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

SENATE ENROLLED ACT No. 419

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.5-5-2, AS AMENDED BY P.L.239-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) Transactions involving agricultural machinery, tools, and equipment, including material handling equipment purchased for the purpose of transporting materials into activities described in this subsection from an onsite location, are exempt from the state gross retail tax if the person acquiring that property acquires it for the person's direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

(1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;

(2) the person acquiring the property is occupationally engaged in the production of food or commodities which the person sells for human or animal consumption or uses for further food and food ingredients or commodity production; and

(3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

(c) Transactions involving agricultural machinery or equipment, including material handling equipment purchased for the purpose of transporting materials into activities described in this subsection from

an onsite location, are exempt from the state gross retail tax if the person acquiring the property:

(1) acquires it for the person's direct use in:

(A) the direct application of fertilizers, pesticides, fungicides, seeds, and other tangible personal property; or

(B) the direct extraction, harvesting, or processing of agricultural commodities;

for consideration; and

(2) is occupationally engaged in providing the services described in subdivision (1) on property that is:

(A) owned or rented by another person occupationally engaged in agricultural production; and

(B) used for agricultural production.

(d) If a transaction:

(1) involving agricultural machinery, tools, or equipment qualifies for an exemption under subsection (a), (b), or (c);

(2) involves agricultural machinery, tools, or equipment included on the person's business tangible personal property tax return, or, if IC 6-1.1-3-7.2(f) applies, agricultural machinery, tools, or equipment that would otherwise be included on a business tangible personal property tax return; and

(3) the agricultural machinery, tools, or equipment is predominately used for exempt purposes under subsection (a), (b), or (c);

the entire transaction is exempt from the application of the state gross retail tax regardless of whether the person also uses or intends to use the property for a nonexempt purpose.

(e) The amount of state gross retail tax or use tax imposed on transactions involving agricultural machinery, tools, or equipment that meet the qualifications of subsection (d)(1) and (d)(2), but not subsection (d)(3), is prorated based on the purchaser's nonexempt use.

(f) If agricultural machinery, tools, or equipment described in this section is purchased in Indiana but is used outside of Indiana, subsection (d)(2) shall apply as if the agricultural machinery, tools, or equipment was located in Indiana.

(g) The department may amend the administrative rules to conform with subsection (d).

SECTION 2. IC 6-2.5-5-8.5, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2023 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 8.5. Transactions ~~involving electrical energy, natural or artificial gas, water, steam, or steam heating service sold or furnished by a power subsidiary or a person engaged as a public utility~~ are exempt from the state gross retail tax when:

(1) ~~the~~ **a** power subsidiary or person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the services or commodities listed in IC 6-2.5-4-5;

(2) ~~the~~ **a** power subsidiary or person sells the services or commodities listed in IC 6-2.5-4-5 to another public utility or power subsidiary or a person described in IC 6-2.5-4-6; or

(3) ~~the~~ **a** power subsidiary or person sells the services or commodities listed in IC 6-2.5-4-5 and all of the following conditions are satisfied:

(A) The services or commodities are sold to a business that:

(i) relocates all or part of its operations to a facility; or

(ii) expands all or part of its operations in a facility;

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)), or a qualified military base enhancement area established under IC 36-7-34.

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the ~~operation~~ **operations** that relocated to the facility, or expanded in the facility, commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

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

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

(ii) The business is a United States Department of Defense contractor.

(iii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

(E) In the case of a business that uses the services and

commodities in a qualified military base enhancement area established under IC 36-7-34-4(2), the business must satisfy at least one (1) of the following criteria:

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

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

~~However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.~~

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 3. IC 6-2.5-5-10.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 10.7. (a) This section does not apply to tangible personal property that:**

(1) is used to store or consume usable energy, electricity, or heat;

(2) is used to convey, transfer, or alter generated electricity; or

(3) will be used to produce energy for the purchaser's residential use, regardless of whether any of the energy produced may be sold to a public utility or power subsidiary.

(b) As used in this section, "solar energy system" means any device that converts solar energy to a form of usable energy with an originally rated nameplate production capacity of at least two (2) megawatts.

(c) As used in this section, "wind energy system" means any

device, including a wind turbine, windmill, and wind charger, that converts wind energy to a form of usable energy with an originally rated nameplate production capacity of at least two (2) megawatts.

(d) A transaction involving tangible personal property is exempt from the state gross retail tax if the:

(1) tangible personal property is a component of a solar energy system or wind energy system; and

(2) person acquiring the tangible personal property is a:

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

(B) power subsidiary (as defined in IC 6-2.5-1-22.5) that furnishes or sells electrical energy to a power utility described in clause (A); or

(C) business that furnishes or sells electrical energy to a public utility described in clause (A), to a power subsidiary described in clause (B), or to a renewable utility grade solar electricity or wind facility that is used to generate electricity for resale to consumers or wholesalers.

SECTION 4. IC 6-2.5-8-3 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 3. (a) A manufacturer or wholesaler may register with the department as a purchaser of property in exempt transactions. A manufacturer or wholesaler wishing to register must apply in the same manner and pay the same fee as a retail merchant under section 1 of this chapter.~~

~~(b) Upon receiving the application and fee, the department may issue a manufacturer's or wholesaler's certificate for each place of business listed on the application. Each certificate shall contain a serial number and the location of the place of business for which it is issued.~~

SECTION 5. IC 6-2.5-8-5, AS AMENDED BY P.L.111-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A certificate issued under section ~~3 or~~ 4 of this chapter is valid so long as the business or exempt organization is in existence.

SECTION 6. IC 6-2.5-8-7, AS AMENDED BY P.L.156-2020, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The department may, for good cause, revoke a certificate issued under section 1 ~~3,~~ or 4 of this chapter. However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate under this subsection. Good cause for revocation may include the following:

(1) Failure to:

(A) file a return required under this chapter or for any tax collected for the state in trust; or

(B) remit any tax collected for the state in trust.

(2) Being charged with a violation of any provision under IC 35.

(3) Being subject to a court order under IC 7.1-2-6-7, IC 32-30-6-8, IC 32-30-7, or IC 32-30-8.

(4) Being charged with a violation of IC 23-15-12.

(5) Operating as a retail merchant where the certificate issued under section 1 of this chapter could have been denied under section 1(e) of this chapter prior to its issuance.

The department may revoke a certificate before a criminal adjudication or without a criminal charge being filed. If the department gives notice of an intent to revoke based on an alleged violation of subdivision (2), the department shall hold a public hearing to determine whether good cause exists. If the department finds in a public hearing by a preponderance of the evidence that a person has committed a violation described in subdivision (2), the department shall proceed in accordance with subsection (i) (if the violation resulted in a criminal conviction) or subsection (j) (if the violation resulted in a judgment for an infraction).

(b) The department shall revoke a certificate issued under section 1 ~~3~~, or 4 of this chapter if, for a period of three (3) years, the certificate holder fails to:

(1) file the returns required by IC 6-2.5-6-1; or

(2) report the collection of any state gross retail or use tax on the returns filed under IC 6-2.5-6-1.

However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate.

(c) The department may, for good cause, revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

(1) the certificate holder is subject to an innkeeper's tax under IC 6-9; and

(2) a board, bureau, or commission established under IC 6-9 files a written statement with the department.

(d) The statement filed under subsection (c) must state that:

(1) information obtained by the board, bureau, or commission under IC 6-8.1-7-1 indicates that the certificate holder has not complied with IC 6-9; and

(2) the board, bureau, or commission has determined that significant harm will result to the county from the certificate holder's failure to comply with IC 6-9.

(e) The department shall revoke or suspend a certificate issued under section 1 of this chapter after at least five (5) days notice to the

certificate holder if:

(1) the certificate holder owes taxes, penalties, fines, interest, or costs due under IC 6-1.1 that remain unpaid at least sixty (60) days after the due date under IC 6-1.1; and

(2) the treasurer of the county to which the taxes are due requests the department to revoke or suspend the certificate.

(f) The department shall reinstate a certificate suspended under subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid or the county treasurer requests the department to reinstate the certificate because an agreement for the payment of taxes and any penalties due under IC 6-1.1 has been reached to the satisfaction of the county treasurer.

(g) The department shall revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if the department finds in a public hearing by a preponderance of the evidence that the certificate holder has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4.

(h) If a person makes a payment for the certificate under section 1 ~~or 3~~ of this chapter with a check, credit card, debit card, or electronic funds transfer, and the department is unable to obtain payment of 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, 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 five (5) days after the notice is mailed to pay the fee in cash, by certified check, or other guaranteed payment. If the person fails to make the payment within the five (5) day period, the department shall revoke the certificate.

(i) If the department finds in a public hearing by a preponderance of the evidence that a person has a conviction for an offense under IC 35-48-4 and the conviction involved the sale of or the offer to sell, in the normal course of business, a synthetic drug (as defined in IC 35-31.5-2-321), a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)), a controlled substance analog (as defined in IC 35-48-1-9.3), or a substance represented to be a controlled substance (as described in IC 35-48-4-4.6) by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

(1) shall suspend the registered retail merchant certificate for the place of business for one (1) year; and

(2) may not issue another retail merchant certificate under section 1 of this chapter for one (1) year to any person:

(A) that:

(i) applied for; or

(ii) made a retail transaction under;

the retail merchant certificate suspended under subdivision (1); or

(B) that:

(i) owned or co-owned, directly or indirectly; or

(ii) was an officer, a director, a manager, or a partner of;

the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).

(j) If the department finds in a public hearing by a preponderance of the evidence that a person has a judgment for a violation of IC 35-48-4-10.5 (before its repeal on July 1, 2019) as an infraction and the violation involved the sale of or the offer to sell, in the normal course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

(1) may suspend the registered retail merchant certificate for the place of business for six (6) months; and

(2) may withhold issuance of another retail merchant certificate under section 1 of this chapter for six (6) months to any person:

(A) that:

(i) applied for; or

(ii) made a retail transaction under;

the retail merchant certificate suspended under subdivision (1); or

(B) that:

(i) owned or co-owned, directly or indirectly; or

(ii) was an officer, a director, a manager, or a partner of;

the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).

(k) If the department finds in a public hearing by a preponderance of the evidence that a person has a conviction for a violation of IC 35-48-4-10(d)(3) and the conviction involved an offense committed by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

(1) shall suspend the registered retail merchant certificate for the place of business for one (1) year; and

(2) may not issue another retail merchant certificate under section 1 of this chapter for one (1) year to any person:

(A) that:

(i) applied for; or

(ii) made a retail transaction under;

the retail merchant certificate suspended under subdivision (1); or

(B) that:

(i) owned or co-owned, directly or indirectly; or

(ii) was an officer, a director, a manager, or a partner of;

the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).

SECTION 7. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2023, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: 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).

(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 income amount in this clause is equal to twenty thousand dollars ($20,000).

(D) Three thousand dollars ($3,000) for each exemption allowed under Section 151(c) of the Internal Revenue Code (as effective January 1, 2017) for an individual who is:

(i) an adopted child of the taxpayer; and

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

This amount is in addition to any amount subtracted under clause (A) or (B).

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 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. **For purposes of this subdivision:**

(A) if the taxpayer receives interest from a pass through entity, a regulated investment company, a hedge fund, or similar arrangement, the taxpayer will be considered to have acquired the obligation on the date the entity acquired the obligation;

(B) if ownership of the obligation occurs by means other than a purchase, the date of acquisition of the obligation shall be the date ownership of the obligation was transferred, except to the extent provided in clause (A), and if a portion of the obligation is acquired on multiple dates, the date of acquisition shall be considered separately for each portion of the obligation; and

(C) if ownership of the obligation occurred as the result of a refinancing of another obligation, the acquisition date shall be the date on which the obligation was refinanced.

(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) For taxable years beginning after December 31, 2019, and before January 1, 2021, add an amount of the deduction claimed under Section 62(a)(22) of the Internal Revenue Code.

(27) For taxable years beginning after December 31, 2019, for payments made by an employer under an education assistance program after March 27, 2020:

(A) add the amount of payments by an employer that are excluded from the taxpayer's federal gross income under Section 127(c)(1)(B) of the Internal Revenue Code; and

(B) deduct the interest allowable under Section 221 of the Internal Revenue Code, if the disallowance under Section 221(e)(1) of the Internal Revenue Code did not apply to the payments described in clause (A). For purposes of applying Section 221(b) of the Internal Revenue Code to the amount allowable under this clause, the amount under clause (A) shall not be added to adjusted gross income.

(28) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(29) For taxable years beginning after December 31, 2017, and before January 1, 2021, add an amount equal to the excess business loss of the taxpayer as defined in Section 461(l)(3) of the Internal Revenue Code. In addition:

(A) If a taxpayer has an excess business loss under this subdivision and also has modifications under subdivisions (15) and (17) for property placed in service during the taxable year, the taxpayer shall treat a portion of the taxable year modifications for that property as occurring in the taxable year the property is placed in service and a portion of the modifications as occurring in the immediately following taxable year.

