

SENATE BILL No. 565

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.3-7-1; IC 6-2.5; IC 6-3; IC 6-3.1-4-8; IC 6-6; IC 6-8.1; IC 16-44-2-18.

Synopsis: Department of state revenue. Provides that the department of state revenue (department) may deny an application for a registered retail merchant's certificate in certain circumstances. Specifies the requirements necessary for a taxpayer to discontinue filing a combined income tax return. Requires a partnership, or an estate or trust, to file certain information returns electronically. Amends motor carrier fuel tax provisions retroactively to July 1, 2018, to specify the rates that apply to the imposition of the tax. Specifies that books and records that a taxpayer is required to keep must be maintained contemporaneously and be of the type that are kept in the ordinary course of business. Requires a taxpayer to retain books and records during the period of a judicial proceeding or appeal that extends beyond the three year retention period under current law. Changes the order in which the department is required to apply a taxpayer's partial payment to the taxpayer's tax liability, penalties, and interest. Requires a sheriff that collects a judgment on a tax warrant to notify the department of the name of the taxpayer and the amount of the payment within 24 hours of receipt of the payment. Provides certain circumstances in which a refund claim will not be considered as filed for purposes of determining when interest begins to accrue. Allows the department to waive or toll tax penalties and interest imposed on a taxpayer who is or has been incarcerated for a period of at least 180 days. Provides that, with regard to research expense credits, a taxpayer may not claim the credit if the taxpayer: (1) does not also claim a federal credit under certain provisions in Section 41 of the Internal Revenue Code (credit for increasing research activities); or (2) claims a deduction on the
(Continued next page)

Effective: July 1, 2018 (retroactive); January 1, 2019 (retroactive); July 1, 2019; January 1, 2020.

Holdman

January 14, 2019, read first time and referred to Committee on Tax and Fiscal Policy.



Digest Continued

taxpayer's federal return with regard to the expenses for which the taxpayer is claiming a credit on the taxpayer's state return. Provides certain exceptions to this provision. Makes technical corrections and conforming changes.



Introduced

First Regular Session of the 121st General Assembly (2019)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 565

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

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

1 SECTION 1. IC 6-2.3-7-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A taxpayer who
3 fails to keep records of the taxpayer's gross receipts and any other
4 records that may be necessary to determine the amount of utility
5 receipts tax the taxpayer owes for a period of ~~three (3) years~~, as
6 required by IC 6-8.1-5-4, commits a Class C infraction.

7 (b) A taxpayer who fails to permit records described in subsection
8 (a) to be examined at any time by the department in accordance with
9 IC 6-8.1-5-4 commits a Class C infraction.

10 (c) A taxpayer who knowingly fails to produce or permit the
11 department to examine records described in subsection (a) or (b)
12 commits a Class B misdemeanor.

13 SECTION 2. IC 6-2.5-4-8 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. An Indiana
15 governmental entity, agency, instrumentality, or political subdivision



1 (including a state college or university) is a retail merchant making a
 2 retail transaction when it performs private or proprietary activities that
 3 would constitute retail transactions under this article if those activities
 4 were performed by a retail merchant. However, this section does not
 5 apply to a political subdivision ~~that~~ **when it** performs an activity that
 6 is related to an annual festival, carnival, fair, or similar event.

7 SECTION 3. IC 6-2.5-8-1, AS AMENDED BY P.L.212-2018(ss),
 8 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2019]: Sec. 1. (a) A retail merchant may not make a retail
 10 transaction in Indiana, unless the retail merchant has applied for a
 11 registered retail merchant's certificate.

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

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

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

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

39 **(1) failed to:**

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

42 **(B) pay all taxes, penalties, and interest to the department**



- 1 **for listed taxes; and**
 2 **(2) the business of the person who has failed to file all tax**
 3 **returns or information reports under subdivision (1)(A) or**
 4 **who has failed to pay all taxes, penalties, and interest under**
 5 **subdivision (1)(B) is substantially similar to the business of the**
 6 **applicant.**
- 7 ~~(e)~~ **(f)** If a retail merchant intends to make retail transactions during
 8 a calendar year at a new Indiana place of business, the retail merchant
 9 must file a supplemental application and pay the fee for that place of
 10 business.
- 11 ~~(f)~~ **(g)** Except as provided in subsection ~~(h)~~; **(i)**, a registered retail
 12 merchant's certificate is valid for two (2) years after the date the
 13 registered retail merchant's certificate is originally issued or renewed.
 14 If the retail merchant has filed all returns and remitted all taxes the
 15 retail merchant is currently obligated to file or remit, the department
 16 shall renew the registered retail merchant's certificate within thirty (30)
 17 days after the expiration date, at no cost to the retail merchant. Before
 18 issuing or renewing the registered retail merchant certification, the
 19 department may require the following to be provided:
- 20 (1) The names and addresses of the retail merchant's principal
 21 employees, agents, or representatives who engage in Indiana in
 22 the solicitation or negotiation of the retail transaction.
 23 (2) The location of all of the retail merchant's places of business
 24 in Indiana, including offices and distribution houses.
 25 (3) Any other information that the department requests.
- 26 ~~(g)~~ **(h)** The department may not renew a registered retail merchant
 27 certificate of a retail merchant who is delinquent in remitting
 28 withholding taxes required to be remitted under IC 6-3-4 or sales or use
 29 tax. The department, at least sixty (60) days before the date on which
 30 a retail merchant's registered retail merchant's certificate expires, shall
 31 notify a retail merchant who is delinquent in remitting withholding
 32 taxes required to be remitted under IC 6-3-4 or sales or use tax that the
 33 department will not renew the retail merchant's registered retail
 34 merchant's certificate.
- 35 ~~(h)~~ **(i)** If:
 36 (1) a retail merchant has been notified by the department that the
 37 retail merchant is delinquent in remitting withholding taxes or
 38 sales or use tax in accordance with subsection ~~(g)~~; **(h)**; and
 39 (2) the retail merchant pays the outstanding liability before the
 40 expiration of the retail merchant's registered retail merchant's
 41 certificate;
 42 the department shall renew the retail merchant's registered retail



1 merchant's certificate for one (1) year.

2 ~~(j)~~ **(j)** A retail merchant engaged in business in Indiana as defined
 3 in IC 6-2.5-3-1(c) who makes retail transactions that are only subject
 4 to the use tax must obtain a registered retail merchant's certificate
 5 before making those transactions. The retail merchant may obtain the
 6 certificate by following the same procedure as a retail merchant under
 7 subsections (b) and (c), except that the retail merchant must also
 8 include on the application:

- 9 (1) the names and addresses of the retail merchant's principal
 10 employees, agents, or representatives who engage in Indiana in
 11 the solicitation or negotiation of the retail transactions;
 12 (2) the location of all of the retail merchant's places of business in
 13 Indiana, including offices and distribution houses; and
 14 (3) any other information that the department requests.

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

17 ~~(k)~~ **(k)** The department may permit an out-of-state retail merchant to
 18 collect the use tax. However, before the out-of-state retail merchant
 19 may collect the tax, the out-of-state retail merchant must obtain a
 20 registered retail merchant's certificate in the manner provided by this
 21 section. Upon receiving the certificate, the out-of-state retail merchant
 22 becomes subject to the same conditions and duties as an Indiana retail
 23 merchant and must then collect the use tax due on all sales of tangible
 24 personal property that the out-of-state retail merchant knows is
 25 intended for use in Indiana.

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

- 29 (1) the name of each retail merchant that has newly obtained a
 30 registered retail merchant's certificate during the preceding year
 31 for a place of business located in the township or county; and
 32 (2) the address of each place of business of the taxpayer in the
 33 township or county.

