First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 417

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.5-5-26, AS AMENDED BY P.L.137-2022, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 26. (a) Sales of tangible personal property by an organization ~~described in section 25(a)(1) of this chapter~~ are exempt from the state gross retail tax ~~if:~~ **if either of the following apply:**

(1) ~~the organization~~ **The organization:**
(A) is described in section 25(a)(1)(A) through 25(a)(1)(C) of this chapter, section 25(a)(1)(D)(i) through 25(a)(1)(D)(iii) of this chapter, or section 25(a)(1)(D)(ix) of this chapter;
(B) makes the sale to make money to carry on a not-for-profit purpose; and
(C) did not make more than one hundred thousand dollars ($100,000) in sales in the current calendar year or the previous calendar year.

(2) ~~the organization does not make more than twenty thousand dollars ($20,000) in sales in a calendar year.~~ **The organization:**
(A) is described in section 25(a)(1)(D)(iv) through 25(a)(1)(D)(viii) of this chapter; or
(B) is a youth organization focused on agriculture.

Once sales of an organization **that meets the qualifications under subdivision (1), but does not meet the qualifications under**

subdivision (2), exceed the amount described in subdivision ~~(2),~~ **(1),** the organization is required to collect state gross retail tax on sales on an ongoing basis for the remainder of the calendar ~~year.~~ **year and each calendar year thereafter until the organization makes less than one hundred thousand dollars ($100,000) in sales for two (2) consecutive years.**

(b) For purposes of subsection (a), the sales of an organization include sales made by all units operating under the organization's registration pursuant to section 25(c) of this chapter.

(c) If the qualifications of subsection (a) are not met, sales of tangible personal property by an organization described in section 25(a)(1) of this chapter are exempt from the state gross retail tax, if:

(1) the organization is not operated predominantly for social purposes;

(2) the property sold is designed and intended primarily either for the organization's educational, cultural, or religious purposes, or for improvement of the work skills or professional qualifications of the organization's members; and

(3) the property sold is not designed or intended primarily for use in carrying on a private or proprietary business.

(d) Sales of tangible personal property by a public library, or a charitable organization described in section 25(a)(1) of this chapter formed to support a public library, are exempt from the state gross retail tax if the property sold consists of:

(1) items in the library's circulated and publicly available collections, including items from the library's holdings; or

(2) items that would typically be included in the library's circulated and publicly available collections and that are donated by individuals or organizations to a public library or to a charitable organization described in section 25(a)(1) of this chapter formed to support a public library.

The exemption provided by this subsection does not apply to any other sales of tangible personal property by a public library.

(e) The exemption provided by this section does not apply to an accredited college or university's sales of books, stationery, haberdashery, supplies, or other property.

(f) To obtain the exemption provided by this section, a taxpayer must follow the procedures set forth in section 25(c) of this chapter.

SECTION 2. IC 6-3.6-6-2.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 2.9. (a) A county fiscal body may adopt an ordinance to impose a tax rate for county staff expenses of the state judicial**

system in the county. The tax rate must be in increments of one-hundredth of one percent (0.01%) and may not exceed two-tenths of one percent (0.2%). The tax rate may not be in effect for more than twenty-five (25) years.

(b) The revenue generated by a tax rate imposed under this section must be distributed directly to the county before the remainder of the expenditure rate revenue is distributed. The revenue shall be maintained in a separate dedicated county fund and used by the county only for paying for county staff expenses of the state judicial system in the county.

(c) The local income tax revenue budgeted and spent under this section by each county may not comprise more than fifty percent (50%) of the county's total budgeted operational staffing expenses related to the state judicial system in any given year.

(d) Counties that enact an ordinance to impose a tax rate under this section shall annually report the following information for the prior calendar year by May 1 to the justice reinvestment advisory council established by IC 33-38-9.5-2:

(1) The types of court positions paid with local income tax revenue generated by this section.

(2) The number of court positions by type paid for with local income tax revenue generated by this section.

(3) The average salary by type of court position paid for with local income tax revenue generated by this section.

(4) The county's total budgeted and actual staffing expenses related to the state judicial system.

(5) The county's portion of local income tax revenue that was:

(A) budgeted for staffing expenses related to the state judicial system; and

(B) actually spent on staffing expenses.

(e) The justice reinvestment advisory council shall annually compile and report to the legislative council prior to July 1 of each year the information required in subsection (d) for each county. The report must be in an electronic format under IC 5-14-6.

SECTION 3. IC 6-8.1-6-3, AS AMENDED BY P.L.211-2007, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) A document, including a form, a return, a payment, or a writing of any type, which must be filed with the department by a prescribed date, is considered filed:

(1) in cases where it is mailed through the United States mail, on the date displayed on the post office cancellation mark stamped on the document's wrapper;

(2) in cases where it is delivered to the department in any manner other than through the United States mail, on the date on which the department physically receives the document; or

(3) in cases where a payment is made by an electronic fund transfer, on the date the taxpayer issues the payment order for the electronic fund transfer.

(b) If a document is sent through the United States mail by registered mail, certified mail, or certificate of mailing, then the date of the registration, certification, or certificate, as evidenced by any record authenticated by the United States Post Office, is considered the postmark date.

(c) If a document is mailed to the department through the United States mail and is physically received after the appropriate due date without a legible correct postmark, the person who mailed the document will be considered to have filed the document on or before the due date if the person can show by reasonable evidence to the department that the document was deposited in the United States mail on or before the due date.

(d) If a document is mailed to, but not received by, the department, the person who mailed the document will be considered to have filed the document on or before the due date if the person can show by reasonable evidence to the department that the document was deposited in the United States mail on or before the due date and if the person files with the department a duplicate document within thirty (30) days after the date the department sends notice that the document was not received.

(e) If a document is received after the deadline, the department shall consider the document to be received on time if the postmark date is up to three (3) business days (not including a day falling on Saturday, Sunday, a national legal holiday recognized by the federal government, or a statewide holiday) after the date of the deadline.

SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) IC 6-2.5-5-26, as amended by this act, is effective for retail transactions occurring after June 30, 2023.**

(b) For purposes of IC 6-2.5-5-26(a), as amended by this act, an organization shall register as a retail merchant and collect state gross retail tax beginning July 1, 2023, if the sales made by the organization in the calendar year:

(1) beginning after December 31, 2022, and ending before January 1, 2024; or

(2) beginning after December 31, 2023, and ending before

January 1, 2025;
exceed one hundred thousand dollars ($100,000).
(c) This SECTION expires January 1, 2025.
SECTION 5. **An emergency is declared for this act.**

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: __________ Time: __________