(B) The portion of the modifications under subdivisions (15)

and (17) for property placed in service during the taxable year treated as occurring in the taxable year in which the property is placed in service equals:

(i) the modification for the property otherwise determined under this section; minus

(ii) the excess business loss disallowed under this subdivision;

but not less than zero (0).

(C) The portion of the modifications under subdivisions (15) and (17) for property placed in service during the taxable year treated as occurring in the taxable year immediately following the taxable year in which the property is placed in service equals the modification for the property otherwise determined under this section minus the amount in clause (B).

(D) Any reallocation of modifications between taxable years under clauses (B) and (C) shall be first allocated to the modification under subdivision (15), then to the modification under subdivision (17).

(30) Add an amount equal to the amount excluded from federal gross income under Section 108(f)(5) of the Internal Revenue Code. For purposes of this subdivision:

(A) if an amount excluded under Section 108(f)(5) of the Internal Revenue Code would be excludible under Section 108(a)(1)(B) of the Internal Revenue Code, the exclusion under Section 108(a)(1)(B) of the Internal Revenue Code shall take precedence; and

(B) if an amount would have been excludible under Section 108(f)(5) of the Internal Revenue Code as in effect on January 1, 2020, the amount is not required to be added back under this subdivision.

(31) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(32) Subtract the amount of an annual grant amount distributed to a taxpayer's Indiana education scholarship account under IC 20-51.4-4-2 that is used for a qualified expense (as defined in IC 20-51.4-2-9) or to an Indiana enrichment scholarship account under IC 20-52 that is used for qualified expenses (as defined in

IC 20-52-2-6), to the extent the distribution used for the qualified expense is included in the taxpayer's federal adjusted gross income under the Internal Revenue Code.

(33) For taxable years beginning after December 31, 2019, and before January 1, 2021, add an amount equal to the amount of unemployment compensation excluded from federal gross income under Section 85(c) of the Internal Revenue Code.

(34) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

(35) For taxable years beginning after December 31, 2021, add or subtract amounts related to specified research or experimental procedures as required under IC 6-3-2-29.

~~(35)~~ **(36)** 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 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. **For purposes of this subdivision:**

(A) if the taxpayer receives interest from a pass through entity, a regulated investment company, a hedge fund, or similar arrangement, the taxpayer will be considered to have acquired the obligation on the date the entity acquired the obligation;

(B) if ownership of the obligation occurs by means other than a purchase, the date of acquisition of the obligation shall be the date ownership of the obligation was transferred, except to the extent provided in clause (A), and if a portion of the obligation is acquired on multiple dates, the date of acquisition shall be considered separately for each portion of the obligation; and

(C) if ownership of the obligation occurred as the result of

a refinancing of another obligation, the acquisition date shall be the date on which the obligation was refinanced.

(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) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(18) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(19) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

(20) For taxable years beginning after December 31, 2021, subtract the amount of any:

(A) federal, state, or local grant received by the taxpayer; and

(B) discharged federal, state, or local indebtedness incurred by the taxpayer;

for purposes of providing or expanding access to broadband service in this state.

(21) For taxable years beginning after December 31, 2021, add or subtract amounts related to specified research or experimental procedures as required under IC 6-3-2-29.

~~(20)~~ **(22)** 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. **For purposes of this subdivision:**

(A) if the taxpayer receives interest from a pass through entity, a regulated investment company, a hedge fund, or similar arrangement, the taxpayer will be considered to have acquired the obligation on the date the entity acquired the obligation;

(B) if ownership of the obligation occurs by means other than a purchase, the date of acquisition of the obligation shall be the date ownership of the obligation was transferred, except to the extent provided in clause (A), and if a portion of the obligation is acquired on multiple dates, the date of acquisition shall be considered separately for each portion of the obligation; and

(C) if ownership of the obligation occurred as the result of a refinancing of another obligation, the acquisition date

shall be the date on which the obligation was refinanced.

(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 an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(17) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law

116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(18) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

(19) For taxable years beginning after December 31, 2021, add or subtract amounts related to specified research or experimental procedures as required under IC 6-3-2-29.

~~(19)~~ **(20)** 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. **For purposes of this subdivision:**

(A) if the taxpayer receives interest from a pass through entity, a regulated investment company, a hedge fund, or similar arrangement, the taxpayer will be considered to have acquired the obligation on the date the entity acquired the obligation;

(B) if ownership of the obligation occurs by means other than a purchase, the date of acquisition of the obligation shall be the date ownership of the obligation was transferred, except to the extent provided in clause (A), and if a portion of the obligation is acquired on multiple dates, the date of acquisition shall be considered separately for each portion of the obligation; and

(C) if ownership of the obligation occurred as the result of a refinancing of another obligation, the acquisition date shall be the date on which the obligation was refinanced.

(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 an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(17) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(18) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

(19) For taxable years beginning after December 31, 2021, add or subtract amounts related to specified research or experimental procedures as required under IC 6-3-2-29.

~~(19)~~ **(20)** 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. **For purposes of this subdivision:**

(A) if the taxpayer receives interest from a pass through entity, a regulated investment company, a hedge fund, or similar arrangement, the taxpayer will be considered to have acquired the obligation on the date the entity acquired the obligation;

(B) if ownership of the obligation occurs by means other than a purchase, the date of acquisition of the obligation shall be the date ownership of the obligation was transferred, except to the extent provided in clause (A), and if a portion of the obligation is acquired on multiple dates, the date of acquisition shall be considered separately for each portion of the obligation; and

(C) if ownership of the obligation occurred as the result of a refinancing of another obligation, the acquisition date shall be the date on which the obligation was refinanced.

(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) Add an amount equal to the remainder of:

(A) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(B) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(14) For taxable years beginning after December 31, 2017, and before January 1, 2021, add an amount equal to the excess business loss of the taxpayer as defined in Section 461(l)(3) of the

Internal Revenue Code. In addition:

(A) If a taxpayer has an excess business loss under this subdivision and also has modifications under subdivisions (3) and (5) for property placed in service during the taxable year, the taxpayer shall treat a portion of the taxable year modifications for that property as occurring in the taxable year the property is placed in service and a portion of the modifications as occurring in the immediately following taxable year.

(B) The portion of the modifications under subdivisions (3) and (5) for property placed in service during the taxable year treated as occurring in the taxable year in which the property is placed in service equals:

(i) the modification for the property otherwise determined under this section; minus

(ii) the excess business loss disallowed under this subdivision;

but not less than zero (0).

(C) The portion of the modifications under subdivisions (3) and (5) for property placed in service during the taxable year treated as occurring in the taxable year immediately following the taxable year in which the property is placed in service equals the modification for the property otherwise determined under this section minus the amount in clause (B).

(D) Any reallocation of modifications between taxable years under clauses (B) and (C) shall be first allocated to the modification under subdivision (3), then to the modification under subdivision (5).

(15) For taxable years ending after March 12, 2020, subtract an amount equal to the deduction disallowed pursuant to:

(A) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(B) Section 3134(e) of the Internal Revenue Code.

(16) For taxable years beginning after December 31, 2022, subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

(17) Except as provided in subsection (c), for taxable years beginning after December 31, 2022, add an amount equal to any deduction or deductions allowed or allowable in determining taxable income under Section 641(b) 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.

(18) For taxable years beginning after December 31, 2021, add or subtract amounts related to specified research or experimental procedures as required under IC 6-3-2-29.

~~(18)~~ **(19)** 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) For purposes of IC 6-3-2.1, IC 6-3-4-12, IC 6-3-4-13, and IC 6-3-4-15 for taxable years beginning after December 31, 2022, "adjusted gross income" of a pass through entity means the aggregate of items of ordinary income and loss in the case of a partnership or a corporation described in IC 6-3-2-2.8(2), or aggregate distributable net income of a trust or estate as defined in Section 643 of the Internal Revenue Code, whichever is applicable, for the taxable year modified as follows:

(1) Add the separately stated items of income and gains, or the equivalent items that must be considered separately by a beneficiary, as determined for federal purposes, attributed to the partners, shareholders, or beneficiaries of the pass through entity, determined without regard to whether the owner is permitted to exclude all or part of the income or gain or deduct any amount against the income or gain.

(2) Subtract the separately stated items of deductions or losses or items that must be considered separately by beneficiaries, as determined for federal purposes, attributed to partners, shareholders, or beneficiaries of the pass through entity and that are deductible by an individual in determining adjusted gross income as defined under Section 62 of the Internal Revenue Code:

(A) limited as if the partners, shareholders, and beneficiaries deducted the maximum allowable loss or deduction allowable for the taxable year prior to any amount deductible from the pass through entity; but

(B) not considering any disallowance of deductions resulting from federal basis limitations for the partner, shareholder, or beneficiary.

(3) Add or subtract any modifications to adjusted gross income that would be required both for individuals under subsection (a) and corporations under subsection (b) to the extent otherwise provided in those subsections, including amounts that are

allowable for which such modifications are necessary to account for separately stated items in subdivision (1) or (2).

(h) Subsections ~~(a)(35), (b)(20), (d)(19), (e)(19), or (f)(18)~~ **(a)(36), (b)(22), (d)(20), (e)(20), or (f)(19)** 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.

(i) 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.

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

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

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

(k) The following apply for purposes of this section:

(1) For purposes of subsections (b) and (f), if a taxpayer is an

organization that has more than one (1) trade or business subject to the provisions of Section 512(a)(6) of the Internal Revenue Code, the following rules apply for taxable years beginning after December 31, 2017:

(A) If a trade or business has federal unrelated business taxable income of zero (0) or greater for a taxable year, the unrelated business taxable income and modifications required under this section shall be combined in determining the adjusted gross income of the taxpayer and shall not be treated as being subject to the provisions of Section 512(a)(6) of the Internal Revenue Code if one (1) or more trades or businesses have negative Indiana adjusted gross income after adjustments.

(B) If a trade or business has federal unrelated business taxable income of less than zero (0) for a taxable year, the taxpayer shall apply the modifications under this section for the taxable year against the net operating loss in the manner required under IC 6-3-2-2.5 and IC 6-3-2-2.6 for separately stated net operating losses. However, if the application of modifications required under IC 6-3-2-2.5 or IC 6-3-2-2.6 results in the separately stated net operating loss for the trade or business being zero (0), the modifications that increase adjusted gross income under this section and remain after the calculations to adjust the separately stated net operating loss to zero (0) that result from the trade or business must be treated as modifications to which clause (A) applies for the taxable year.

(C) If a trade or business otherwise described in Section 512(a)(6) of the Internal Revenue Code incurred a net operating loss for a taxable year beginning after December 31, 2017, and before January 1, 2021, and the net operating loss was carried back for federal tax purposes:

(i) if the loss was carried back to a taxable year for which the requirements under Section 512(a)(6) of the Internal Revenue Code did not apply, the portion of the loss and modifications attributable to the loss shall be treated as adjusted gross income of the taxpayer for the first taxable year of the taxpayer beginning after December 31, 2022, and shall be treated as part of the adjusted gross income attributable to clause (A), unless, and to the extent, the loss and modifications were applied to

adjusted gross income for a previous taxable year, as determined under this article; and

(ii) if the loss was carried back to a taxable year for which the requirements under Section 512(a)(6) of the Internal Revenue Code applied, the portion of the loss and modifications attributable to the loss shall be treated as adjusted gross income of the taxpayer for the first taxable year of the taxpayer beginning after December 31, 2022, and for purposes of this clause, the inclusion of losses and modifications shall be in the same manner as provided in clause (B), unless, and to the extent, the loss and modifications were applied to adjusted gross income for a previous taxable year, as determined under this article.

(D) Notwithstanding any provision in this subdivision, if a taxpayer computed its adjusted gross income for a taxable year beginning before January 1, 2023, based on a reasonable interpretation of this article, the taxpayer shall be permitted to compute its adjusted gross income for those taxable years based on that interpretation. However, a taxpayer must continue to report any tax attributes for taxable years beginning after December 31, 2022, in a manner consistent with its previous interpretation.

(2) In the case of a corporation, other than a captive real estate investment trust, for which the adjusted gross income under this article is determined after a deduction for dividends paid under the Internal Revenue Code, the modifications required under this section shall be applied in ratio to the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) after deductions for dividends paid under the Internal Revenue Code compared to the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) before the deduction for dividends paid under the Internal Revenue Code.

(3) In the case of a trust or estate, the trust or estate is required to include only the portion of the modifications not passed through to beneficiaries.

(4) In the case of a taxpayer for which modifications are required to be applied against a separately stated net operating loss under IC 6-3-2-2.5 or IC 6-3-2-2.6, the modifications required under this section must be adjusted to reflect the required application of the modifications against a

separately stated net operating loss, in order to avoid the application of a particular modification multiple times.