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

38 SECTION 4. IC 6-2.5-8-7, AS AMENDED BY P.L.153-2018,
 39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2019]: Sec. 7. (a) The department may, for good cause, revoke
 41 a certificate issued under section 1, 3, or 4 of this chapter. However,
 42 the department must give the certificate holder at least five (5) days



1 notice before it revokes the certificate under this subsection. Good
2 cause for revocation may include the following:

3 (1) Failure to:

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

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

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

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

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

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

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

24 (b) The department shall revoke a certificate issued under section
25 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
26 holder fails to:

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

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

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

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

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

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

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

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



- 1 (2) the board, bureau, or commission has determined that
2 significant harm will result to the county from the certificate
3 holder's failure to comply with IC 6-9.
- 4 (e) The department shall revoke or suspend a certificate issued
5 under section 1 of this chapter after at least five (5) days notice to the
6 certificate holder if:
- 7 (1) the certificate holder owes taxes, penalties, fines, interest, or
8 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
9 days after the due date under IC 6-1.1; and
- 10 (2) the treasurer of the county to which the taxes are due requests
11 the department to revoke or suspend the certificate.
- 12 (f) The department shall reinstate a certificate suspended under
13 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
14 or the county treasurer requests the department to reinstate the
15 certificate because an agreement for the payment of taxes and any
16 penalties due under IC 6-1.1 has been reached to the satisfaction of the
17 county treasurer.
- 18 (g) The department shall revoke a certificate issued under section
19 1 of this chapter after at least five (5) days notice to the certificate
20 holder if the department finds in a public hearing by a preponderance
21 of the evidence that the certificate holder has violated IC 35-45-5-3,
22 IC 35-45-5-3.5, or IC 35-45-5-4.
- 23 (h) If a person makes a payment for the certificate under section 1
24 or 3 of this chapter with a check, credit card, debit card, or electronic
25 funds transfer, and the department is unable to obtain payment of the
26 check, credit card, debit card, or electronic funds transfer for its full
27 face amount when the check, credit card, debit card, or electronic funds
28 transfer is presented for payment through normal banking channels, the
29 department shall notify the person by mail that the check, credit card,
30 debit card, or electronic funds transfer was not honored and that the
31 person has five (5) days after the notice is mailed to pay the fee in cash,
32 by certified check, or other guaranteed payment. If the person fails to
33 make the payment within the five (5) day period, the department shall
34 revoke the certificate.
- 35 (i) If the department finds in a public hearing by a preponderance of
36 the evidence that a person has a conviction for a violation of
37 IC 35-48-4-10.5 and the conviction involved the sale of or the offer to
38 sell, in the normal course of business, a synthetic drug or a synthetic
39 drug lookalike substance by a retail merchant in a place of business for
40 which the retail merchant has been issued a registered retail merchant
41 certificate under section 1 of this chapter, the department:
- 42 (1) shall suspend the registered retail merchant certificate for the



1 place of business for one (1) year; and
 2 (2) may not issue another retail merchant certificate under section
 3 1 of this chapter for one (1) year to any person:

4 (A) that:

5 (i) applied for; or

6 (ii) made a retail transaction under;

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

9 (B) that:

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

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

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

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

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

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

26 (A) that:

27 (i) applied for; or

28 (ii) made a retail transaction under;

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

31 (B) that:

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

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

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

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

42 (1) shall suspend the registered retail merchant certificate for the



1 place of business for one (1) year; and
 2 (2) may not issue another retail merchant certificate under section
 3 1 of this chapter for one (1) year to any person:

4 (A) that:

5 (i) applied for; or

6 (ii) made a retail transaction under;

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

9 (B) that:

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

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

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

14 SECTION 5. IC 6-3-2-2, AS AMENDED BY P.L.214-2018(ss),
 15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2019]: Sec. 2. (a) With regard to corporations and nonresident
 17 persons, "adjusted gross income derived from sources within Indiana",
 18 for the purposes of this article, shall mean and include:

19 (1) income from real or tangible personal property located in this
 20 state;

21 (2) income from doing business in this state;

22 (3) income from a trade or profession conducted in this state;

23 (4) compensation for labor or services rendered within this state;
 24 and

25 (5) income from stocks, bonds, notes, bank deposits, patents,
 26 copyrights, secret processes and formulas, good will, trademarks,
 27 trade brands, franchises, and other intangible personal property to
 28 the extent that the income is apportioned to Indiana under this
 29 section or if the income is allocated to Indiana or considered to be
 30 derived from sources within Indiana under this section.

31 Income from a pass through entity shall be characterized in a manner
 32 consistent with the income's characterization for federal income tax
 33 purposes and shall be considered Indiana source income as if the
 34 person, corporation, or pass through entity that received the income had
 35 directly engaged in the income producing activity. Income that is
 36 derived from one (1) pass through entity and is considered to pass
 37 through to another pass through entity does not change these
 38 characteristics or attribution provisions. In the case of nonbusiness
 39 income described in subsection (g), only so much of such income as is
 40 allocated to this state under the provisions of subsections (h) through
 41 (k) shall be deemed to be derived from sources within Indiana. In the
 42 case of business income, only so much of such income as is



1 apporportioned to this state under the provision of subsection (b) shall be
 2 deemed to be derived from sources within the state of Indiana. In the
 3 case of compensation of a team member (as defined in section 2.7 of
 4 this chapter), only the portion of income determined to be Indiana
 5 income under section 2.7 of this chapter is considered derived from
 6 sources within Indiana. In the case of a corporation that is a life
 7 insurance company (as defined in Section 816(a) of the Internal
 8 Revenue Code) or an insurance company that is subject to tax under
 9 Section 831 of the Internal Revenue Code, only so much of the income
 10 as is apportioned to Indiana under subsection (†) (s) is considered
 11 derived from sources within Indiana.

12 (b) Except as provided in subsection (l), if business income of a
 13 corporation or a nonresident person is derived from sources within the
 14 state of Indiana and from sources without the state of Indiana, the
 15 business income derived from sources within this state shall be
 16 determined by multiplying the business income derived from sources
 17 both within and without the state of Indiana by the following:

18 (1) For all taxable years that begin after December 31, 2006, and
 19 before January 1, 2008, a fraction. The:

20 (A) numerator of the fraction is the sum of the property factor
 21 plus the payroll factor plus the product of the sales factor
 22 multiplied by three (3); and

23 (B) denominator of the fraction is five (5).

24 (2) For all taxable years that begin after December 31, 2007, and
 25 before January 1, 2009, a fraction. The:

26 (A) numerator of the fraction is the property factor plus the
 27 payroll factor plus the product of the sales factor multiplied by
 28 four and sixty-seven hundredths (4.67); and

29 (B) denominator of the fraction is six and sixty-seven
 30 hundredths (6.67).

31 (3) For all taxable years beginning after December 31, 2008, and
 32 before January 1, 2010, a fraction. The:

33 (A) numerator of the fraction is the property factor plus the
 34 payroll factor plus the product of the sales factor multiplied by
 35 eight (8); and

36 (B) denominator of the fraction is ten (10).

37 (4) For all taxable years beginning after December 31, 2009, and
 38 before January 1, 2011, a fraction. The:

39 (A) numerator of the fraction is the property factor plus the
 40 payroll factor plus the product of the sales factor multiplied by
 41 eighteen (18); and

42 (B) denominator of the fraction is twenty (20).



1 (5) For all taxable years beginning after December 31, 2010, the
2 sales factor.

3 (c) The property factor is a fraction, the numerator of which is the
4 average value of the taxpayer's real and tangible personal property
5 owned or rented and used in this state during the taxable year and the
6 denominator of which is the average value of all the taxpayer's real and
7 tangible personal property owned or rented and used during the taxable
8 year. However, with respect to a foreign corporation, the denominator
9 does not include the average value of real or tangible personal property
10 owned or rented and used in a place that is outside the United States.
11 Property owned by the taxpayer is valued at its original cost. Property
12 rented by the taxpayer is valued at eight (8) times the net annual rental
13 rate. Net annual rental rate is the annual rental rate paid by the taxpayer
14 less any annual rental rate received by the taxpayer from subrentals.
15 The average of property shall be determined by averaging the values at
16 the beginning and ending of the taxable year, but the department may
17 require the averaging of monthly values during the taxable year if
18 reasonably required to reflect properly the average value of the
19 taxpayer's property.

