8.1-9-1, AS AMENDED BY P.L.86-2018, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (j), ~~and~~ (k), **and (l),** in order to obtain the refund, the person must file the claim with the department within three (3) years after the later of the following:

(1) The due date of the return.

(2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, **the gasoline use tax,** the gasoline tax **(including the inventory tax),** the special fuel tax **(including the inventory tax),**

the motor carrier fuel tax **(including the inventory tax),** the oil inspection fee, **the cigarette tax, the tobacco products tax, any county innkeeper's taxes imposed under IC 6-9, any food and beverage taxes imposed under IC 6-9, any county or local admissions taxes imposed under IC 6-9,** or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

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

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

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

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

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

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

(f) After conducting a hearing on a protest, or after making a decision on a protest when no hearing is requested, the department shall issue a memorandum of decision or order denying a refund and shall send a copy of the decision through the United States mail to the person that filed the protest. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision. The department may continue the hearing until

a later date if the taxpayer presents additional information at the hearing or the taxpayer requests an opportunity to present additional information after the hearing.

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

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

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

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

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

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

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

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

(90) days after the expiration of the period otherwise specified by this subsection.

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

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

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

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

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

(B) IC 6-5.5-6-6(c) and IC 6-5.5-6-6(d) (for the financial institutions tax); **or**

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

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

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

SECTION 47. IC 6-8.1-9-2, AS AMENDED BY P.L.242-2015, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2020]: Sec. 2. (a) If the department finds that a person has paid more tax for a taxable year than is legally due, the department shall apply the amount of the excess against any amount of that same

tax that is assessed and is currently due. The department may then apply any remaining excess against any of the listed taxes that have been assessed against the person and that are currently due. Subject to subsection (c), if any excess remains after the department has applied the overpayment against the person's tax liabilities, the department shall either refund the amount to the person or, at the person's request, credit the amount to the person's future tax liabilities.

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

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

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

(2) the overpayment:

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

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

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

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

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

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

The department shall apply the overpayment to the person's liability for taxes that have been assessed and are currently due as provided in subsection (a) and apply any remaining overpayment as a credit or credits in satisfaction of the person's liability for listed taxes in taxable years beginning after December 31, 2008. If the person, including any

successor to the person's interest in the overpayment, does not have sufficient liability for listed taxes against which to credit all the remaining overpayment in a taxable year beginning after December 31, 2008, and ending before January 1, 2019, the taxpayer is not entitled for any taxable year ending after December 31, 2018, to have any part of the remaining overpayment applied, refunded, or credited to the person's liability for listed taxes. If an overpayment or part of an overpayment is required to be applied as a credit under this subsection to the person's liability for listed taxes for a taxable year beginning after December 31, 2008, and has not been determined by the department or a court to meet the conditions of subdivision (3) by the due date of the person's return for a listed tax for a taxable year beginning after December 31, 2008, the department shall refund to the person that part of the overpayment that should have been applied as a credit for such taxable year within ninety (90) days of the date that the department or a court makes the determination that the overpayment meets the conditions of subdivision (3). However, the department may establish a program to refund small overpayment amounts that do not exceed the threshold dollar value established by the department rather than crediting the amounts against tax liability accruing for a taxable year after December 31, 2008. A person that receives a refund or credit under this subsection shall file a report with the department in the form and in the schedule specified by the department that identifies under penalties of perjury the home state or other jurisdiction where the income subject to the refund or credit was reported as income attributable to that state or jurisdiction.

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

(1) the date the refund claim is filed, if the refund claim is filed before July 1, 2015; or

(2) for a refund claim filed after June 30, 2015, the latest of:

(A) the date the tax payment was due;

(B) the date the tax was paid; or

(C) July 1, 2015;

at the rate established under IC 6-8.1-10-1 until a date, determined by the department, that does not precede by more than thirty (30) days, the date on which the refund or credit is made. As used in this subsection, "refund claim" includes a return and an amended return that indicates an overpayment of tax. For purposes of this subsection only, the due date for the payment of the state gross retail or use tax, the oil

inspection fee, and the petroleum severance tax is December 31 of the calendar year that contains the taxable period for which the payment is remitted. Notwithstanding any other provision, no interest is due for any time before the filing of a tax return for the period and tax type for which a taxpayer files a refund claim.