SECTION 8. IC 6-3-1-11, AS AMENDED BY P.L.165-2021, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on ~~March 31, 2021.~~ **January 1, 2023.**

(b) Whenever the Internal Revenue Code is mentioned in this article, or in another provision of the Indiana Code that cites the definition of "Internal Revenue Code" provided in this section, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on ~~March 31, 2021,~~ **January 1, 2023,** that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent that a federal statute in the United States Code is enacted or amended in a title other than the Internal Revenue Code on or before ~~March 31, 2021,~~ **January 1, 2023,** and affects federal adjusted gross income, federal taxable income, federal tax credits, or other federal tax attributes, the federal statute shall be considered to be part of the Internal Revenue Code as amended and in effect on ~~March 31, 2021.~~ **January 1, 2023.** To the extent:

(1) the provisions of the Internal Revenue Code apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code, and in effect on ~~March 31, 2021,~~ **January 1, 2023;** and

(2) a federal statute in the United States Code that is enacted or amended in a title other than the Internal Revenue Code on or before ~~March 31, 2021,~~ **January 1, 2023,** and affects federal adjusted gross income, federal taxable income, federal tax credits, or other federal tax attributes applies to this article, regulations adopted under the federal statute of the United States Code and in effect on ~~March 31, 2021,~~ **January 1, 2023;**

shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before ~~March 31, 2021,~~ **January 1, 2023,** other than the federal 21st Century Cures Act (P.L. 114-255) and the federal Disaster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63), that is effective for any taxable year that began before

~~March 31, 2021,~~ **January 1, 2023,** and that affects:

(1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);

(2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);

(3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);

(4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

(5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter and IC 6-5.5-1-2.

(d) This subsection applies to a taxable year ending before January 1, 2013. The following provisions of the Internal Revenue Code that were amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are treated as though they were not amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312):

(1) Section 1367(a)(2) of the Internal Revenue Code pertaining to an adjustment of basis of the stock of shareholders.

(2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal Revenue Code pertaining the treatment of certain dividends of regulated investment companies.

(3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code pertaining to regulated investment companies qualified entity treatment.

(4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code pertaining to the modification of tax treatment of certain payments to controlling exempt organizations.

(5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code pertaining to the limitations on percentage depletion in the case of oil and gas wells.

(6) Section 451(i)(3) of the Internal Revenue Code pertaining to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy for qualified electric utilities.

(7) Section 954(c)(6) of the Internal Revenue Code pertaining to

the look-through treatment of payments between related controlled foreign corporation under foreign personal holding company rules.

The department shall develop forms and adopt any necessary rules under IC 4-22-2 to implement this subsection.

SECTION 9. IC 6-3-1-39 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: **Sec. 39. (a) The term "preliminary federal net operating loss" means:**

(1) in the case of a taxpayer that has a federal net operating loss for a taxable year, the taxpayer's federal net operating loss under Section 172 of the Internal Revenue Code; and

(2) in the case of a taxpayer that does not have a federal net operating loss for a taxable year:

(A) the taxpayer's:

(i) in the case of an individual, or, except as provided in item (iii) or (iv), a corporation, federal taxable income as defined in Section 63 of the Internal Revenue Code;

(ii) in the case of an estate or trust, federal taxable income as defined in Section 641(b) of the Internal Revenue Code;

(iii) in the case of an insurance company subject to the tax imposed under Section 831 of the Internal Revenue Code, federal taxable income as defined in Section 832(b) of the Internal Revenue Code; and

(iv) in the case of a life insurance company subject to the tax imposed under Section 801(a) of the Internal Revenue Code, federal life insurance company taxable income as defined in Section 801(b) of the Internal Revenue Code; plus

(B) any amounts that are disallowed for the taxpayer in computing a federal net operating loss for a taxable year, excluding any amounts used in determining a separately stated net operating loss; minus

(C) any amounts by which a federal net operating loss is increased for a taxable year, excluding any amounts used in determining a separately stated net operating loss.

For purposes of IC 6-3-2-2.5 and IC 6-3-2-2.6, a preliminary federal net operating loss described in subdivision (1) must be expressed as a negative number, and a preliminary federal net operating loss described in subdivision (2) may be expressed as a positive or negative number, subject to the determination under

subdivision (2).

(b) The term does not include a separately stated net operating loss, or any amounts used in determining a separately stated net operating loss.

SECTION 10. IC 6-3-1-40 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: **Sec. 40. (a) The term "separately stated net operating loss" means a federal net operating loss, or a portion of a federal net operating loss, determined according to the Internal Revenue Code that is:**

(1) computed as an allowable federal net operating loss with regard to a taxable year; and

(2) required to be carried forward or carried back under the Internal Revenue Code;

regardless of whether the taxpayer had federal taxable income for the year of the loss.

(b) A separately stated net operating loss for a taxable year includes:

(1) an excess business loss for the taxable year under Section 461(l) of the Internal Revenue Code;

(2) a federal net operating loss for a trade or business that is not allowable in the taxable year in which the loss was incurred as a result of the application of Section 512(a)(6)(C) of the Internal Revenue Code, with the federal net operating loss determined separately for each trade or business; and

(3) a federal net operating loss that is not affected by excess inclusion income under Section 860E of the Internal Revenue Code.

(c) For purposes of IC 6-3-2-2.5 and IC 6-3-2-2.6, a separately stated net operating loss must be expressed as a negative number.

SECTION 11. IC 6-3-2-1.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021 (RETROACTIVE)]: **Sec. 1.9. (a) This section applies only to a taxable year ending after June 30, 2021, and beginning before January 1, 2023.**

(b) For purposes of determining a net operating loss deduction under IC 6-3-2-2.5 or IC 6-3-2-2.6, the term "federal taxable income" means:

(1) in the case of an individual, or, except as provided in subdivision (3) or (4), a corporation, federal taxable income as defined in Section 63 of the Internal Revenue Code;

(2) in the case of an estate or trust, federal taxable income as

defined in Section 641(b) of the Internal Revenue Code;

(3) in the case of an insurance company subject to the tax imposed under Section 831 of the Internal Revenue Code, federal taxable income as defined in Section 832(b) of the Internal Revenue Code; and

(4) in the case of a life insurance company subject to the tax imposed under Section 801(a) of the Internal Revenue Code, federal life insurance company taxable income as defined in Section 801(b) of the Internal Revenue Code.

SECTION 12. IC 6-3-2-2.5, AS AMENDED BY P.L.1-2023, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: 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 the sum of **the following:**

(1) Subject to subsection (j), any separately stated net operating loss, plus each of the following, as applicable:

(A) In the case of an individual, any deductions allowable in determining the separately stated net operating loss for the taxable year, but not allowable in determining federal adjusted gross income.

(B) In the case of a separately stated net operating loss that results from an excess business loss (as defined in Section 461(l) of the Internal Revenue Code) for a taxable year beginning after December 31, 2022, the modifications required by IC 6-3-1-3.5, as set forth in subsection (d), that result in an increase of the taxpayer's Indiana adjusted gross income and that arise from federal deductions that resulted in the excess business loss.

(C) In the case of a separately stated net operating loss not described in clause (B), the modifications required by IC 6-3-1-3.5, as set forth in subsection (d). For purposes of this clause, a modification that results in an increase to a taxpayer's adjusted gross income is considered an addition, and a modification that results in a decrease to a taxpayer's adjusted gross income is considered a subtraction.

If the amount determined under this subdivision is less than

zero (0), the amount is an Indiana net operating loss.

~~(1)~~ **(2) Subject to subsection (j),** the taxpayer's **preliminary** federal net operating loss for a taxable year ~~as calculated under Section 172 of the Internal Revenue Code, adjusted for~~ **plus the sum of the following:**

(A) The application of certain modifications required by IC 6-3-1-3.5 as set forth in subsection ~~(d)(1) and,~~ **(d). For purposes of this clause, a modification that results in an increase to a taxpayer's adjusted gross income is considered an addition, and a modification that results in a decrease to a taxpayer's adjusted gross income is considered a subtraction.**

(B) In the case of an individual, ~~reduced by~~ any deductions allowable in determining the **preliminary** federal net operating loss for the taxable year, but not allowable in determining federal adjusted gross income.

If the amount determined under this subdivision is less than zero (0), the amount is an Indiana net operating loss. If the amount determined under this subdivision is equal to or greater than zero (0), the Indiana net operating loss under this subdivision is zero (0).

~~(2)~~ **(3)** The excess business loss deduction disallowed under IC 6-3-1-3.5(a)(29) and IC 6-3-1-3.5(f)(14). ~~and~~

~~(3) for taxable years beginning after December 31, 2020, 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)~~ **(1)** IC 6-3-1-3.5(a)(3);

~~(B)~~ **(2)** IC 6-3-1-3.5(a)(4);

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

~~(D) IC 6-3-1-3.5(a)(35);~~ **(4) IC 6-3-1-3.5(a)(36);**

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

~~(F) IC 6-3-1-3.5(f)(18).~~ **(5) IC 6-3-1-3.5(f)(19); and**

(6) any modification required under Section 172(d) or Section 512(b) of the Internal Revenue Code that is also required under IC 6-3-1-3.5 in determining Indiana adjusted gross income.

~~(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 sum of the taxpayer's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) if the taxpayer is an individual, or federal taxable income (as defined in Section 63 of the Internal Revenue Code) if the taxpayer is a trust or an estate for the taxable year in which the Indiana net operating loss is determined and the modifications otherwise required for federal net operating losses for the taxable year by Section 172(d) of the Internal Revenue Code. A modification that reduces a federal net operating loss shall be treated as a positive number for purposes of this subdivision, and a modification that increases a federal net operating loss shall be treated as a negative number for purposes of this subdivision.~~

(e) Subject to the limitations contained in ~~subsection (g),~~ **subsections (g), (h), and (i),** 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), but not in excess of the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryover year determined without regard to this section.

(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) **Except as provided in subsection (h),** 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, **or as required by subsection (i),** 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 **or reduced as required by subsection (i).**

(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 that arises after the application of Section 512(a)(6) of the Internal Revenue Code shall be allowable only:

(1) in a taxable year in which the trade or business that generated the federal net operating loss has an adjusted gross income greater than zero (0) as determined under IC 6-3-1-3.5; and

(2) against the trade's or business's adjusted gross income;

until the federal net operating loss from the trade or business has been exhausted. When the federal net operating loss from the trade or business has been exhausted, and subject to the limitations of this section, any remaining Indiana net operating loss shall be allowable against any trade or business of the taxpayer.

(i) The following rules apply to an Indiana net operating loss:

(1) If the taxpayer had a discharge of indebtedness that is excluded from gross income under Section 108(a)(1)(A), Section 108(a)(1)(B), or Section 108(a)(1)(C) of the Internal Revenue Code, the Indiana net operating loss shall be reduced by the remainder of:

(A) the amount of discharge of indebtedness excluded from federal gross income; minus

(B) the amount of discharge of indebtedness that reduced the tax attributes under Section 108(b)(2)(D), Section 108(b)(2)(E), or Section 108(b)(2)(F) of the Internal Revenue Code or was applied for federal tax purposes under Section 108(b)(5) of the Internal Revenue Code.

(2) Any reduction in an Indiana net operating loss shall be first applied to the Indiana net operating loss for the taxable year of the discharge, and then to any Indiana net operating loss carryovers.

(3) The provisions of Section 108(d)(6) and Section 108(d)(7) of the Internal Revenue Code shall apply to any discharge of indebtedness for purposes of determining the reduction of net operating losses under this section.

(j) The following apply for purposes of calculating an Indiana net operating loss under subsection (c):

(1) An itemized deduction shall be applied first under subsection (c)(1), and any amount not applied under subsection (c)(1) to make the net operating loss equal to zero (0) shall be applied under subsection (c)(2).

(2) In the case of a modification under IC 6-3-1-3.5 required to modify a separately stated net operating loss or a preliminary federal net operating loss, the amount of the modification may not exceed the amount prescribed under IC 6-3-1-3.5 and must be applied in the following order:

(A) Against a separately stated net operating loss under subsection (c)(1)(B), but only to the extent necessary to increase the separately stated net operating loss, after application of subsection (c)(1)(A) and (c)(1)(B), to an amount not greater than zero (0).

(B) Against a separately stated net operating loss under subsection (c)(1)(C), but only to the extent necessary to increase the separately stated net operating loss to an amount not greater than zero (0).

(C) To compute a modification to a preliminary federal net operating loss under subsection (c)(2).

SECTION 13. IC 6-3-2-2.6, AS AMENDED BY P.L.1-2023, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: 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 the sum of **the following:**

~~(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) and, for a nonresident individual, reduced by any deductions from Indiana sources allowable in determining the federal net operating loss for the taxable year, but not allowable in determining federal adjusted gross income;~~

(1) Subject to subsection (m), any separately stated net operating loss derived from sources within Indiana, plus each of the following, as applicable:

(A) In the case of an individual, any deductions allowable in determining the separately stated net operating loss for the taxable year that are derived from sources within Indiana but not allowable in determining federal adjusted gross income.