20 (d) The payroll factor is a fraction, the numerator of which is the
21 total amount paid in this state during the taxable year by the taxpayer
22 for compensation, and the denominator of which is the total
23 compensation paid everywhere during the taxable year. However, with
24 respect to a foreign corporation, the denominator does not include
25 compensation paid in a place that is outside the United States.
26 Compensation is paid in this state if:

- 27 (1) the individual's service is performed entirely within the state;
28 (2) the individual's service is performed both within and without
29 this state, but the service performed without this state is incidental
30 to the individual's service within this state; or
31 (3) some of the service is performed in this state and:
32 (A) the base of operations or, if there is no base of operations,
33 the place from which the service is directed or controlled is in
34 this state; or
35 (B) the base of operations or the place from which the service
36 is directed or controlled is not in any state in which some part
37 of the service is performed, but the individual is a resident of
38 this state.

39 (e) The sales factor is a fraction, the numerator of which is the total
40 sales of the taxpayer in this state during the taxable year, and the
41 denominator of which is the total sales of the taxpayer everywhere
42 during the taxable year. Sales include receipts from intangible property



1 and receipts from the sale or exchange of intangible property. However,
 2 with respect to a foreign corporation, the denominator does not include
 3 sales made in a place that is outside the United States. Receipts from
 4 intangible personal property are derived from sources within Indiana
 5 if the receipts from the intangible personal property are attributable to
 6 Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point
 7 or other conditions of the sale, sales of tangible personal property are
 8 in this state if:

- 9 (1) the property is delivered or shipped to a purchaser that is
 10 within Indiana, other than the United States government; or
 11 (2) the property is shipped from an office, a store, a warehouse, a
 12 factory, or other place of storage in this state and the purchaser is
 13 the United States government.

14 Gross receipts derived from commercial printing as described in
 15 IC 6-2.5-1-10 and from the sale of computer software shall be treated
 16 as sales of tangible personal property for purposes of this chapter.

17 (f) Sales, other than receipts from intangible property covered by
 18 subsection (e) and sales of tangible personal property, are in this state
 19 if:

- 20 (1) the income-producing activity is performed in this state; or
 21 (2) the income-producing activity is performed both within and
 22 without this state and a greater proportion of the
 23 income-producing activity is performed in this state than in any
 24 other state, based on costs of performance.

25 (g) Rents and royalties from real or tangible personal property,
 26 capital gains, interest, dividends, or patent or copyright royalties, to the
 27 extent that they constitute nonbusiness income, shall be allocated as
 28 provided in subsections (h) through (k).

29 (h)(1) Net rents and royalties from real property located in this state
 30 are allocable to this state.

31 (2) Net rents and royalties from tangible personal property are
 32 allocated to this state:

- 33 (i) if and to the extent that the property is utilized in this state; or
 34 (ii) in their entirety if the taxpayer's commercial domicile is in this
 35 state and the taxpayer is not organized under the laws of or
 36 taxable in the state in which the property is utilized.

37 (3) The extent of utilization of tangible personal property in a state
 38 is determined by multiplying the rents and royalties by a fraction, the
 39 numerator of which is the number of days of physical location of the
 40 property in the state during the rental or royalty period in the taxable
 41 year, and the denominator of which is the number of days of physical
 42 location of the property everywhere during all rental or royalty periods



1 in the taxable year. If the physical location of the property during the
 2 rental or royalty period is unknown or unascertainable by the taxpayer,
 3 tangible personal property is utilized in the state in which the property
 4 was located at the time the rental or royalty payer obtained possession.

5 (i)(1) Capital gains and losses from sales of real property located in
 6 this state are allocable to this state.

7 (2) Capital gains and losses from sales of tangible personal property
 8 are allocable to this state if:

9 (i) the property had a situs in this state at the time of the sale; or

10 (ii) the taxpayer's commercial domicile is in this state and the
 11 taxpayer is not taxable in the state in which the property had a
 12 situs.

13 (3) Capital gains and losses from sales of intangible personal
 14 property are allocable to this state if the taxpayer's commercial
 15 domicile is in this state.

16 (j) Interest and dividends are allocable to this state if the taxpayer's
 17 commercial domicile is in this state.

18 (k)(1) Patent and copyright royalties are allocable to this state:

19 (i) if and to the extent that the patent or copyright is utilized by
 20 the taxpayer in this state; or

21 (ii) if and to the extent that the patent or copyright is utilized by
 22 the taxpayer in a state in which the taxpayer is not taxable and the
 23 taxpayer's commercial domicile is in this state.

24 (2) A patent is utilized in a state to the extent that it is employed
 25 in production, fabrication, manufacturing, or other processing in
 26 the state or to the extent that a patented product is produced in the
 27 state. If the basis of receipts from patent royalties does not permit
 28 allocation to states or if the accounting procedures do not reflect
 29 states of utilization, the patent is utilized in the state in which the
 30 taxpayer's commercial domicile is located.

31 (3) A copyright is utilized in a state to the extent that printing or
 32 other publication originates in the state. If the basis of receipts
 33 from copyright royalties does not permit allocation to states or if
 34 the accounting procedures do not reflect states of utilization, the
 35 copyright is utilized in the state in which the taxpayer's
 36 commercial domicile is located.

37 (l) If the allocation and apportionment provisions of this article do
 38 not fairly represent the taxpayer's income derived from sources within
 39 the state of Indiana, the taxpayer may petition for or the department
 40 may require, in respect to all or any part of the taxpayer's business
 41 activity, if reasonable:

42 (1) separate accounting;



1 (2) for a taxable year beginning before January 1, 2011, the
 2 exclusion of any one (1) or more of the factors, except the sales
 3 factor;

4 (3) the inclusion of one (1) or more additional factors which will
 5 fairly represent the taxpayer's income derived from sources within
 6 the state of Indiana; or

7 (4) the employment of any other method to effectuate an equitable
 8 allocation and apportionment of the taxpayer's income.

9 Notwithstanding IC 6-8.1-5-1(c), a taxpayer petitioning for, or the
 10 department requiring, the use of an alternative method to effectuate an
 11 equitable allocation and apportionment of the taxpayer's income under
 12 this subsection bears the burden of proof that the allocation and
 13 apportionment provisions of this article do not fairly represent the
 14 taxpayer's income derived from sources within this state and that the
 15 alternative method to the allocation and apportionment provisions of
 16 this article is reasonable.

17 (m) In the case of two (2) or more organizations, trades, or
 18 businesses owned or controlled directly or indirectly by the same
 19 interests, the department shall distribute, apportion, or allocate the
 20 income derived from sources within the state of Indiana between and
 21 among those organizations, trades, or businesses in order to fairly
 22 reflect and report the income derived from sources within the state of
 23 Indiana by various taxpayers.

24 (n) For purposes of allocation and apportionment of income under
 25 this article, a taxpayer is taxable in another state if:

26 (1) in that state the taxpayer is subject to a net income tax, a
 27 franchise tax measured by net income, a franchise tax for the
 28 privilege of doing business, or a corporate stock tax; or

29 (2) that state has jurisdiction to subject the taxpayer to a net
 30 income tax regardless of whether, in fact, the state does or does
 31 not.

32 (o) Notwithstanding subsections (l) and (m), the department may
 33 not, under any circumstances, require that income, deductions, and
 34 credits attributable to a taxpayer and another entity be reported in a
 35 combined income tax return for any taxable year, if the other entity is:

36 (1) a foreign corporation; or

37 (2) a corporation that is classified as a foreign operating
 38 corporation for the taxable year by section 2.4 of this chapter.

39 (p) Notwithstanding subsections (l) and (m), the department may not
 40 require that income, deductions, and credits attributable to a taxpayer
 41 and another entity not described in subsection (o)(1) or (o)(2) be
 42 reported in a combined income tax return for any taxable year, unless



1 the department is unable to fairly reflect the taxpayer's adjusted gross
 2 income for the taxable year through use of other powers granted to the
 3 department by subsections (l) and (m).