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

(1) the receipt of the goods subject to the excise taxes, as reported by the person, or the person's assignors or predecessors, on excise tax returns filed with the department; and

(2) the withdrawal of the same goods from a storage facility operated under 19 U.S.C. 1555(a).

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

(1) that were paid by the person as described in subsection (e)(2);

(2) that are duplicative of excise taxes paid by the person as described in subsection (e)(1); and

(3) for which the person has not previously claimed a credit.

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

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

(1) expand employment; or

(2) assist in retaining employment within Indiana.

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

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

SECTION 48. IC 6-8.1-10-5, AS AMENDED BY P.L.293-2013(ts), SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021]: Sec. 5. ~~(a) If a person makes a tax payment with a check, credit card, debit card, or electronic funds transfer, and the department is unable to obtain payment on the check, credit card, debit card, or electronic funds transfer for its full face amount when the check, credit card, debit card, or electronic funds transfer is presented for payment through normal banking channels, a penalty of ten percent (10%) of the unpaid tax or the value of the check, credit card, debit card, or electronic funds transfer, whichever is smaller, is imposed.~~

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

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

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

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

(1) a check;

(2) a credit card;

(3) a debit card;

(4) an electronic funds transfer; or

(5) any other instrument in payment by any commercially allowable means.

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

(1) notify the person that the department was unable to obtain payment on the full amount of the payment instrument; and

(2) assess a penalty of thirty-five dollars ($35) not more than thirty (30) days after the department was unable to obtain payment.

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

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

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

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

(e) The following apply:

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

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

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

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

(g) The following apply:

(1) If the penalty under subsection (b)(2) relates to an attempted payment of a liability for which the department has filed a tax warrant under IC 6-8.1-8-2 or for which the department files a tax warrant under IC 6-8.1-8-2 prior to the expiration of the period specified in subsection (e), the tax warrant may include the amount of the penalty provided in this section prior to the expiration of the period specified in subsection (e).

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

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

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

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

(h) The following apply:

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

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

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

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

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

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

(i) If a person has been subject to a penalty under this section

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

SECTION 49. IC 6-8.1-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. **(a)** The department shall appoint an employee to serve as a taxpayer rights advocate ~~who~~ **whose office** shall **act as an intermediary between taxpayers and the department to** facilitate the resolution of taxpayer complaints and problems ~~including unsatisfactory treatment of taxpayers by department employees.~~ **not resolved through the normal administrative channels or operational procedures within the department.**

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

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

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

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

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

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

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

SECTION 50. IC 6-8.1-16.3-5 IS REPEALED [EFFECTIVE JULY 1, 2020]. ~~Sec. 5. (a) As used in this section, "fund" means the department of state revenue pilot program fund established by subsection (b).~~

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

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

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

~~(1) Appropriations made by the general assembly.~~

~~(2) Donations made or gifts donated to the fund.~~

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

~~(e) The fund shall be administered by the department.~~

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

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

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

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

SECTION 51. IC 6-8.1-16.3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2020]: **Sec. 5.5. (a) Any balance remaining on June 30, 2020, in the state revenue pilot program fund established by section 5 of this chapter (before its repeal) is transferred to the motor carrier regulation fund established by IC 8-2.1-23-1.**

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

SECTION 52. IC 8-2.1-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. Money in the motor carrier regulation fund does not revert to the state general fund. ~~However, if the amount of money in the fund at the end of a fiscal year exceeds five hundred thousand dollars ($500,000), the treasurer of state shall transfer the excess from the fund to the motor vehicle highway account established in IC 8-14-1.~~

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

SECTION 54. [EFFECTIVE JANUARY 1, 2021] **(a) IC 6-8.1-10-5, as amended by this act, shall be effective for attempted payments made after December 31, 2020.**

(b) This SECTION expires January 1, 2024.

SECTION 55. [EFFECTIVE APRIL 1, 2020] **(a) IC 6-8.1-9-1(k), as added by this act, shall apply to extend the statute of limitations for refund claims described in IC 6-8.1-9-1(k):**

(1) that have expired before April 1, 2020, under IC 6-8.1-9-1(a); or

(2) that would otherwise expire after March 31, 2020, under IC 6-8.1-9-1(a);

to December 31, 2020.

(b) This SECTION expires July 1, 2021.