(B) In the case of a separately stated net operating loss that results from an excess business loss (as defined in Section 461(l) of the Internal Revenue Code) for a taxable year beginning after December 31, 2022, the modifications required by IC 6-3-1-3.5, as set forth in subsection (d)(1), that result in an increase of the taxpayer's Indiana adjusted gross income and that arise from federal deductions that resulted in the excess business loss.

(C) In the case of a separately stated net operating loss not described in clause (B), the modifications required by IC 6-3-1-3.5, as set forth in subsection (d)(1). For purposes of this clause, a modification that results in an increase to a taxpayer's adjusted gross income is considered an addition, and a modification that results in a decrease to a taxpayer's adjusted gross income is considered a subtraction.

If the amount determined under this subdivision is less than zero (0), the amount is an Indiana net operating loss.

(2) Subject to subsection (m), the taxpayer's preliminary federal net operating loss for a taxable year derived from sources within Indiana plus the sum of the following:

(A) The application of certain modifications required by IC 6-3-1-3.5 as set forth in subsection (d)(1). For purposes of this clause, a modification that results in an increase to a taxpayer's adjusted gross income is considered an addition, and a modification that results in a decrease to a taxpayer's adjusted gross income is considered a subtraction.

(B) In the case of an individual, any deductions derived from sources within Indiana and allowable in determining the preliminary federal net operating loss for the taxable year but not allowable in determining federal adjusted gross income.

If the amount determined under this subdivision is less than zero (0), the amount is an Indiana net operating loss. If the amount determined under this subdivision is equal to or greater than zero (0), the Indiana net operating loss under this subdivision is zero (0).

~~(2)~~ **(3)** The excess business loss deduction disallowed under IC 6-3-1-3.5(a)(29) and IC 6-3-1-3.5(f)(14) and incurred from Indiana sources. ~~and~~

~~(3) for taxable years beginning after December 31, 2020, 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)(35);~~ **IC 6-3-1-3.5(a)(36);**

~~(E) IC 6-3-1-3.5(b)(14);~~

~~(F) IC 6-3-1-3.5(b)(20);~~ **(E) IC 6-3-1-3.5(b)(22);**

~~(G) IC 6-3-1-3.5(d)(13);~~

~~(H) IC 6-3-1-3.5(d)(19);~~ **(F) IC 6-3-1-3.5(d)(20);**

~~(I) IC 6-3-1-3.5(e)(13);~~

~~(J) IC 6-3-1-3.5(e)(19);~~ **(G) IC 6-3-1-3.5(e)(20);**

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

~~(L) IC 6-3-1-3.5(f)(18).~~ **(H) IC 6-3-1-3.5(f)(19); and**

(I) any modification required under Section 172(d) or Section 512(b) of the Internal Revenue Code that is also required under IC 6-3-1-3.5 in determining Indiana adjusted gross income.

(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 sum of:~~

~~(A) either:~~

~~(i) the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, nonresident estate, or nonresident trust; or~~

~~(ii) the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer~~

~~is a nonresident individual;~~

~~for the taxable year in which the Indiana net operating loss is determined; and~~

~~(B) the modifications otherwise required for federal net operating losses for the taxable year of the Indiana net operating loss under Section 172(d) of the Internal Revenue Code or Section 512(b) of the Internal Revenue Code. A modification that reduces a federal net operating loss shall be treated as a positive number for purposes of this subdivision, and a modification that increases a federal net operating loss shall be treated as a negative number for purposes of this subdivision.~~

(e) Subject to the limitations contained in ~~subsection (g),~~ **subsections (g) through (l),** 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), but not in excess of the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryover year determined without regard to the deduction allowable under this section.

(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, **or as required by subsection (i),** 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 **or reduced as required by subsection (i).**

(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).~~

(i) Notwithstanding subsection (g), the following apply to an Indiana net operating loss:

(1) An Indiana net operating loss that arises after the application of Section 512(a)(6) of the Internal Revenue Code shall be allowable only:

(A) in a taxable year in which the trade or business that generated the federal net operating loss has an adjusted gross income derived from sources within Indiana greater than zero (0) as determined under IC 6-3-1-3.5; and

(B) against the trade's or business's adjusted gross income;

until the federal net operating loss from the trade or business has been exhausted. When the federal net operating loss from the trade or business has been exhausted, and subject to the limitations of this section, any remaining Indiana net operating loss shall be allowable against any trade or business of the taxpayer.

(2) In the case of a corporation described in section 2.8(2) of this chapter, an Indiana net operating loss deduction that is attributable to a preconversion year may not be greater than any net recognized built-in gain of the corporation as defined in Section 1374(d)(2) of the Internal Revenue Code derived from sources within Indiana.

(j) The following rules apply to an Indiana net operating loss:

(1) If the taxpayer had a discharge of indebtedness derived from Indiana sources that is excluded from gross income under Section 108(a)(1)(A), Section 108(a)(1)(B), or Section 108(a)(1)(C) of the Internal Revenue Code, the Indiana net operating loss shall be reduced by the remainder of:

(A) the amount of discharge of indebtedness excluded from

federal gross income derived from Indiana sources; minus

(B) the amount of discharge of indebtedness derived from Indiana sources that reduced the tax attributes under Section 108(b)(2)(D), Section 108(b)(2)(E), or Section 108(b)(2)(F) of the Internal Revenue Code or was applied for federal tax purposes under Section 108(b)(5) of the Internal Revenue Code.

(2) Any reduction in an Indiana net operating loss shall be first applied to the Indiana net operating loss for the taxable year of the discharge, and then to any Indiana net operating loss carryovers.

(3) The provisions of Section 108(d)(6) and Section 108(d)(7) of the Internal Revenue Code shall apply to any discharge of indebtedness for purposes of determining the reduction of net operating losses under this section.

(k) If a taxpayer has an ownership change for which the limitations of net operating losses under Section 382 of the Internal Revenue Code apply, the following shall apply:

(1) The amount a taxpayer may claim as an Indiana net operating loss deduction for a taxable year beginning after December 31, 2022, shall not exceed the limitation imposed by Section 382(b)(1) of the Internal Revenue Code multiplied by the apportionment percentage determined under section 2 of this chapter for the year in which the net operating loss is being claimed, unless otherwise provided by this subsection. The following apply:

(A) The limitation under this subdivision does not apply to adjusted gross income accrued in the portion of the taxable year on or before the change date (as defined in Section 382(j) of the Internal Revenue Code). For purposes of this subdivision, the adjusted gross income of the taxpayer shall be multiplied by the number of days in the taxable year on or before the change date to the number of days in the taxable year.

(B) For the portion of the taxable year after the change date (as defined in Section 382(j) of the Internal Revenue Code), the limitation under this subdivision shall be the limitation otherwise computed in this subdivision multiplied by the number of days in the taxable year after the change date to the number of days in the taxable year.

(2) If a taxpayer's Indiana net operating loss determined under this subsection is not fully deductible as a result of

subsection (e) for a taxable year, the limitation under this subsection for the following taxable year shall be increased by the net operating loss determined but not allowable as a deduction for the taxable year.

(3) If the continuity of business requirements under Section 382(c) of the Internal Revenue Code are not met, the Indiana net operating loss available for carryforward shall be zero (0) except to the extent of recognized built in gains derived from Indiana sources and amounts allowable under subdivision (2).

(4) If the limitation under Section 382(b) of the Internal Revenue Code is increased for a taxable year under Section 382(h) of the Internal Revenue Code, the limitation under subdivision (1) for that taxable year shall be increased by the federal increase in the net operating loss limitation for the taxable year multiplied by the Indiana apportionment percentage for that taxable year.

(5) For purposes of any other matters not provided for in subdivisions (1) through (4), the taxpayer and the department are required to apply the limitations and rules under Section 382 of the Internal Revenue Code in a manner consistent with this subsection.

(6) This subsection applies to a taxpayer regardless of whether the taxpayer actually has a federal net operating loss subject to Section 382 of the Internal Revenue Code or whether any federal net operating losses have been exhausted.

(l) If two (2) or more corporations file a consolidated return under IC 6-3-4-14 or a combined return under this chapter and have an Indiana net operating loss on a consolidated or combined basis for a taxable year:

(1) the Indiana net operating loss attributable to each corporation included in the consolidated or combined return shall be determined in a manner consistent with the attribution of federal net operating losses for consolidated groups as provided under the Internal Revenue Code and regulations promulgated thereunder;

(2) the application of Indiana net operating losses and reduction of losses attributable to each member shall be in a manner consistent with the application and reduction of federal net operating losses for consolidated groups as provided under the Internal Revenue Code and regulations promulgated thereunder; and

(3) the availability of net operating losses to each corporation

upon an ownership change or change in filing status shall be in a manner consistent with the availability and use of federal net operating losses for consolidated groups as provided under the Internal Revenue Code and regulations promulgated thereunder.

(m) The following apply for purposes of calculating an Indiana net operating loss under subsection (c):

(1) An itemized deduction shall be applied first under subsection (c)(1), and any amount not applied under subsection (c)(1) to make the net operating loss equal to zero (0) shall be applied under subsection (c)(2).

(2) In the case of a modification under IC 6-3-1-3.5 required to modify a separately stated net operating loss or a preliminary federal net operating loss, the amount of the modification may not exceed the amount prescribed under IC 6-3-1-3.5 and must be applied in the following order:

(A) Against a separately stated net operating loss under subsection (c)(1)(B), but only to the extent necessary to increase the separately stated net operating loss, after application of subsection (c)(1)(A) and (c)(1)(B), to an amount not greater than zero (0).

(B) Against a separately stated net operating loss under subsection (c)(1)(C), but only to the extent necessary to increase the separately stated net operating loss to an amount not greater than zero (0).

(C) To compute a modification to a preliminary federal net operating loss under subsection (c)(2).

SECTION 14. IC 6-3-2-2.8, AS AMENDED BY P.L.1-2023, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: Sec. 2.8. Notwithstanding any provision of IC 6-3-1 through IC 6-3-7, there shall be no tax on the adjusted gross income of the following:

(1) Any organization described in Section 501(a) of the Internal Revenue Code, except that any income of such organization which is subject to income tax under the Internal Revenue Code shall be subject to the tax under IC 6-3-1 through IC 6-3-7.

(2) Any corporation which is exempt from income tax under Section 1363 of the Internal Revenue Code and which complies with the requirements of IC 6-3-4-13. However, income of a corporation described under this subdivision that is subject to income tax under the Internal Revenue Code is subject to the tax under IC 6-3-1 through IC 6-3-7. A corporation will not lose its

exemption under this section because it fails to comply with IC 6-3-4-13 but it will be subject to the penalties provided by IC 6-8.1-10. Any corporation that is exempt from income tax under Section 1363 of the Internal Revenue Code and that makes an election under IC 6-3-2.1 for a taxable year shall be subject to tax as provided in IC 6-3-2.1 for the taxable year of the election.

(3) Banks and trust companies, national banking associations, savings banks, building and loan associations, and savings and loan associations.

(4) Insurance companies **or organizations offering nonprofit agricultural organization insurance coverage** subject to tax under any of the following:

(A) IC 27-1-18-2, including a domestic insurance company that elects to be taxed under IC 27-1-18-2.

(B) IC 27-1-2-2.3.

(C) IC 6-8-15, unless a nonprofit agricultural organization:

(i) files a notice of election with the insurance commissioner and the commissioner of the department on or before November 30 of a taxable year; and

(ii) states in the notice of election that the organization elects to be subject to the tax imposed under IC 6-3-1 through IC 6-3-7 for the taxable year.

(5) International banking facilities (as defined in Regulation D of the Board of Governors of the Federal Reserve System (12 CFR 204)).

SECTION 15. IC 6-3-2-21.7, AS AMENDED BY P.L.130-2018, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: Sec. 21.7. (a) This section applies to a qualified patent issued to a taxpayer after December 31, 2007.

(b) As used in this section, "invention" has the meaning set forth in 35 U.S.C. 100(a).

(c) As used in this section, "qualified patent" means:

(1) a utility patent issued under 35 U.S.C. 101; or

(2) a plant patent issued under 35 U.S.C. 161;

after December 31, 2007, for an invention resulting from a development process conducted in Indiana. The term does not include a design patent issued under 35 U.S.C. 171.

(d) As used in this section, "qualified taxpayer" means a taxpayer that on the effective filing date of the claimed invention:

(1) is: ~~either:~~

(A) an individual, ~~or corporation,~~ if the number of employees

of the individual, ~~or corporation,~~ including affiliates as specified in 13 CFR 121.103, does not exceed five hundred (500) persons; ~~or~~

(B) a corporation, if the number of employees of the corporation, including affiliates as specified in 13 CFR 121.103, does not exceed five hundred (500) persons; or

~~(B)~~ **(C)** a nonprofit organization or nonprofit corporation as specified in:

(i) 37 CFR 1.27(a)(3)(ii)(A) or 37 CFR 1.27(a)(3)(ii)(B); or

(ii) IC 23-17; and

(2) is domiciled in Indiana.