4 (q) Notwithstanding subsections (o) and (p), one (1) or more
 5 taxpayers may petition the department under subsection (l) for
 6 permission to file a combined income tax return for a taxable year. The
 7 petition to file a combined income tax return must be completed and
 8 filed with the department not more than thirty (30) days after the end
 9 of the taxpayer's taxable year. ~~A taxpayer filing a combined income tax
 10 return must petition the department within thirty (30) days after the end
 11 of the taxpayer's taxable year to discontinue filing a combined income
 12 tax return.~~

13 **(r) A taxpayer filing a combined income tax return for any
 14 reason must petition the department within thirty (30) days after
 15 the end of the taxpayer's taxable year to discontinue filing a
 16 combined income tax return.**

17 ~~(r)~~ (s) This subsection applies to a corporation that is a life
 18 insurance company (as defined in Section 816(a) of the Internal
 19 Revenue Code) or an insurance company that is subject to tax under
 20 Section 831 of the Internal Revenue Code. The corporation's adjusted
 21 gross income that is derived from sources within Indiana is determined
 22 by multiplying the corporation's adjusted gross income by a fraction:

23 (1) the numerator of which is the direct premiums and annuity
 24 considerations received during the taxable year for insurance
 25 upon property or risks in the state; and

26 (2) the denominator of which is the direct premiums and annuity
 27 considerations received during the taxable year for insurance
 28 upon property or risks everywhere.

29 The term "direct premiums and annuity considerations" means the
 30 gross premiums received from direct business as reported in the
 31 corporation's annual statement filed with the department of insurance.

32 ~~(s)~~ (t) This subsection applies to receipts derived from motorsports
 33 racing.

34 (1) Any purse, prize money, or other amounts earned for
 35 placement or participation in a race or portion thereof, including
 36 qualification, shall be attributed to Indiana if the race is conducted
 37 in Indiana.

38 (2) Any amounts received from an individual or entity as a result
 39 of sponsorship or similar promotional consideration for one (1) or
 40 more races shall be in this state in the amount received, multiplied
 41 by the following fraction:

42 (A) The numerator of the fraction is the number of racing



- 1 events for which sponsorship or similar promotional
 2 consideration has been paid in a taxable year and that occur in
 3 Indiana.
 4 (B) The denominator of the fraction is the total number of
 5 racing events for which sponsorship or similar promotional
 6 consideration has been paid in a taxable year.
 7 (3) Any amounts earned as an incentive for placement or
 8 participation in one (1) or more races and that are not covered
 9 under subdivision (1) or (2) or under IC 6-3-2-3.2 shall be
 10 attributed to Indiana in the proportion of the races that occurred
 11 in Indiana.

12 This subsection, as enacted in 2013, is intended to be a clarification of
 13 the law and not a substantive change in the law.

14 **(†) (u)** For purposes of this section and section 2.2 of this chapter,
 15 the following apply:

16 (1) For taxable years beginning after December 25, 2016, if a
 17 taxpayer is required to include amounts in the taxpayer's federal
 18 adjusted gross income, federal taxable income, or IRC 965
 19 Transition Tax Statement, line 1 as a result of Section 965 of the
 20 Internal Revenue Code, the following apply:

21 (A) For an entity that is not eligible to claim a deduction under
 22 IC 6-3-2-12, these amounts shall not be receipts in any taxable
 23 year for the entity.

24 (B) For an entity that is eligible to claim a deduction under
 25 IC 6-3-2-12, these amounts shall be receipts in the year in
 26 which the amounts are reported by the entity as adjusted gross
 27 income under this article, but only to the extent of:

28 (i) any amounts includible after application of
 29 IC 6-3-1-3.5(b)(13), IC 6-3-1-3.5(d)(12), and
 30 IC 6-3-1-3.5(e)(12); minus

31 (ii) the deduction taken under IC 6-3-2-12 with regard to
 32 that income.

33 This subdivision applies regardless of the taxable year in which
 34 the money or property was actually received.

35 (2) If a taxpayer is required to include amounts in the taxpayer's
 36 federal adjusted gross income or federal taxable income as a
 37 result of Section 951A of the Internal Revenue Code the
 38 following apply:

39 (A) For an entity that is not eligible to claim a deduction under
 40 IC 6-3-2-12, the receipts that generated the income shall not be
 41 included as a receipt in any taxable year.

42 (B) For an entity that is eligible to claim a deduction under



1 IC 6-3-2-12, the amounts included in federal gross income as
 2 a result of Section 951A of the Internal Revenue Code,
 3 reduced by the deduction allowable under IC 6-3-2-12 with
 4 regard to that income, shall be considered a receipt in the year
 5 in which the amounts are includible in federal taxable income.
 6 (3) Receipts do not include receipts derived from sources outside
 7 the United States to the extent the taxpayer is allowed a deduction
 8 or exclusion in determining both the taxpayer's federal taxable
 9 income as a result of the federal Tax Cuts and Jobs Act of 2017
 10 and the taxpayer's adjusted gross income under this chapter. If any
 11 portion of the federal taxable income derived from these receipts
 12 is deductible under IC 6-3-2-12, receipts shall be reduced by the
 13 proportion of the deduction allowable under IC 6-3-2-12 with
 14 regard to that federal taxable income.

15 Receipts includible in a taxable year under subdivisions (1) and (2)
 16 shall be considered dividends from investments for apportionment
 17 purposes.

18 SECTION 6. IC 6-3-4-16.5, AS AMENDED BY P.L.137-2012,
 19 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JANUARY 1, 2020]: Sec. 16.5. (a) This section applies to:

- 21 (1) Form W-2 federal income tax withholding statements;
 22 (2) Form W-2G certain gambling winnings;
 23 (3) Form 1099-R distributions from pensions, annuities,
 24 retirement or profit sharing plans, IRAs, insurance contracts, or
 25 like distributions; **and**
 26 (4) Form WH-3 annual withholding tax reports; **and**
 27 ~~(5) Form WH-18 miscellaneous withholding tax statements for~~
 28 ~~nonresidents;~~

29 filed with the department after December 31, 2012.

30 (b) If an employer or any person or entity acting on behalf of an
 31 employer files more than twenty-five (25):

- 32 (1) Form W-2 federal income tax withholding statements;
 33 (2) Form W-2G certain gambling winnings; **or**
 34 (3) Form 1099-R distributions from pensions, annuities,
 35 retirement or profit sharing plans, IRAs, insurance contracts, or
 36 like distributions; ~~or~~
 37 ~~(4) Form WH-18 miscellaneous withholding tax statements for~~
 38 ~~nonresidents;~~

39 with the department in a calendar year, all forms and Form WH-3
 40 annual withholding tax reports filed with the department in that
 41 calendar year by the employer or the person or entity acting on behalf
 42 of the employer must be filed in an electronic format specified by the



1 department.

2 SECTION 7. IC 6-3-4-16.7 IS ADDED TO THE INDIANA CODE
 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 4 1, 2019]: **Sec. 16.7. (a) For taxable years ending after December 31,
 5 2019, a partnership that is required to provide twenty-five (25) or
 6 more reports to partners under section 12(b) of this chapter or a
 7 corporation that is required to provide twenty-five (25) or more
 8 reports to shareholders under section 13(b) of this chapter must
 9 file all such reports in an electronic format specified by the
 10 department.**

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

15 SECTION 8. IC 6-3.1-4-8 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 17 JANUARY 1, 2019 (RETROACTIVE)]: **Sec. 8. (a) A taxpayer may
 18 not claim a credit under this chapter if the taxpayer:**

19 **(1) does not claim a credit under Section 41 of the Internal
 20 Revenue Code for federal income tax purposes other than a
 21 credit based solely on Sections 41(a)(2) and 41(a)(3) of the
 22 Internal Revenue Code; or**

23 **(2) claims a deduction in determining adjusted gross income
 24 or taxable income under the Internal Revenue Code with
 25 regard to the expenses for which the taxpayer is claiming a
 26 credit under this chapter.**

27 **(b) Notwithstanding subsection (a), a taxpayer may claim a
 28 credit under this chapter if the taxpayer establishes that it was
 29 unable to claim the credit under Section 41 of the Internal Revenue
 30 Code in determining the taxpayer's federal income tax because
 31 none of the amounts computed under Sections 41(a)(1), 41(c)(4),
 32 and 41(c)(5) of the Internal Revenue Code exceeded zero (0) for
 33 federal tax purposes. Upon the request of the department, a
 34 taxpayer claiming a credit under this chapter without claiming a
 35 federal credit other than a credit based solely on Sections 41(a)(2)
 36 and 41(a)(3) of the Internal Revenue Code must provide:**