SECTION 56. [EFFECTIVE JULY 1, 2009 (RETROACTIVE)] **IC 6-8.1-5-2(g), as amended by this act, is intended to be a clarification of the law and not a substantive change in the law and as such shall be applied for purposes of erroneous refunds issued after June 30, 2009.**

SECTION 57. **An emergency is declared for this act.**

COMMITTEE REPORT

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

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

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

(1) Function as the chief officer for GIS matters for state agencies.

(2) Review and either veto or adopt both the:

(A) state's GIS data standards; and

(B) statewide data integration plan;

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

(3) Act as the administrator of:

(A) the state standards and policies concerning GIS data and framework data; and

(B) the statewide data integration plan.

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

(A) GIS policies developed for state agencies; and

(B) data exchange agreements involving an entity other than a state agency.

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

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

(A) requesting grants available for the acquisition or enhancement of GIS resources; and

(B) preparing funding proposals for grants to enhance coordination and implementation of GIS.

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

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

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

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

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

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

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

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

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

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

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

(B) IGIC.

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

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

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

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

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

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

(b) If an extension or an amendment to:

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

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

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

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

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

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

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

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

(2) based on the agreement, in the case of an agreement described in subsection (a)(2).

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

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

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

(b) If an extension or an amendment to:

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

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

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

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

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

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

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

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

Page 6, delete lines 16 through 18.

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

Page 20, delete line 33.

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

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

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

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

Page 36, delete lines 13 through 42.

Page 37, delete lines 1 through 31.

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

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

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

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

Delete pages 46 through 55.

Page 56, delete lines 1 through 25.

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

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

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

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

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

during".

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

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

Page 57, line 33, delete "information".

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

Page 57, line 36, delete "day".

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

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

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

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

(b) The term does not refer to:

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

(2) an assignment of an account receivable.".

Delete page 61.

Page 62, delete lines 1 through 39.

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

Page 62, reset in roman line 42.

Page 63, reset in roman lines 1 through 17.

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

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

Page 63, reset in roman lines 36 through 39.

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

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

Page 63, reset in roman lines 41 through 42.

Page 64, reset in roman lines 1 through 2.

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

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

Page 64, reset in roman lines 4 through 12.

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

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

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

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

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

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

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

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

(A) begins after December 31, 2017;

(B) ends after August 12, 2018; or

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

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

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

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

partnership level; or

(B) December 31, 2021.

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

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

(A) This section.

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

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

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

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

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

Page 78, line 33, strike "or".

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

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

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

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

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

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

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

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

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

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

(1) a check;

(2) a credit card;

(3) a debit card;

(4) an electronic funds transfer; or

(5) any other instrument in payment by any commercially allowable means.

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

(1) notify the person that the department was unable to obtain payment on the full amount of the payment instrument; and

(2) assess a penalty of thirty-five dollars ($35) not more than thirty (30) days after the department was unable to obtain payment.

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

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

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

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

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

(e) The following apply:

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

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

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

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

(g) The following apply:

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

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

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

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

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

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

(h) The following apply:

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

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

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

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

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

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

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

funds.".

Page 83, delete lines 1 through 11.

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

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

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

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

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

~~(1) Appropriations made by the general assembly.~~

~~(2) Donations made or gifts donated to the fund.~~

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

~~(e) The fund shall be administered by the department.~~

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

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

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

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

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

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

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

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

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

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

Page 84, delete lines 1 through 5.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 408 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

SENATE MOTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) an individual filing a single return; ~~or~~

(2) a married couple filing a joint return; **or**

(3) for taxable years beginning after December 31, 2019, a married individual filing a separate return.

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

(1) The following amount:

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

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

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

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

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

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

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

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

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

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

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

(2) qualified K-12 education expenses.

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

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

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

(2) the taxpayer's electronic funds transfer is initiated, for contributions that are submitted to a college choice 529 education savings plan by electronic funds transfer.

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

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

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

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

(1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or

(2) the excess of:

(A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over

(B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

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

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

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

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

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

(2) account closings for the taxable year.".

Renumber all SECTIONS consecutively.

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

FORD J.D.

SENATE MOTION

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

Page 3, delete lines 36 through 42.

Delete page 4.

Page 5, delete lines 1 through 35.

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

Page 77, between lines 41 and 42, begin a new paragraph and insert:

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

Renumber all SECTIONS consecutively.

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

HOLDMAN