For purposes of subdivision (1)(A), an individual shall not be considered to meet the requirements under subdivision (1)(A) as a result of the individual's interest in a partnership, S corporation, trust, estate, or other entity. For purposes of subdivision (1)(B), a corporation includes a corporation described in section 2.8(2) of this chapter.

(e) Subject to subsections (g) and (h), in determining adjusted gross income or taxable income under IC 6-3-1-3.5 or IC 6-5.5-1-2, a qualified taxpayer is entitled to an exemption from taxation under IC 6-3-1 through IC 6-3-7 for the following:

(1) Licensing fees or other income received for the use of a qualified patent.

(2) Royalties received for the infringement of a qualified patent.

(3) Receipts from the sale of a qualified patent.

(4) Subject to subsection (f), income from the taxpayer's own use of the taxpayer's qualified patent to produce the claimed invention.

(f) The exemption provided by subsection (e)(4) may not exceed the fair market value of the licensing fees or other income that would be received by allowing use of the qualified taxpayer's qualified patent by someone other than the taxpayer. The fair market value referred to in this subsection must be determined in each taxable year in which the qualified taxpayer claims an exemption under subsection (e)(4).

(g) The total amount of exemptions claimed under this section by a qualified taxpayer in a taxable year may not exceed five million dollars ($5,000,000).

(h) A taxpayer may not claim an exemption under this section with respect to a particular qualified patent for more than ten (10) taxable years. Subject to the provisions of this section, the following amount of the income, royalties, or receipts described in subsection (e) from a particular qualified patent is exempt:

(1) Fifty percent (50%) for each of the first five (5) taxable years in which the exemption is claimed for the qualified patent.

(2) Forty percent (40%) for the sixth taxable year in which the exemption is claimed for the qualified patent.

(3) Thirty percent (30%) for the seventh taxable year in which the exemption is claimed for the qualified patent.

(4) Twenty percent (20%) for the eighth taxable year in which the exemption is claimed for the qualified patent.

(5) Ten percent (10%) each year for the ninth and tenth taxable year in which the exemption is claimed for the qualified patent.

(6) No exemption under this section for the particular qualified patent after the eleventh taxable year in which the exemption is claimed for the qualified patent.

(i) For purposes of subsection (h):

(1) a taxpayer is not required to claim the exemption under this section in the first year after which the patent was issued;

(2) the years in which the exemption under this section is claimed are not required to be consecutive taxable years;

(3) if a qualified taxpayer claims an exemption under this section on the taxpayer's return for a taxable year, the taxpayer may not file an amended return to reverse the claimed exemption unless the correct amount of the claimed exemption would have been zero (0);

(4) if a qualified taxpayer does not claim an exemption under this section on the taxpayer's return for a taxable year, the taxpayer may not file an amended return to claim an exemption; and

(5) if a qualified taxpayer files returns claiming an exemption under this section with regard to a particular qualified patent for more than ten (10) years, the statute of limitations for assessment of the qualified taxpayer and any entities claiming an exemption through a qualified taxpayer for taxable years after the tenth taxable year for which the exemption is claimed for the qualified patent shall not expire with regard to any claimed exemption.

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

~~(j)~~ **(k)** The department shall determine, record, and retain the North

American Industry Classification System code for each taxpayer claiming an exemption under this section.

(l) In the case of a corporation described in section 2.8(2) of this chapter that is a qualified taxpayer, the corporation may pass through the exemption under this section to its shareholders in proportion with their ownership of the corporation. For purposes of applying this subsection to a corporation described in section 2.8(2) of this chapter and its shareholders:

(1) the limitation on the exemption for qualified patent income shall be applied at the corporation level; and

(2) the period in which the exemption can be claimed and the years for which the exemption is claimed shall be determined at the corporation level.

SECTION 16. IC 6-3-2-27.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 27.5. (a) As used in this section, "compensation" means any wages, salaries, tips, or similar income that is subject to the withholding requirements under IC 6-3-4-8, or would otherwise be subject to the withholding requirements under IC 6-3-4-8 if not for the application of:**

(1) IC 6-3-4-8(d);

(2) IC 6-3-5; or

(3) this section.

(b) As used in this section, "professional athlete" means:

(1) an athlete, other than a team member (as defined in section 2.7(a)(4) of this chapter) or a race team member (as defined in section 3.2(a)(4) of this chapter), who performs services in a professional athletic event for compensation;

(2) a team member (as defined in section 2.7(a)(4) of this chapter) who has at least one (1) duty day in Indiana during a taxable year; or

(3) a race team member (as defined in section 3.2(a)(4) of this chapter) who has at least one (1) duty day in Indiana during a taxable year.

(c) As used in this section, "professional entertainer" means a person who performs services in the professional performing arts for compensation on a per-event basis.

(d) As used in this section, "public figure" means a person of prominence who performs services at discrete events, including speeches, public appearances, and similar events, for compensation on a per-event basis.

(e) As used in this section, "time and attendance system" means

a system:

(1) through which an employee is required, on a contemporaneous basis, to record the employee's work location for each day worked outside the state in which the employee's employment duties are primarily performed; and

(2) which is designed to allow the employer to allocate the employee's compensation for income tax purposes among all states in which the employee performs employment duties.

(f) Except as provided in subsection (j), compensation is exempt from the adjusted gross income tax imposed under this article and IC 6-3.6 if all of the following conditions are met:

(1) The individual is not a resident of Indiana at any time during the calendar year in which the employee performs employment duties.

(2) The individual receives compensation for employment duties performed by the individual in Indiana for thirty (30) days or less during the calendar year.

(3) The compensation is not paid for employment duties performed by the individual in the individual's capacity as a professional athlete, professional entertainer, or public figure.

(g) Except as otherwise provided in this section, an employer is not required to withhold taxes imposed under this article or IC 6-3.6 from compensation paid to an employee described in subsection (f). However, if the number of days that an employee performs employment duties in Indiana exceeds thirty (30) days, the employer shall withhold and remit tax to the state of Indiana from all compensation paid to the employee for every day on which the employee performed employment duties in Indiana, including the first thirty (30) days.

(h) The department may not require payment of any penalties otherwise applicable for a failure to deduct and withhold income taxes under IC 6-3-4-8, if, when making the determination of whether withholding was required, either of the following applied:

(1) The employer relied on a time and attendance system maintained by the employer specifically designed to allocate employee wages for income tax purposes among all taxing jurisdictions in which the employee performs employment duties for the employer.

(2) The employer did not maintain a time and attendance system and the employer relied on the employee's annual determination of the time the employee expected to spend performing employment duties in Indiana, if:

(A) the employer did not have actual knowledge of fraud on the part of the employee in making the determination; and

(B) the employer and the employee did not collude to evade taxation in making the determination.

An employer's maintaining of records as described in subdivision (1) does not preclude an employer's ability to rely on an employee's determination of the time the employee expected to spend performing employment duties in Indiana as described in subdivision (2) when making the determination of whether withholding is required.

(i) For purposes of this section:

(1) subject to subdivision (3), an employee shall be considered present and performing employment duties within Indiana if the employee performs more of the employee's employment duties within Indiana than in any other state during a particular day;

(2) any portion of the day during which an employee is in transit may not be considered in determining the location of the employee's performance of employment duties; and

(3) if an employee performs employment duties in the employee's state of residence and in only one (1) nonresident state during a particular day, the employee shall be considered to have performed more of the employee's employment duties in the nonresident state than in the state of residence for that day.

(j) The following apply for purposes of this section:

(1) If an individual receives compensation for employment duties performed by the individual both:

(A) in the individual's capacity as a professional athlete, professional entertainer, or public figure; and

(B) in some capacity other than the individual's capacity as a professional athlete, professional entertainer, or public figure;

the exemption under this section may not be applied to the portion of compensation described in clause (B).

(2) If an employee is working at a location other than a physical location of the employer, the employee shall be considered to be working in the state or states in which the services for the employer are performed, regardless of the physical location of the employer.

(3) If an individual performs employment duties in Indiana

for more than thirty (30) days during a calendar year, compensation received by the individual is not eligible for the exemption under this section.

(4) If an individual performs substantially similar job duties for an employer both while designated as an employee and in some capacity other than as an employee during a calendar year, the number of days for which the individual shall be considered to have worked in Indiana with regard to that employer must be determined by aggregating the days for which the individual performed duties for the employer, whether designated as an employee or not.

(5) If an employer or individual reasonably believes that an individual is an employee for a calendar year but the individual is later determined to not be an employee, the individual:

(A) is subject to tax under this article and IC 6-3.6 on any income that otherwise would have been exempt under this section; and

(B) is not subject to penalties under IC 6-3-4-4.1 or IC 6-8.1-10-2.1 based on the inclusion of amounts claimed as exempt under this section as income.

(6) If an individual is not a resident of Indiana, amounts paid for vacation, sick, personal, or any other type of leave may not be considered as compensation in Indiana, and any day for which a type of leave is used may not be considered as a day for which the individual performed services for an employer unless the individual performed services for the employer in Indiana on that day and the day would otherwise be counted as a day of services performed in Indiana under this section.

(7) The exemption provided under this section shall not apply to an individual's compensation that is deferred or delayed from a previous calendar year to a subsequent calendar year unless:

(A) the individual was exempt from taxation under this section on the compensation for the calendar year in which the compensation was earned; and

(B) the individual is not a resident of Indiana when the individual includes the compensation in the individual's federal gross income.

(k) Nothing in this section may be construed to prevent an individual from being considered a local taxpayer (as defined in IC 6-3.6-2-13(2)), regardless of whether the individual's

compensation is exempt under this section.

SECTION 17. IC 6-3-2-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 28. (a) The following definitions apply throughout this section:**

(1) "Health care sharing ministry" has the meaning set forth in IC 27-1-2.1-1.

(2) "Qualified health care sharing expenses" means the amount paid by a qualified individual for membership in a health care sharing ministry.

(3) "Qualified individual" means an individual who is:

(A) a resident of Indiana; and

(B) a member of a health care sharing ministry for at least one (1) month during a taxable year for which the qualified individual claims a deduction under this section.

(b) Each taxable year, a qualified individual is entitled to a deduction from the qualified individual's adjusted gross income for the taxable year equal to the total amount of qualified health care sharing expenses paid by the qualified individual during the taxable year.

(c) To receive the deduction allowed by this section, a qualified individual must claim the deduction on the qualified individual's annual state tax return or returns in the manner prescribed by the department. The qualified individual shall submit to the department any information that the department determines is necessary to calculate the amount of the deduction allowed by this section.

SECTION 18. IC 6-3-2-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022 (RETROACTIVE)]: **Sec. 29. (a) As used in this section, "specified research or experimental expenditures" means specified research or experimental expenditures (as defined in Section 174(b) of the Internal Revenue Code) that the taxpayer is required to charge to capital account under Section 174(a)(2) of the Internal Revenue Code. The term does not include expenditures for which a deduction is disallowed as a result of Section 280C(c) of the Internal Revenue Code.**

(b) Except as otherwise provided in this section, for taxable years beginning after December 31, 2021, a taxpayer, in determining the taxpayer's adjusted gross income for a particular taxable year, shall:

(1) deduct from the taxpayer's adjusted gross income an

amount equal to the specified research or experimental expenditures charged to capital account under Section 174(a)(2)(A) of the Internal Revenue Code for the taxable year; and

(2) add to the taxpayer's adjusted gross income the amount deducted under Section 174(a)(2)(B) of the Internal Revenue Code for the taxable year.

(c) In the case of a taxpayer that owns an interest in a partnership or corporation described in section 2.8(2) of this chapter, the amount that must be deducted under subsection (b)(1) for a particular taxable year may not exceed the sum of:

(1) the taxpayer's adjusted basis in the partnership or corporation for federal tax purposes, as determined at the end of the taxpayer's taxable year and after application of any expenses, deductions, or losses; plus

(2) the amount of any specified research or experimental expenditures claimed as a deduction under Section 174 of the Internal Revenue Code in determining the taxpayer's federal adjusted gross income for the taxable year.

(d) A deduction or part of a deduction that is disallowed under subsection (c) must be:

(1) carried forward to the subsequent taxable year;

(2) treated as a specified research or experimental expenditure that is paid or incurred in the subsequent taxable year; and

(3) applied under subsection (c) against the adjusted basis of the partnership or corporation for the subsequent taxable year.