37 **(1) information relating to the amounts and types of qualified
 38 research expenses allowable in computing the credit under
 39 Section 41 of the Internal Revenue Code for all taxable years,
 40 including the current taxable year;**

41 **(2) information relating to gross receipts sufficient to compute
 42 the base amount and the credit under Section 41 of the**



1 **Internal Revenue Code for all taxable years specified in**
 2 **subdivision (1); and**

3 **(3) information to establish to which jurisdictions any**
 4 **qualified research expenses and gross receipts allowable for**
 5 **the credit under Section 41 of the Internal Revenue Code for**
 6 **all taxable years specified in subdivision (1) would have been**
 7 **attributable.**

8 **(c) For purposes of subsection (b), a taxpayer must report to the**
 9 **department:**

10 **(1) any amounts that could have been claimed as qualified**
 11 **expenses for each taxable year in subsection (b);**

12 **(2) any amounts for qualified research expenses that could**
 13 **have been claimed as a deduction for a taxable year; and**

14 **(3) any gross receipts allowable for the federal credit for a**
 15 **taxable year;**

16 **regardless of whether a federal credit or federal deduction based**
 17 **on the qualified research expenses was actually claimed.**

18 SECTION 9. IC 6-6-1.1-606.5, AS AMENDED BY
 19 P.L.182-2009(ss), SECTION 234, IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 606.5. (a) Every person
 21 included within the terms of section 606(a) and 606(c) of this chapter
 22 shall register with the administrator before engaging in those activities.
 23 The administrator shall issue a transportation license to a person who
 24 registers with the administrator under this section.

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

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

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

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

39 (d) Every transporter of gasoline included within the terms of
 40 section 606(a) and 606(c) of this chapter who transports gasoline upon
 41 the highways of Indiana for purposes other than use and consumption
 42 by that person shall at the time of registration and on an annual basis



1 list with the administrator a description of all vehicles, including the
 2 vehicles' license numbers, to be used on the highways of Indiana in
 3 transporting gasoline from:

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

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

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

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

19 (g) The operator of a vehicle to which this section applies shall at all
 20 times when engaged in the transporting of gasoline on the highways
 21 have with the vehicle an invoice or manifest showing the origin,
 22 quantity, nature, and destination of the gasoline that is being
 23 transported.

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

29 (1) must require that the shipper or its agent ~~provide notification~~
 30 ~~to the department before a diversion or correction if an intended~~
 31 ~~diversion or correction is to occur; obtain a diversion number~~
 32 **within twenty-four (24) hours of the diversion and report the**
 33 **number on the shipper's or agent's monthly return to the**
 34 **department; and**

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

36 SECTION 10. IC 6-6-1.1-902 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 902. (a) A local transit
 38 system is entitled to a refund of tax paid on gasoline used:

39 (1) for transporting persons for compensation by means of a
 40 motor vehicle or trackless trolley; or

41 (2) in a maintenance or an administrative vehicle that is used by
 42 the local transit system to support the transit service.



1 (b) The claim for refund must contain the following:

2 (1) A quarterly operating statement.

3 (2) A current balance sheet.

4 (3) A schedule of all salaries in excess of ten thousand dollars
5 (\$10,000) per annum paid to any officer or employee.

6 (c) (b) If a refund is not issued within ninety (90) days of filing of
7 the verified statement and all supplemental information required by
8 IC 6-6-1.1-904.1, the department shall pay interest at the rate
9 established by IC 6-8.1-9 computed from the date of filing of the refund
10 application until a date determined by the administrator that does not
11 precede by more than thirty (30) days the date on which the refund is
12 made.

13 SECTION 11. IC 6-6-1.1-902.5 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 902.5. (a) A rural
15 transit system is entitled to a refund of tax paid on gasoline used for
16 transporting persons for compensation by means of a motor vehicle or
17 trackless trolley. However, the transporting must be done:

18 (1) within a service area that is not larger than the rural transit
19 system service area and the counties contiguous to that rural
20 transit system service area; and

21 (2) under a written contract between the rural transit system and
22 the county providers within the service area that meets the
23 requirements prescribed by the department.

24 (b) The claim for refund must contain the following:

25 (1) A quarterly operating statement.

26 (2) A current balance sheet.

27 (3) A schedule of all salaries that exceed ten thousand dollars
28 (\$10,000) per year paid to any officer or employee.

29 (c) (b) If a refund is not issued within ninety (90) days of filing of
30 the verified statement and all supplemental information required by
31 section 904.1 of this chapter, the department shall pay interest at the
32 rate established by IC 6-8.1-10-1(c) computed from the date of filing
33 of the refund application until a date determined by the administrator
34 that does not precede by more than thirty (30) days the date on which
35 the refund is made.

36 SECTION 12. IC 6-6-2.5-40, AS AMENDED BY P.L.158-2013,
37 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2019]: Sec. 40. (a) Each person operating a refinery, terminal,
39 or bulk plant in Indiana shall prepare and provide to the driver of every
40 vehicle receiving special fuel at the facility a shipping document setting
41 out on its face the destination state as represented to the terminal
42 operator by the shipper or the shipper's agent, except that an operator



1 of a bulk plant in Indiana delivering special fuel into a vehicle with a
2 capacity of not more than five thousand four hundred (5,400) gallons
3 for subsequent delivery to an end consumer in Indiana is exempt from
4 this requirement.

5 (b) Every person transporting special fuel in vehicles upon the
6 Indiana public highways shall carry on board a shipping paper issued
7 by the terminal operator or the bulk plant operator of the facility where
8 the special fuel was obtained, which shipping paper shall set out on its
9 face the state of destination of the special fuel transported in the
10 vehicle, except that operators of vehicles with a capacity of not more
11 than five thousand four hundred (5,400) gallons that have received
12 special fuel at a bulk plant in Indiana for delivery to an end consumer
13 in Indiana are exempt from this provision with respect to the special
14 fuel. A person who violates this subsection commits a Class A
15 infraction (as defined in IC 34-28-5-4).

16 (c) Every person transporting special fuel in vehicles upon the
17 public highways of Indiana shall provide the original or a copy of the
18 terminal issued shipping document accompanying the shipment to the
19 operator of the retail outlet or bulk plant to which delivery of the
20 shipment was made. A person who knowingly violates or knowingly
21 aids and abets another person in violating this subsection commits a
22 Level 6 felony.

23 (d) Each operator of a special fuel retail outlet or bulk plant shall
24 receive, examine, and retain for a period of thirty (30) days at the
25 delivery location the terminal issued shipping document received from
26 the transporter for every shipment of special fuel that is delivered to
27 that location, with record retention of the shipping paper of three (3)
28 years required offsite. A person who knowingly violates or knowingly
29 aids and abets another person in violating this subsection commits a
30 Level 6 felony.

31 (e) No bulk end user, retail dealer, bulk plant operator, or wholesale
32 distributor shall knowingly accept delivery of special fuel into storage
33 facilities in Indiana if that delivery is not accompanied by a shipping
34 paper issued by the terminal operator or bulk plant operator that sets
35 out on its face Indiana as the state of destination of the special fuel. A
36 person who knowingly violates or knowingly aids and abets another
37 person in violating this subsection commits a Level 6 felony.

38 (f) The department shall provide for relief in a case where a
39 shipment of special fuel is legitimately diverted from the represented
40 destination state after the shipping paper has been issued by the
41 terminal operator or where the terminal operator failed to cause proper
42 information to be printed on the shipping paper. These relief provisions



1 shall include a provision requiring that the shipper or its agent ~~provide~~
 2 ~~notification before the diversion or correction to the department if an~~
 3 ~~intended diversion or correction is to occur; obtain a diversion~~
 4 ~~number within twenty-four (24) hours of the diversion and report~~
 5 ~~the number on the shipper's or agent's monthly return to the~~
 6 ~~department~~, and the relief provision shall be consistent with the
 7 refund provisions of this chapter.