(e) If a taxpayer is eligible for a deduction under subsection (b)(1), but the deduction would be treated as a passive deduction under Section 469 of the Internal Revenue Code, the amount that may be deducted under subsection (b)(1) for a particular taxable year may not exceed the sum of:

(1) the amount of the taxpayer's passive income, as determined for federal tax purposes, after application of any passive losses or deductions for the taxable year and after application of any passive loss carryovers for the taxable year, but not less than zero (0); plus

(2) the amount of any specified research or experimental expenditures claimed as a deduction under Section 174 of the Internal Revenue Code in determining the taxpayer's federal adjusted gross income for the taxable year.

The requirements under this subsection must be applied after application of subsections (c) and (d). Any deduction or part of a deduction that is disallowed under this subsection must be carried forward to the subsequent taxable year and treated as a specified research or experimental expenditure that is paid or incurred in the subsequent taxable year from a trade or business that is a passive activity for the taxpayer.

(f) If, before the effective date of this section, a taxpayer:

(1) is a pass through entity; and

(2) filed a return either:

(A) for a taxable year beginning before January 1, 2023, that reported tax under IC 6-3-2.1 as an electing entity; or

(B) for a taxable year beginning before January 1, 2023, passing through the tax paid under IC 6-3-2.1 by another entity on the taxpayer's behalf as pass through entity to its owners;

the taxpayer shall report the adjusted gross income subject to pass through entity tax for purposes of IC 6-3-2.1 as if the modification under this section was not in effect for taxable years beginning before January 1, 2023. The taxpayer shall report the modifications otherwise required under this section to its partners, shareholders, or beneficiaries for the taxable year in the manner prescribed under this article.

(g) The modifications required under this section are not applicable if a taxpayer is not required under federal law to charge specified research or experimental expenditures to capital account in determining federal adjusted gross income, regardless of whether the taxpayer elects to charge research or experimental expenditures to capital account.

SECTION 19. IC 6-3-2.1-2, AS ADDED BY P.L.1-2023, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022 (RETROACTIVE)]: Sec. 2. The following definitions apply throughout this chapter:

(1) "Electing entity" means a pass through entity described in IC 6-3-1-35 that is subject to Subchapter K or Subchapter S of the Internal Revenue Code and makes the election under this chapter.

(2) "Entity owner" means the direct or indirect owners of an electing entity that are ultimately taxable on the entity's income under Subchapter K or Subchapter S of the Internal Revenue Code, except an owner described in subdivision (4)(A) through (4)(C).

(3) "Nonresident" means:

(A) a nonresident partner as defined by IC 6-3-4-12(n);

(B) a nonresident shareholder as defined by IC 6-3-4-13(n); ~~or~~

(C) a nonresident beneficiary as defined by IC 6-3-4-15(i); **or**

(D) in the case of a shareholder of a corporation described in IC 6-3-2-2.8(2), a corporation described in Section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under Section 501(a) of the Internal Revenue Code and that is not domiciled in Indiana;

whichever is applicable.

(4) "Owner" means a direct or indirect owner of an electing entity and includes a beneficiary of an estate or trust. However an owner shall not include:

(A) an entity described in IC 6-3-2-2.8(3) **that is not a partnership, a trust, or a corporation described in IC 6-3-2-2.8(2);**

(B) an entity described in IC 6-3-2-2.8(5); or

(C) any other entity as determined by the department and listed in instructions or guidance issued by the department.

(5) "Resident" means a partner, shareholder, or beneficiary:

(A) that, in the case of an individual, estate, or trust, is a resident of Indiana as defined in IC 6-3-1-12; or

(B) that is a partnership or corporation, including a corporation described in IC 6-3-2-2.8(1) or IC 6-3-2-2.8(2), that is domiciled in Indiana.

SECTION 20. IC 6-3-4-8, AS AMENDED BY P.L.159-2021, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 8. (a) Except as provided in **IC 6-3-2-27.5 and** subsection (d), every employer making payments of wages subject to tax under this article, regardless of the place where such payment is made, who is required under the provisions of the Internal Revenue Code to withhold, collect, and pay over income tax on wages paid by such employer to such employee, shall, at the time of payment of such wages, deduct and retain therefrom the amount prescribed in withholding instructions issued by the department. The department shall base its withholding instructions on the adjusted gross income tax rate for persons, on the total local income tax rate that the taxpayer is subject to under IC 6-3.6, and on the total amount of exclusions the taxpayer is entitled to under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4). However, the withholding instructions on the adjusted gross income of a nonresident alien (as defined in Section 7701 of the Internal Revenue Code) are to be based on applying not more than one (1) withholding exclusion, regardless of the total number of exclusions that

IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final return for the taxable year. Such employer making payments of any wages:

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

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

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

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

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

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

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

is not required, at the time of payment of the wages, to deduct and retain from the wages the amount prescribed in withholding instructions issued by the department.

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

(1) the amount of adjusted gross income tax deducted therefrom

in accordance with the provisions of this section;

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

(3) any other information the department may require.

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

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

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

(h) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for the employee's taxable year which begins in such calendar year, and a return made by the employer under subsection (b) shall be accepted by the department as evidence in favor of the employee of the amount so deducted from the employee's wages. Where the total amount so deducted exceeds the amount of tax on the employee as computed under this article and IC 6-3.6, the department shall, after examining the return or returns filed by the employee in accordance with this

article and IC 6-3.6, refund the amount of the excess deduction. However, under rules promulgated by the department, the excess or any part thereof may be applied to any taxes or other claim due from the taxpayer to the state of Indiana or any subdivision thereof. In the event that the excess tax deducted is less than one dollar ($1), no refund shall be made.

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

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

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

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

SECTION 21. IC 6-3-7-3, AS AMENDED BY P.L.146-2008, SECTION 323, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) All revenues derived from collection of the adjusted gross income tax imposed on corporations shall be deposited in the state general fund.

(b) All revenues derived from collection of the adjusted gross income tax imposed on persons shall be deposited in the state general fund.

(c) All revenues derived from adjusted gross income tax computed from a partnership that has made an election to be subjected to tax directly at the partnership level under IC 6-3-4.5 shall be deposited in the state general fund. For purposes of this subsection, "adjusted gross income tax" means any tax for which the partnership is directly subject to as the result of an election under IC 6-3-4.5, regardless of the provision under which the tax is computed.

SECTION 22. IC 6-3.1-35-2, AS ADDED BY P.L.137-2022, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. The following definitions apply throughout this chapter:

(1) "Authority" refers to the Indiana housing and community development authority created by IC 5-20-1-3.

(2) "Eligibility statement" refers to the statement issued by the authority to an eligible applicant under section 7 of this chapter.

(3) "Eligible applicant" means a taxpayer who is:

(A) an owner of a qualified project; or

(B) a shareholder, member, or partner of an owner of a qualified project that is designated by the owner in the manner prescribed by the authority.

(4) "Federal tax credit" means a federal low income housing credit under Section 42 of the Internal Revenue Code that is a thirty percent (30%) present value credit. The term does not include a seventy percent (70%) present value credit under Section 42 of the Internal Revenue Code for certain new buildings.

(5) "Holder of a state tax credit" for a taxable year in a qualified project's state tax credit period means:

(A) the eligible applicant for the qualified project;

(B) a shareholder, member, or partner of the owner of the qualified project; or

(C) a successor, assignee, or transferee of the eligible applicant under section 6 of this chapter;

that has a right to claim all or part of the tax credit for the taxable year.

(6) "Qualified basis" of a qualified project has the meaning set forth in Section 42 of the Internal Revenue Code.

(7) "Qualified project" means a qualified low income building (as defined in Section 42(c) of the Internal Revenue Code):

(A) that is located in Indiana;

(B) for which a federal affordable housing tax credit was awarded using a thirty percent (30%) present value of the qualified basis of the building; and

(C) that is financed by tax exempt bonds that are subject to the private activity bond volume cap (under Section 42(h)(4) of the Internal Revenue Code).

(8) "State tax credit" means the tax credit provided by this chapter.

(9) "State tax credit period" for a qualified project means the

period of five (5) taxable years beginning with the taxable year ~~in which any amount of the federal tax credit for the qualified project is first claimed by a taxpayer.~~ **a building in the project is placed into service.**

(10) "State tax liability" means a taxpayer's total tax liability incurred under:

(A) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(B) IC 6-5.5 (the financial institutions tax);

(C) IC 27-1-18-2 (the insurance premiums tax); and

(D) IC 27-1-20-12 (the insurance premiums retaliatory tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

(11) "Tax credit application" means an application submitted by an eligible applicant to the authority under section 7 of this chapter.

(12) "Taxpayer" means an individual, a corporation, an S corporation, a partnership, a limited partnership, a limited liability partnership, a limited liability company, or a joint venture.

SECTION 23. IC 6-3.1-35-3, AS ADDED BY P.L.137-2022, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) Except as otherwise provided in this chapter, for each taxable year in the state tax credit period of a qualified project, the holder of a state tax credit awarded under this chapter for the qualified project is entitled to a credit against the holder's state tax liability for the taxable year in an amount equal to:

(1) the percentage of the state tax credit for the taxable year that the holder retains at the end of the last day of the taxable year, as determined under subsection (c); multiplied by

(2) the amount of the state tax credit for the qualified project for the taxable year, as determined under subsections (d) and (e).

(b) At the time an eligibility statement is issued to an eligible applicant, the eligible applicant is considered to have acquired one hundred percent (100%) of the state tax credit for each taxable year in the state tax credit period of the qualified project.

(c) The percentage of a state tax credit for a taxable year that a holder retains at the end of the last day of a taxable year under subsection (a)(1) is equal to:

(1) the sum of the percentages of the state tax credit for the taxable year that the holder acquires before the end of the last day of the taxable year; minus

(2) the sum of the percentages of the state tax credit for the

taxable year that the holder transfers before the end of the last day of the taxable year.

(d) The amount of a state tax credit for a taxable year in the state tax credit period of a qualified project under subsection (a)(2) is equal to:

(1) a factor equal to:

(A) one (1); divided by

(B) the number of taxable years in the state tax credit period for the qualified project; multiplied by

(2) the lesser of:

(A) the amount of the total federal credit allowed for the qualified project **over the credit period as defined by Section 42(f) of the Internal Revenue Code (based** ~~as shown~~ on Internal Revenue Service Form 8609, Line 1(b) **(annual amount multiplied by ten (10) years)), if available,** for the qualified project; or

(B) the maximum aggregate amount of state tax credits awarded for the qualified project, as stated in the eligibility statement issued under section 7 of this chapter.

(e) The department shall determine the amounts of the state tax credits specified under subsection (d) for each taxable year in the state tax credit period of each qualified project as those amounts are able to be computed and promptly publish the amounts on the department's ~~Internet web site~~ **website** to assist holders in claiming the state tax credit provided by this chapter.

SECTION 24. IC 6-3.1-35-7, AS ADDED BY P.L.137-2022, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) An eligible applicant who wishes to obtain the state tax credit provided by this chapter for a qualified project must submit an application to the authority after June 30, 2023, and before January 1, 2028, in the manner prescribed by the authority.

(b) An application submitted under subsection (a) must include:

(1) the name and address of the qualified project;

(2) the name and address of the owner of the qualified project; and

(3) any other information required by the authority.

(c) Subject to section 8 of this chapter, the authority may approve a tax credit application if:

(1) the applicant is an eligible applicant;

(2) the project identified in the application is a qualified project; and

(3) the tax credit application meets any other requirements for receipt of state tax credits established by the authority.

(d) If the authority approves a tax credit application for a qualified project, for each taxable year in the tax credit period the authority may approve a maximum amount of state tax credits. The maximum aggregate amount of state tax credits awarded by the authority for the state tax credit period of a qualified project is an amount that is the product of:

(1) a percentage determined by the authority, which must be

~~(A) greater than or equal to forty percent (40%); and~~

~~(B)~~ less than or equal to one hundred percent (100%); multiplied by

(2) the anticipated aggregate federal tax credits **over the credit period as defined by Section 42(f) of the Internal Revenue Code and** specified in a letter issued by the authority for the qualified project under Section 42(m) of the Internal Revenue Code **(annual amount multiplied by ten (10) years).**

(e) If the authority approves a tax credit application for a qualified project, the authority shall issue an eligibility statement to the eligible applicant. The eligibility statement must specify at least the following:

(1) A unique identification code for the eligibility statement, determined by the authority.

(2) The name of the qualified project.

(3) For each taxable year in the state tax credit period of the qualified project, the maximum amount of state tax credit that the authority is awarding to the eligible applicant for the qualified project.

(f) The authority shall transmit a copy of each eligibility statement issued under subsection (e) to the department.

SECTION 25. IC 6-5.5-1-2, AS AMENDED BY P.L.137-2022, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state

level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) Add 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.

(H) Add 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:

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

(ii) 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 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, the exchange is not

eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code, and 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 item 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.

(I) 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.

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

(K) Add an amount equal to the remainder of:

(i) the amount allowable as a deduction under Section 274(n) of the Internal Revenue Code; minus

(ii) the amount otherwise allowable as a deduction under Section 274(n) of the Internal Revenue Code, if Section 274(n)(2)(D) of the Internal Revenue Code was not in effect for amounts paid or incurred after December 31, 2020.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes

worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) 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.