8 (g) The supplier and the terminal operator shall be entitled to rely
 9 for all purposes of this chapter on the representation by the shipper or
 10 the shipper's agent as to the shipper's intended state of destination or
 11 tax exempt use. The shipper, the importer, the transporter, the shipper's
 12 agent, and any purchaser, not the supplier or terminal operator, shall be
 13 jointly liable for any tax otherwise due to the state as a result of a
 14 diversion of the special fuel from the represented destination state.

15 SECTION 13. IC 6-6-4.1-1, AS AMENDED BY P.L.185-2018,
 16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2018 (RETROACTIVE)]: Sec. 1. As used in this chapter:

18 (a) "Carrier" means a person who operates or causes to be operated
 19 a commercial motor vehicle on any highway in Indiana.

20 (b) "Commercial motor vehicle" means a vehicle which is listed in
 21 section 2(a) of this chapter and which is not excluded from the
 22 application of this chapter under section 2(b) of this chapter.

23 (c) "Commissioner" means the commissioner of the Indiana
 24 department of state revenue.

25 (d) "Declared gross weight" means the weight at which a motor
 26 vehicle is registered with:

- 27 (1) the bureau of motor vehicles; or
- 28 (2) a state other than Indiana.

29 (e) "Department" means the Indiana department of state revenue.

30 (f) "Diesel gallon equivalent" means the amount of an alternative
 31 fuel **or natural gas product** that produces the same number of British
 32 thermal units of energy as a gallon of diesel fuel.

33 (g) "Gasoline gallon equivalent" means the amount of an alternative
 34 fuel **or natural gas product** that produces the same number of British
 35 thermal units of energy as a gallon of gasoline.

36 (h) "Highway" means the entire width between the boundary lines
 37 of every publicly maintained way that is open in any part to the use of
 38 the public for purposes of vehicular travel.

39 (i) "Motor fuel" means gasoline (as defined in IC 6-6-1.1), special
 40 fuel (as defined in IC 6-6-2.5), and alternative fuel (as defined in
 41 IC 6-6-2.5).

42 (j) "Quarter" means calendar quarter.



1 (k) "Motor vehicle" has the meaning set forth in IC 6-6-1.1-103.

2 (l) "Recreational vehicle" means motor homes, pickup trucks with
3 attached campers, and buses when used exclusively for personal
4 pleasure. A vehicle is not a recreational vehicle if the vehicle is used
5 in connection with a business.

6 (m) "Alternative fuel" has the meaning set forth in IC 6-6-2.5-1.

7 (n) "Special fuel" has the meaning set forth in IC 6-6-2.5-22.

8 (o) **"Natural gas product" has the meaning set forth in**
9 **IC 6-6-2.5-16.5.**

10 SECTION 14. IC 6-6-4.1-4, AS AMENDED BY P.L.185-2018,
11 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2018 (RETROACTIVE)]: Sec. 4. (a) A tax is imposed on the
13 consumption of motor fuel by a carrier in its operations on highways in
14 Indiana. The rate of this tax is determined as follows:

15 (1) When imposed upon the consumption of ~~gasoline or special~~
16 fuel (other than a ~~special fuel that is an alternative fuel~~), **fuel or**
17 **a natural gas product**, the tax rate is the same rate per gallon as
18 the rate per gallon at which special fuel is taxed under IC 6-6-2.5.

19 **(2) When imposed upon the consumption of gasoline, the tax**
20 **rate is the same rate per gallon as the rate per gallon at which**
21 **gasoline is taxed under IC 6-6-1.1.**

22 ~~(2)~~ **(3) When imposed upon the consumption of a special fuel that**
23 **is natural gas product or an alternative fuel, the tax rate is either**
24 of the following:

25 (A) The same rate per diesel gallon equivalent as the rate per
26 gallon at which special fuel is taxed under IC 6-6-2.5, in the
27 case of liquid natural gas.

28 (B) The same rate per gasoline gallon equivalent at which
29 special fuel is taxed under IC 6-6-2.5, in the case of
30 compressed natural gas or an alternative fuel commonly or
31 commercially known or sold as butane or propane.

32 The tax shall be paid quarterly by the carrier to the department on or
33 before the last day of the month immediately following the quarter.

34 (b) The amount of motor fuel consumed by a carrier in its operations
35 on highways in Indiana is the total amount of motor fuel consumed in
36 its entire operations within and without Indiana, multiplied by a
37 fraction. The numerator of the fraction is the total number of miles
38 traveled on highways in Indiana, and the denominator of the fraction is
39 the total number of miles traveled within and without Indiana.

40 (c) The amount of tax that a carrier shall pay for a particular quarter
41 under this section equals the product of the tax rate in effect for that
42 quarter, multiplied by the amount of motor fuel consumed by the



1 carrier in its operation on highways in Indiana and upon which the
 2 carrier has not paid tax imposed under IC 6-6-1.1, IC 6-6-2.5, or
 3 section 4.5 of this chapter (before its repeal).

4 (d) Subject to section 4.8 of this chapter, a carrier is entitled to a
 5 proportional use credit against the tax imposed under this section for
 6 that portion of motor fuel used to propel equipment mounted on a
 7 motor vehicle having a common reservoir for locomotion on the
 8 highway and the operation of the equipment, as determined by rule of
 9 the commissioner. An application for a proportional use credit under
 10 this subsection shall be filed on a quarterly basis on a form prescribed
 11 by the department.

12 SECTION 15. IC 6-6-6.5-14 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. (a) A person
 14 required to register ~~his~~ **the person's** aircraft and to pay the tax imposed
 15 under this chapter, shall do so on or before the regular annual
 16 registration date.

17 (b) The payment of the tax imposed by this chapter shall be a
 18 condition to the right to register the taxable aircraft and shall be in
 19 addition to all other conditions prescribed by law.

20 (c) When a taxpayer makes a partial payment on the taxpayer's tax
 21 liability, the department shall apply the partial payment in the
 22 following order:

23 (1) To any registration or transfer fee owed by the taxpayer.

24 ~~(2) To any late penalty and interest on the late registration or~~
 25 ~~excise tax owed by the taxpayer.~~

26 ~~(3) (2) To any excise tax owed by the taxpayer.~~

27 ~~(4) (3) To any late penalty first and then toward interest on gross~~
 28 ~~retail or use the excise tax owed by the taxpayer.~~

29 ~~(5) (4) To any gross retail or use tax owed by the taxpayer.~~

30 **(5) To any late penalty first and then toward interest on gross**
 31 **retail or use tax owed by the taxpayer.**

32 **If the taxpayer has liabilities for taxes in addition to what is due**
 33 **under this section, the payment must be applied as prescribed by**
 34 **this section and then pursuant to IC 6-8.1-8-1.5 or the department's**
 35 **rules.**

36 SECTION 16. IC 6-8.1-3-16, AS AMENDED BY P.L.197-2016,
 37 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2019]: Sec. 16. (a) The department shall prepare a list of all
 39 outstanding tax warrants for listed taxes each month. The list shall
 40 identify each taxpayer liable for a warrant by name, address, amount of
 41 tax, and either Social Security number or employer identification
 42 number. Unless the department renews the warrant, the department



1 shall exclude from the list a warrant issued more than ten (10) years
 2 before the date of the list. The department shall certify a copy of the list
 3 to the bureau of motor vehicles.

4 (b) The department shall prescribe and furnish tax release forms for
 5 use by tax collecting officials. A tax collecting official who collects
 6 taxes in satisfaction of an outstanding warrant shall issue to the
 7 taxpayers named on the warrant a tax release stating that the tax has
 8 been paid. The department may also issue a tax release:

9 (1) to a taxpayer who has made arrangements satisfactory to the
 10 department for the payment of the tax; or

11 (2) by action of the commissioner under IC 6-8.1-8-2(k).

12 (c) The department may not issue or renew:

13 (1) a certificate under IC 6-2.5-8;

14 (2) a license under IC 6-6-1.1 or IC 6-6-2.5; or

15 (3) a permit under IC 6-6-4.1;

16 to a taxpayer whose name appears on the most recent monthly warrant
 17 list, unless that taxpayer pays the tax, makes arrangements satisfactory
 18 to the department for the payment of the tax, or a release is issued
 19 under IC 6-8.1-8-2(k).

20 (d) The bureau of motor vehicles shall, before issuing the title to a
 21 motor vehicle under IC 9-17, determine whether the purchaser's or
 22 assignee's name is on the most recent monthly warrant list. If the
 23 purchaser's or assignee's name is on the list, the bureau shall enter as
 24 a lien on the title the name of the state as the lienholder unless the
 25 bureau has received notice from the commissioner under
 26 IC 6-8.1-8-2(k). The tax lien on the title:

27 (1) is subordinate to a perfected security interest (as defined and
 28 perfected in accordance with IC 26-1-9.1); and

29 (2) shall otherwise be treated in the same manner as other title
 30 liens.

31 (e) The commissioner is the custodian of all titles for which the state
 32 is the sole lienholder under this section. Upon receipt of the title by the
 33 department, the commissioner shall notify the owner of the
 34 department's receipt of the title.

35 (f) The department shall reimburse the bureau of motor vehicles for
 36 all costs incurred in carrying out this section.

37 (g) Notwithstanding IC 6-8.1-8, a person who is authorized to
 38 collect taxes, interest, or penalties on behalf of the department under
 39 IC 6-3 or IC 6-3.6 may not, except as provided in subsection (h) or (i),
 40 receive a fee for collecting the taxes, interest, or penalties if:

41 (1) the taxpayer pays the taxes, interest, or penalties as
 42 consideration for the release of a lien placed under subsection (d)



- 1 on a motor vehicle title; or
 2 (2) the taxpayer has been denied a certificate or license under
 3 subsection (c) within sixty (60) days before the date the taxes,
 4 interest, or penalties are collected.
- 5 (h) In the case of a sheriff, subsection (g) does not apply if:
 6 (1) the sheriff collects the taxes, interest, or penalties within sixty
 7 (60) days after the date the sheriff receives the tax warrant; or
 8 (2) the sheriff collects the taxes, interest, or penalties through the
 9 sale or redemption, in a court proceeding, of a motor vehicle that
 10 has a lien placed on its title under subsection (d).
- 11 (i) In the case of a person other than a sheriff:
 12 (1) subsection (g)(2) does not apply if the person collects the
 13 taxes, interests, or penalties within sixty (60) days after the date
 14 the commissioner employs the person to make the collection; and
 15 (2) subsection (g)(1) does not apply if the person collects the
 16 taxes, interest, or penalties through the sale or redemption, in a
 17 court proceeding, of a motor vehicle that has a lien placed on its
 18 title under subsection (d).
- 19 (j) IC 5-14-3-4, IC 6-8.1-7-1, and any other law exempting
 20 information from disclosure by the department do not apply to this
 21 subsection. The department shall prepare a list of retail merchants
 22 whose registered retail merchant certificate has not been renewed
 23 under ~~IC 6-2.5-8-1(g)~~ **IC 6-2.5-8-1(h)** or whose registered retail
 24 merchant certificate has been revoked under IC 6-2.5-8-7. The list
 25 compiled under this subsection must identify each retail merchant by
 26 name (including any name under which the retail merchant is doing
 27 business), address, and county. The department shall publish the list
 28 compiled under this subsection on the department's Internet web site
 29 (as operated under IC 4-13.1-2) and make the list available for public
 30 inspection and copying under IC 5-14-3. The department or an agent,
 31 employee, or officer of the department is immune from liability for the
 32 publication of information under this subsection.
- 33 SECTION 17. IC 6-8.1-5-4 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Every person
 35 subject to a listed tax must keep **contemporaneous** books and records
 36 so that the department can determine the amount, if any, of the person's
 37 liability for that tax by reviewing those books and records. The records
 38 referred to in this subsection include all source documents necessary
 39 to determine the tax, including invoices, register tapes, receipts, and
 40 canceled checks. **A record shall not include any information not**
 41 **contemporaneously maintained in the ordinary course of business,**
 42 **either in written or digital format.**



1 (b) A person must retain the books and records described in
 2 subsection (a), and any state or federal tax return that the person has
 3 filed:

4 (1) for an unlimited period, if the person fails to file a return or
 5 receives notice from the department that the person has filed a
 6 suspected fraudulent return, or an unsigned or substantially blank
 7 return; or

8 (2) in all other cases, for a period of at least three (3) years after
 9 the date the final payment of the particular tax liability was due,
 10 **or for a period during which a judicial proceeding or appeal**
 11 **related to a listed tax of the person is pending, whichever is**
 12 **later**, unless after an audit, the department consents to earlier
 13 destruction.

14 In addition, if the limitation on assessments provided in section 2 of
 15 this chapter is extended beyond three (3) years for a particular tax
 16 liability, the person must retain the books and records until the
 17 assessment period is over, **or the date on which a judicial proceeding**
 18 **or appeal related to a listed tax is no longer pending, whichever is**
 19 **later.**

20 (c) A person must allow inspection **and copying** of the books and
 21 records and returns by the department or its authorized agents at all
 22 reasonable times.

23 (d) A person must, on request by the department, furnish a copy of
 24 any federal returns that ~~he~~ **the person** has filed.

25 **(e) If a taxpayer:**

26 **(1) does not keep contemporaneous books and records in the**
 27 **ordinary course of business as required under subsection (a);**

28 **(2) destroys such books and records prior to the expiration of**
 29 **the period under subsection (b); or**

30 **(3) fails to allow access to such books and records under**
 31 **subsection (c);**

32 **the department may use any reasonable method to reconstruct the**
 33 **taxpayer's receipts, expenses, and any other items necessary to**
 34 **determine the taxpayer's proper amount of listed tax liability.**

35 **(f) If the department requests books and records of a taxpayer**
 36 **and the taxpayer can establish both that the taxpayer maintained**
 37 **the books and records required by the department and that the**
 38 **books and records were destroyed, other than by an intentional or**
 39 **reckless act of the taxpayer, the taxpayer may produce information**
 40 **from the books and records maintained by third parties to be**
 41 **received as evidence. Any information that reasonably should have**
 42 **been available in the books and records of the taxpayer and that is**



1 **not otherwise produced by the taxpayer may not be introduced as**
 2 **evidence.**

3 SECTION 18. IC 6-8.1-7-1, AS AMENDED BY P.L.86-2018,
 4 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2019]: Sec. 1. (a) This subsection does not apply to the
 6 disclosure of information concerning a conviction on a tax evasion
 7 charge. Unless in accordance with a judicial order or as otherwise
 8 provided in this chapter, the department, its employees, former
 9 employees, counsel, agents, or any other person may not divulge the
 10 amount of tax paid by any taxpayer, terms of a settlement agreement
 11 executed between a taxpayer and the department, investigation records,
 12 investigation reports, or any other information disclosed by the reports
 13 filed under the provisions of the law relating to any of the listed taxes,
 14 including required information derived from a federal return, except to
 15 any of the following when it is agreed that the information is to be
 16 confidential and to be used solely for official purposes:

17 (1) Members and employees of the department.

18 (2) The governor.

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

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

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

31 (6) Any authorized officers of the United States.

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

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

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

40 (c) The information described in subsection (a) relating to a person
 41 on public welfare or a person who has made application for public
 42 welfare may be revealed to the director of the division of family



1 resources, and to any director of a county office of the division of
 2 family resources located in Indiana, upon receipt of a written request
 3 from either director for the information. The information shall be
 4 treated as confidential by the directors. In addition, the information
 5 described in subsection (a) relating to a person who has been
 6 designated as an absent parent by the state Title IV-D agency shall be
 7 made available to the state Title IV-D agency upon request. The
 8 information shall be subject to the information safeguarding provisions
 9 of the state and federal Title IV-D programs.