(F) 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:

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

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

(G) Income that is:

(i) exempt from taxation under IC 6-3-2-21.7; and

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

(H) 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.

(I) For taxable years ending after March 12, 2020, an amount equal to the deduction disallowed pursuant to:

(i) Section 2301(e) of the CARES Act (Public Law 116-136), as modified by Sections 206 and 207 of the Taxpayer Certainty and Disaster Relief Tax Act (Division EE of Public Law 116-260); and

(ii) Section 3134(e) of the Internal Revenue Code.

(J) Subtract an amount equal to the deduction disallowed under Section 280C(h) of the Internal Revenue Code.

(3) Make the following adjustments:

(A) Subtract the amount of 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.

(B) 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.

(C) For taxable years beginning after December 31, 2021, add or subtract amounts related to specified research or experimental procedures as required under IC 6-3-2-29.

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.

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

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

(1) 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.

(2) Make the following adjustments:

(A) Subtract the amount of 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.

(B) 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.

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

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

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

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

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

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

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends

earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

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

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

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

SECTION 26. IC 6-5.5-2-1, AS AMENDED BY P.L.80-2014, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured by the taxpayer's apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana. The amount of the tax for a taxable year shall be determined by multiplying the applicable rate under subsection (b) times the remainder of:

(1) the taxpayer's apportioned income; minus

(2) the taxpayer's deductible Indiana net operating losses as determined under this section; minus

(3) the taxpayer's net capital losses minus the taxpayer's net capital gains computed under the Internal Revenue Code for each taxable year or part of a taxable year beginning after December 31, 1989, multiplied by the apportionment percentage applicable to the taxpayer under this chapter for the taxable year of the loss.

A net capital loss for a taxable year is a net capital loss carryover to each of the five (5) taxable years that follow the taxable year in which

the loss occurred.

(b) The following are the applicable tax rates to be used under subsection (a):

(1) For taxable years beginning before January 1, 2014, eight and five-tenths percent (8.5%).

(2) For taxable years beginning after December 31, 2013, and before January 1, 2015, eight percent (8.0%).

(3) For taxable years beginning after December 31, 2014, and before January 1, 2016, seven and five-tenths percent (7.5%).

(4) For taxable years beginning after December 31, 2015, and before January 1, 2017, seven percent (7.0%).

(5) For taxable years beginning after December 31, 2016, and before January 1, 2019, six and five-tenths percent (6.5%).

(6) For taxable years beginning after December 31, 2018, and before January 1, 2020, six and twenty-five hundredths percent (6.25%).

(7) For taxable years beginning after December 31, 2019, and before January 1, 2021, six percent (6.0%).

(8) For taxable years beginning after December 31, 2020, and before January 1, 2022, five and five-tenths percent (5.5%).

(9) For taxable years beginning after December 31, 2021, and before January 1, 2023, five percent (5.0%).

(10) For taxable years beginning after December 31, 2022, four and nine-tenths percent (4.9%).

(c) The amount of net operating losses deductible under subsection (a) is an amount equal to the net operating losses computed under the Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2, that are:

(1) incurred in each taxable year, or part of a year, beginning after December 31, 1989; and

(2) attributable to Indiana.

(d) The following apply to determining the amount of net operating losses that may be deducted under subsection (a):

(1) The amount of net operating losses that is attributable to Indiana is the taxpayer's total net operating losses under the Internal Revenue Code for the taxable year of the loss, adjusted for the items set forth in IC 6-5.5-1-2, multiplied by the apportionment percentage applicable to the taxpayer under this chapter for the taxable year of the loss.

(2) A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred.

(3) If the taxpayer has discharge of indebtedness excluded from federal gross income under Section 108(a)(1)(A), Section 108(a)(1)(B), or Section 108(a)(1)(C) of the Internal Revenue Code, the Indiana net operating loss available for use or carryover shall be reduced by the remainder of:

(A) the amount of discharge of indebtedness excluded from federal gross income, multiplied by the apportionment percentage applicable to the taxpayer under this chapter or IC 6-3 for the year of discharge; minus

(B) the amount of discharge of indebtedness excluded from federal gross income that reduced the tax attributes under Section 108(b)(2)(D), Section 108(b)(2)(E), or Section 108(b)(2)(F) of the Internal Revenue Code or was applied for federal tax purposes under Section 108(b)(5) of the Internal Revenue Code, multiplied by the apportionment percentage applicable to the taxpayer under this chapter or IC 6-3 for the year of discharge.

(4) For purposes of applying this subsection, the amount of the reduction computed under subdivision (3) shall be applied:

(A) first, as if the discharge of indebtedness was a modification of an item set forth in IC 6-5.5-1-2 that increased the taxpayer's adjusted gross income for the taxable year to zero (0), but only if the amount determined after modifications under IC 6-5.5-1-2 was less than zero (0); and

(B) after the application required under clause (A), as if the discharge of indebtedness was part of the taxpayer's apportioned income under subsection (a)(1), and prorated for the taxable year of discharge between taxpayer members of a unitary group as provided in subsection (e)(1). However, if the application of this clause results in a net operating loss of a member being reduced to zero (0), the excess shall not be considered income of the taxpayer nor shall it reduce the net operating loss of any other taxpayer member of a unitary group.

(5) For purposes of subdivisions (3) and (4), the provisions of Section 108(d)(6) and Section 108(d)(7) of the Internal Revenue Code shall apply.

(e) The following provisions apply to a combined return computing the tax on the basis of the income of the unitary group when the return is filed for more than one (1) taxpayer member of the unitary group for

any taxable year:

(1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:

(A) the receipts of that taxpayer member attributable to Indiana under section 4 of this chapter; divided by

(B) the receipts of all taxpayer members of the unitary group attributable to Indiana.

(2) The net capital loss or net operating loss for that year, if any, to be carried forward to any subsequent year shall be limited to the capital gains or apportioned income for the subsequent year of that taxpayer, determined by the same receipts formula set out in subdivision (1).

SECTION 27. IC 6-5.5-2-7, AS AMENDED BY P.L.129-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: Sec. 7. Notwithstanding any other provision of this article, there is no tax imposed on the adjusted gross income or apportioned income of the following:

(1) Insurance companies **or organizations offering nonprofit agricultural organization insurance coverage** subject to the tax under any of the following:

(A) IC 27-1-18-2.

(B) IC 27-1-2-2.3.

(C) IC 6-3.

(D) IC 6-8-15.

(2) International banking facilities (as defined in Regulation D of the Board of Governors of the Federal Reserve System).

(3) Any corporation that is exempt from income tax under Section 1363 of the Internal Revenue Code.

(4) Any corporation exempt from federal income taxation under the Internal Revenue Code, except for the corporation's unrelated business income. However, this exemption does not apply to a corporation exempt from federal income taxation under Section 501(c)(14) of the Internal Revenue Code.

SECTION 28. IC 6-6-6.5-1, AS AMENDED BY P.L.245-2015, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, unless the context clearly indicates otherwise:

(a) "Aircraft" means a device which is designed to provide air transportation for one (1) or more individuals or for cargo.

(b) "State" means the state of Indiana.

(c) "Department" refers to the department of state revenue.

(d) "Person" includes an individual, a partnership, a firm, a corporation, a limited liability company, an association, a trust, or an estate, or a legal representative of such.

(e) "Owner" means a person who holds or is required to obtain a certificate of registration from the Federal Aviation Administration for a specific aircraft. In the event an aircraft is the subject of an agreement for the conditional sale or lease with the right of purchase upon the performance of the conditions stated in the agreement and with an immediate right of possession of the aircraft vested in the conditional vendee or lessee, or in the event the mortgagor of an aircraft is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed to be the owner for purposes of this chapter.

(f) "Dealer" means a person who has an established place of business in this state, is required to obtain a certificate under IC 6-2.5-8-1 or IC 6-2.5-8-3 **(before its repeal),** and is engaged in the business of manufacturing, buying, selling, or exchanging new or used aircraft.

(g) "Maximum landing weight" means the maximum weight of the aircraft, accessories, fuel, pilot, passengers, and cargo that is permitted on landing under the best conditions, as determined for an aircraft by the appropriate federal agency or the certified allowable gross weight published by the manufacturer of the aircraft.

(h) "Resident" means an individual or a fiduciary who resides or is domiciled within Indiana or any corporation or business association which maintains a fixed and established place of business within Indiana for a period of more than sixty (60) days in any one (1) year.

(i) "Taxable aircraft" means an aircraft required to be registered with the department by this chapter.

(j) "Regular annual registration date" means the last day of December of each year.

(k) "Taxing district" means a geographic area within which property is taxed by the same taxing units and at the same total rate.

(l) "Taxing unit" means an entity which has the power to impose ad valorem property taxes.

(m) "Base" means the location or place where the aircraft is normally hangared, tied down, housed, parked, or kept, when not in use.

(n) "Homebuilt aircraft" means an aircraft constructed primarily by an individual for personal use. The term homebuilt aircraft does not include an aircraft constructed primarily by a for-profit aircraft manufacturing business.

(o) "Pressurized aircraft" means an aircraft equipped with a system

designed to control the atmospheric pressure in the crew or passenger cabins.

(p) "Establishing a base" means renting or leasing a hangar or tie down for a particular aircraft for at least thirty-one (31) days.

(q) "Inventory aircraft" means an aircraft held for resale by a registered Indiana dealer.

(r) "Repair station" means a person who holds a repair station certificate that was issued to the person by the Federal Aviation Administration under 14 CFR Part 145.

SECTION 29. IC 6-7-4-8, AS ADDED BY P.L.165-2021, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) Except as provided in subsection (b), as used in this chapter, "vapor product" means any of the following:

(1) A device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that can be used to produce vapor from consumable material that may or may not be sold with the device.

(2) Any open system container of a consumable material in a solution or other form that is intended to be used with or in a device described in subdivision (1).

~~(3) Disposable vapor product devices that are attached to a closed system cartridge and intended for single use.~~

(b) The term "vapor product" does not include closed system cartridges (as defined in IC 6-7-2-0.5).

SECTION 30. IC 6-7-4-10, AS ADDED BY P.L.165-2021, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) It is unlawful for any retail dealer to sell consumable material or vapor products in Indiana unless the retail dealer has a valid **open system** electronic cigarette retail dealer's certificate issued by the department.

(b) The department shall issue certificates to applicants that qualify under this section. A certificate issued under this section is valid for one (1) year unless revoked or suspended by the department and is not transferable. An **open system** electronic cigarette retail dealer's certificate may be revoked or suspended by the department in the same manner, for the same reasons, and is subject to the same procedures as for the revocation or suspension of a retail merchant's certificate under IC 6-2.5-8-7. If a retail dealer's retail merchant's certificate under IC 6-2.5-8 expires or is revoked by the department, an **open system** electronic cigarette retail dealer's certificate issued to the retail dealer

under this subsection shall automatically be revoked without notice otherwise required under IC 6-2.5-8.

(c) An applicant for a certificate under this section must submit proof to the department of the appointment of an agent for service of process in Indiana if the applicant is:

(1) an individual whose principal place of residence is outside Indiana; or

(2) a person, other than an individual, that has its principal place of business outside Indiana.

(d) To obtain or renew a certificate under this section, a person must:

(1) submit, for each location where it intends to distribute consumable material or vapor products, an application that includes all information required by the department;

(2) pay a fee of twenty-five dollars ($25) at the time of application; and

(3) at the time of application, post a bond, issued by a surety company approved by the department, in an amount not less than one thousand dollars ($1,000) and conditioned on the applicant's compliance with this chapter.

(e) If business is transacted at two (2) or more places by one (1) retail dealer, a separate certificate must be obtained for each place of business.

(f) Each certificate must be numbered, show the name and address of the retail dealer, and be posted in a conspicuous place at the place of business for which it is issued.

(g) If the department determines that a bond provided by a certificate is inadequate, the department may require a new bond in the amount necessary to fully protect the state.

SECTION 31. IC 6-8-15-5, AS ADDED BY P.L.154-2020, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]: Sec. 5. If an organization provides nonprofit agricultural organization coverage in Indiana, the organization is subject to a nonprofit agricultural organization health coverage tax under this chapter **unless the organization:**

(1) files a notice of election with the insurance commissioner and the commissioner of the department on or before November 30 of a taxable year; and

(2) states in the notice of election that the organization elects to be subject to the tax imposed under IC 6-3-1 through IC 6-3-7 for the taxable year.

SECTION 32. IC 6-8.1-7-1, AS AMENDED BY P.L.137-2022,

SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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) 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 vehicle excise tax (IC 6-6-5);

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

(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, or issued a registered retail merchant's certificate under IC 6-2.5, may be released for the purpose of reporting the status of the person's license or certificate.

(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 6-2.5-1-22.5) or a person selling the services or commodities listed in IC 6-2.5-4-5 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.

(u) Information related to a listed tax regarding a taxpayer may be disclosed to an individual without a power of attorney under IC 6-8.1-3-8(a)(2) if:

(1) the individual is authorized to file returns and remit payments for one (1) or more listed taxes on behalf of the taxpayer through the department's online tax system before September 8, 2020;

(2) the information relates to a listed tax described in subdivision (1) for which the individual is authorized to file returns and remit payments;

(3) the taxpayer has been notified by the department of the individual's ability to access the taxpayer's information for the listed taxes described in subdivision (1) and the taxpayer has not objected to the individual's access;

(4) the individual's authorization or right to access the taxpayer's information for a listed tax described in subdivision (1) has not been withdrawn by the taxpayer; and

(5) disclosure of the information to the individual is not prohibited by federal law.

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

(v) The department may publish a list of persons, corporations, or other entities that qualify or have qualified for an exemption for sales tax under IC 6-2.5-5-16, IC 6-2.5-5-25, or IC 6-2.5-5-26, or otherwise provide information regarding a person's, corporation's, or entity's exemption status under IC 6-2.5-5-16, IC 6-2.5-5-25, or IC 6-2.5-5-26. For purposes of this subsection, information that may be disclosed includes:

(1) any federal identification number or other identification number for the entity assigned by the department;

(2) any expiration date of an exemption under IC 6-2.5-5-25;

(3) whether any sales tax exemption has expired or has been

revoked by the department; and

(4) any other information reasonably necessary for a recipient of an exemption certificate to determine if an exemption certificate is valid.

SECTION 33. IC 6-8.1-10-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 9.5. (a) As used in this section, the following terms have the following meanings:**

(1) "Successor in liability" means a person that directly or indirectly purchases, acquires, is gifted, or succeeds to ownership of more than one-half (1/2) of all tangible personal property of a business, by value, including inventory, at all locations combined, as measured by the value of the property at the time of the transfer. "Successor in liability" does not include a personal representative or beneficiary of an estate, a trustee in bankruptcy, a debtor in possession, a receiver, a secured party, a mortgagee, an assignee of rents, or any other lienholder. A person shall only be considered a successor in liability to the extent that:

(A) a department lien or liens exist on tangible personal property transferred to the person;

(B) all tax due by the transferring business to the extent that notice was not provided to the department as required by subsection (b); or

(C) any tax due was included in the summary mailed to the successor in liability by the department pursuant to subsection (c).

(2) "Purchase price" means the consideration paid or to be paid by the successor in liability to the transferring business for the transfer of tangible personal property. "Purchase price" also includes debts assumed or forgiven by the successor in liability, or real or personal property conveyed or to be conveyed by the successor in liability to the transferring business.

(3) "Arm's-length transaction" means a transfer for adequate consideration between independent parties both acting in their own best interests. If the parties are related to each other, a rebuttable presumption arises that the transaction is not at arm's length.

(4) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with a business or an interest in a business, or a stock

of goods, whether by gift or for consideration. "Transfer" includes a change in the type of business entity or the name of the business, where one (1) business is discontinued and a new business is started. "Transfer" also includes the acquisition by a new corporation of the assets of a prior business in exchange for the stock of the new corporation. "Transfer" does not include an assignment for the benefit of creditors, foreclosure or enforcement of a mortgage, assignment of rents, security interest or lien, sale or disposition in a bankruptcy proceeding, or sale or disposition by a receiver.

(5) "Transfer in bulk" means a transfer, other than in the ordinary course of the transferor's trade or business, of more than one-half (1/2) of all the tangible personal property of a business, by value, including inventory, at all locations combined, as measured by the value of the property at the time of the transfer.

(6) "Tax" means the gross retail tax imposed by IC 6-2.5-2-1, the use tax imposed by IC 6-2.5-3-2, and any county innkeepers tax or food and beverage tax imposed by IC 6-9.

(7) "Good cause" means the inability to comply with the statutory requirements of this section due to force majeure, fraud, failure of delivery by a carrier, or similar circumstances beyond the control of the successor. Lack of knowledge by the successor in liability of the requirements of this section shall not be considered good cause. Failure of a transferee or third party to provide the notice required by subsection (b) pursuant to a contractual obligation or informal understanding shall not be considered to be good cause.

(b) Whenever a business engages in a transfer in bulk, at least forty-five (45) days before taking possession of the assets or paying the purchase price, the potential successor in liability or the transferring business shall notify the department of the transfer and the terms and conditions related to the transfer on a form prescribed by the department. The notice must include the tax identification number of the transferring business and the potential successor in liability.

(c) The following apply:

(1) If the notice is not provided to the department as required in subsection (b), the potential successor in liability becomes the successor in liability and becomes liable for any unpaid taxes, interest, and penalties due from the transferring

business to the extent of the purchase price.

(2) If the notice is provided as required in subsection (b) and, within twenty (20) days after receipt of the notice, the department places a summary in the United States mail addressed to the successor in liability specifying that tax liabilities exist in addition to those subject to a department lien or there are tax returns due but not filed, the successor in liability is liable for all taxes, interest, and penalties as stated in the department's summary to the extent of the purchase price if the successor in liability pays the purchase price or takes possession of the assets without withholding and remitting the liability to the department. The successor in liability is liable whether the purchase price is paid or the assets are transferred prior to or after notification from the department.

(3) If the department does not find any tax is due from the transferring business or that the transferring business has failed to file any returns that are due, the department must place a tax clearance letter in the United States mail addressed to the potential successor in liability within twenty (20) days after receipt of the notice required by subsection (b) specifying that no tax liabilities exist and that the transferee is not a successor in liability. The department shall issue the tax clearance letter even if the department determines that the transfer at issue does not constitute a transfer in bulk pursuant to subsection (a).

(d) If, based upon the information available, the department determines that a transfer in bulk was not at arm's length or was a gift, the successor's liability under this section equals the value of the tangible personal property transferred. Upon such a determination, the department may require that the successor in liability provide a third party valuation of the tangible personal property transferred.

(e) In the case of a gift resulting in successor liability under this section, the return of the gifted property by the donee to the donor releases the donee's successor liability.

(f) A potential successor in liability that complies with the requirements of subsections (b) and (c) is not liable for any assessments of taxes of the transferring business made after the department provides a summary to the potential successor in liability under subsection (c), except for taxes assessed on returns filed to comply with the summary. If the department fails to place

the required summary in the United States mail within the twenty (20) day period, the potential successor in liability is not liable for any taxes of the transferring business, except with regard to transfers subject to subsection (d), if the purchase price is paid and the potential successor in liability takes possession of the assets within sixty (60) days of the mailing date the notice required pursuant to subsection (b). If the purchase price is not paid or the potential successor in liability does not take possession of the assets within sixty (60) days of the mailing date of the notice required pursuant to subsection (b), the potential successor in liability or the transferring business must submit a new notice pursuant to subsection (b).

(g) If the required notice under subsection (b) is not filed or any tax liability included in a summary mailed by the department pursuant to subsection (c)(2) remains due after the purchase price is paid or the successor in liability takes possession of the assets, the department must issue a notice of proposed assessment to the successor in liability for any such tax due.

(h) A successor in liability may protest the underlying tax unless the transferring business has already exhausted its protest rights with regard to the underlying tax. A successor in liability may also protest whether they qualify as a successor in liability with regard to the tax. In addition, the successor in liability may protest by submitting evidence showing good cause for not submitting the required notice or completing the purchase before receiving a clearance letter from the department. In the event that the transferring business has protested any taxes identified in the department's notice mailed pursuant to subsection (c)(2), the potential successor in liability shall not be considered a successor in liability with respect to such taxes if the potential successor in liability places an amount in escrow sufficient to satisfy such taxes pending resolution of the transferring business's administrative and legal process protesting such taxes.

(i) A transfer in bulk shall not constitute a retail transaction except for any inventory, motor vehicles, watercraft, aircraft, or rental property transferred.

(j) A transferor in bulk and any responsible officer thereof shall not be relieved of liability for any tax, interest, or penalties when a successor in interest also becomes liable for the tax, interest, and penalties. No owner, shareholder, director, officer, or employee of a successor in liability shall be considered to be a responsible officer relative to any tax, interest or penalties owed by the

purchaser as a successor.

(k) The department has discretion in assessing and collecting the tax due from any liable party, but the department cannot collect more than the total tax, interest, and penalties imposed. The ability of the department to impose collections fees on the liable parties as otherwise allowed by this article shall not be impacted by this section.

SECTION 34. IC 6-8.1-10-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 14. (a) Except as otherwise provided in this section or by the provisions of a listed tax, any penalties and interest resulting from a listed tax shall be deposited as if it were the listed tax to which the penalty and interest are associated.**

(b) In the case of penalties or interest paid with regard to a tax imposed under 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 (local income tax), the penalties and interest shall be deposited in the state general fund.

(c) In the case of penalties or interest associated with the late payment of a tax imposed under IC 6-6-9, IC 6-6-9.5, IC 6-6-9.7, or IC 6-6-16, or the taxes imposed under IC 6-9 by local units, penalties and interest shall be distributed to the appropriate local unit and shall be distributed, spent, or otherwise managed in the same manner as the underlying tax.

(d) Amounts collected under IC 6-8.1-10-5 shall be deposited in the state general fund.

SECTION 35. IC 35-43-5-4.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 4.8. (a) The following definitions apply throughout this section:**

(1) "Automated sales suppression device" means a software program:

(A) carried on a memory stick or removable compact disc;

(B) accessed through an Internet link; or

(C) accessed through any other means;

that falsifies the electronic records of electronic cash registers and other point of sale systems, including transaction data and transaction reports.

(2) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or a computer system designed to record

transaction data for the purpose of computing, compiling, or processing retail sales transaction data in any manner.

(3) "Phantom-ware" means a hidden, a preinstalled, or an installed at a later time programming option embedded in the operating system of an electronic cash register, or hardwired into the electronic cash register that:

(A) can be used to create a virtual second till; or

(B) may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

(4) "Transaction data" includes information regarding:

(A) items purchased by a customer;

(B) the price for each item;

(C) a taxability determination for each item;

(D) a segregated tax amount for each of the taxed items;

(E) the amount of cash or credit tendered;

(F) the net amount returned to the customer in change;

(G) the date and time of the purchase;

(H) the name, address, and identification number of the vendor; and

(I) the receipt or invoice number of the transaction.

(5) "Transaction report" means:

(A) a report that includes:

(i) the sales;

(ii) taxes collected;

(iii) media totals; and

(iv) discount voids;

at an electronic cash register that is printed on cash register tape at the end of a day or shift; or

(B) a report documenting every action at an electronic cash register that is stored electronically.

(6) "Zapper" refers to an automated sales suppression device.

(b) A person who knowingly or intentionally sells, purchases, installs, transfers, or possesses:

(1) an automated sales suppression device or a zapper; or

(2) phantom-ware;

after June 30, 2023, commits unlawful sale or possession of a transaction manipulation device, a Class A misdemeanor, except as provided in subsection (c).

(c) The offense under subsection (b) is:

(1) a Level 6 felony if:

(A) the pecuniary loss caused by the offense is at least seven hundred fifty dollars ($750) and less than fifty thousand dollars ($50,000); or

(B) the person has a prior unrelated conviction for:

(i) a violation of this section;

(ii) theft under IC 35-43-4-2;

(iii) criminal conversion under IC 35-43-4-3;

(iv) robbery under IC 35-42-5-1; or

(v) burglary under IC 35-43-2-1; and

(2) a Level 5 felony if the pecuniary loss caused by the offense is at least fifty thousand dollars ($50,000).

SECTION 36. [EFFECTIVE UPON PASSAGE] **(a) IC 6-3-1-3.5, IC 6-3-2-2.5, IC 6-3-2-2.6, IC 6-3-2-21.7, and IC 6-5.5-2-1, all as amended by this act, apply to taxable years beginning after December 31, 2022.**

(b) This SECTION expires January 1, 2025.

SECTION 37. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to IC 6-8.1-10-9.5, as added by this act.**

(b) No purchaser in bulk shall be considered to be a successor in liability pursuant to IC 6-8.1-10-9.5, as added by this act, for transactions that take place prior to February 14, 2024.

(c) IC 6-8.1-10-9.5(i) shall be considered a restatement of the law.

(d) This SECTION expires January 1, 2025.

SECTION 38. [EFFECTIVE JANUARY 1, 2024] **(a) IC 6-3-2-27.5 and IC 6-3-2-28, as added by this act, apply to taxable years beginning after December 31, 2023.**

(b) This SECTION expires July 1, 2026.

SECTION 39. [EFFECTIVE UPON PASSAGE] **(a) IC 6-3-2-29, as added by this act, applies to taxable years beginning after December 31, 2021.**

(b) This SECTION expires July 1, 2025.

SECTION 40. **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: _____