10 (d) The name, address, Social Security number, and place of
 11 employment relating to any individual who is delinquent in paying
 12 educational loans owed to a postsecondary educational institution may
 13 be revealed to that institution if it provides proof to the department that
 14 the individual is delinquent in paying for educational loans. This
 15 information shall be provided free of charge to approved postsecondary
 16 educational institutions (as defined by IC 21-7-13-6(a)). The
 17 department shall establish fees that all other institutions must pay to the
 18 department to obtain information under this subsection. However, these
 19 fees may not exceed the department's administrative costs in providing
 20 the information to the institution.

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

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

- 31 (1) the state agency shows an official need for the information;
- 32 and
- 33 (2) the administrative head of the state agency agrees that any
 34 information released will be kept confidential and will be used
 35 solely for official purposes.

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

41 (h) The name and address of retail merchants, including township,
 42 as specified in ~~IC 6-2.5-8-1(k)~~ **IC 6-2.5-8-1(l)** may be released solely



- 1 for tax collection purposes to township assessors and county assessors.
 2 (i) The department shall notify the appropriate innkeeper's tax
 3 board, bureau, or commission that a taxpayer is delinquent in remitting
 4 innkeepers' taxes under IC 6-9.
 5 (j) All information relating to the delinquency or evasion of the
 6 vehicle excise tax may be disclosed to the bureau of motor vehicles in
 7 Indiana and may be disclosed to another state, if the information is
 8 disclosed for the purpose of the enforcement and collection of the taxes
 9 imposed by IC 6-6-5.
 10 (k) All information relating to the delinquency or evasion of
 11 commercial vehicle excise taxes payable to the bureau of motor
 12 vehicles in Indiana may be disclosed to the bureau and may be
 13 disclosed to another state, if the information is disclosed for the
 14 purpose of the enforcement and collection of the taxes imposed by
 15 IC 6-6-5.5.
 16 (l) All information relating to the delinquency or evasion of
 17 commercial vehicle excise taxes payable under the International
 18 Registration Plan may be disclosed to another state, if the information
 19 is disclosed for the purpose of the enforcement and collection of the
 20 taxes imposed by IC 6-6-5.5.
 21 (m) All information relating to the delinquency or evasion of the
 22 excise taxes imposed on recreational vehicles and truck campers that
 23 are payable to the bureau of motor vehicles in Indiana may be disclosed
 24 to the bureau and may be disclosed to another state if the information
 25 is disclosed for the purpose of the enforcement and collection of the
 26 taxes imposed by IC 6-6-5.1.
 27 (n) This section does not apply to:
 28 (1) the beer excise tax, including brand and packaged type
 29 (IC 7.1-4-2);
 30 (2) the liquor excise tax (IC 7.1-4-3);
 31 (3) the wine excise tax (IC 7.1-4-4);
 32 (4) the hard cider excise tax (IC 7.1-4-4.5);
 33 (5) the malt excise tax (IC 7.1-4-5);
 34 (6) the vehicle excise tax (IC 6-6-5);
 35 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
 36 (8) the fees under IC 13-23.
 37 (o) The name and business address of retail merchants within each
 38 county that sell tobacco products may be released to the division of
 39 mental health and addiction and the alcohol and tobacco commission
 40 solely for the purpose of the list prepared under IC 6-2.5-6-14.2.
 41 (p) The name and business address of a person licensed by the
 42 department under IC 6-6 or IC 6-7 may be released for the purpose of



- 1 reporting the status of the person's license.
- 2 (q) The department may release information concerning total
3 incremental tax amounts under:
- 4 (1) IC 5-28-26;
- 5 (2) IC 36-7-13;
- 6 (3) IC 36-7-26;
- 7 (4) IC 36-7-27;
- 8 (5) IC 36-7-31;
- 9 (6) IC 36-7-31.3; or
- 10 (7) any other statute providing for the calculation of incremental
11 state taxes that will be distributed to or retained by a political
12 subdivision or other entity;
- 13 to the fiscal officer of the political subdivision or other entity that
14 established the district or area from which the incremental taxes were
15 received if that fiscal officer enters into an agreement with the
16 department specifying that the political subdivision or other entity will
17 use the information solely for official purposes.
- 18 (r) The department may release the information as required in
19 IC 6-8.1-3-7.1 concerning:
- 20 (1) an innkeeper's tax, a food and beverage tax, or an admissions
21 tax under IC 6-9;
- 22 (2) the supplemental auto rental excise tax under IC 6-6-9.7; and
- 23 (3) the covered taxes allocated to a professional sports
24 development area fund, sports and convention facilities operating
25 fund, or other fund under IC 36-7-31 and IC 36-7-31.3.
- 26 (s) Information concerning state gross retail tax exemption
27 certificates that relate to a person who is exempt from the state gross
28 retail tax under IC 6-2.5-4-5 may be disclosed to a power subsidiary (as
29 defined in IC 6-2.5-4-5) or a person selling the services or commodities
30 listed in IC 6-2.5-4-5(b) for the purpose of enforcing and collecting the
31 state gross retail and use taxes under IC 6-2.5.
- 32 SECTION 19. IC 6-8.1-8-1.5 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.5. Whenever a
34 taxpayer makes a partial payment on the taxpayer's tax liability, the
35 department shall apply the partial payment in the following order:
- 36 (1) To ~~any penalty owed by~~ the **tax liability of the** taxpayer.
- 37 (2) To any **interest penalty** owed by the taxpayer.
- 38 (3) To ~~the tax liability of any interest owed by~~ the taxpayer.
- 39 **In the case of a taxpayer with multiple liabilities, the department**
40 **may adopt rules under IC 4-22-2 to establish the manner in which**
41 **payments are applied to the taxpayer's outstanding liabilities.**
- 42 SECTION 20. IC 6-8.1-8-3, AS AMENDED BY P.L.99-2011,



1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2019]: Sec. 3. (a) The county sheriff of a county shall attempt
3 to levy on and collect a judgment arising from a tax warrant in that
4 county for a period of one hundred twenty (120) days from the date the
5 judgment lien is entered, unless the sheriff is relieved of that duty at an
6 earlier time by the department. The sheriff shall also have authority to
7 attempt to levy on and collect the outstanding tax liability if the
8 taxpayer does not pay the amount demanded under section 2(b) of this
9 chapter and the taxpayer has taken an action under section 2(n) of this
10 chapter to foreclose the lien. The sheriff's authority to collect the
11 warrant exists only while the sheriff holds the tax warrant, and if the
12 sheriff surrenders the warrant to the department for any reason the
13 sheriff's authority to collect that tax warrant ceases. During the period
14 that the sheriff has the duty to collect a tax warrant, the sheriff shall
15 collect from the person owing the tax, an amount equal to the amount
16 of the judgment lien plus the accrued interest to the date of the
17 payment. Subject to subsection (b), the sheriff shall make the collection
18 by garnisheeing the person's wages and by levying on and selling any
19 interest in property or rights in any chose in action that the person has
20 in the county. The Indiana laws which provide relief for debtors by
21 exempting certain property from levy by creditors do not apply to levy
22 and sale proceedings for judgments arising from tax warrants.

23 (b) A sheriff shall sell property to satisfy a tax warrant in a manner
24 that is reasonably likely to bring the highest net proceeds from the sale
25 after deducting the expenses of the offer to sell and sale. A sheriff may
26 engage an auctioneer to advertise a sale and to conduct a public
27 auction, unless the person being levied files an objection with the clerk
28 of the circuit or superior court having the tax warrant within five (5)
29 days of the day that the sheriff informs the person of the person's right
30 to object. The advertising conducted by the auctioneer is in addition to
31 any other notice required by law, and shall include a detailed
32 description of the property to be sold. When an auctioneer is engaged
33 under this subsection and the auctioneer files a verified claim with the
34 clerk of the circuit or superior court with whom the tax warrant is filed,
35 the sheriff may pay the reasonable fee and reasonable expenses of the
36 auctioneer from the gross proceeds of the sale before other expenses
37 and the judgment arising from the tax warrant are paid. As used in this
38 section, "auctioneer" means an auctioneer licensed under IC 25-6.1.

39 (c) The sheriff shall deposit all amounts that the sheriff collects
40 under this section, including partial payments, into a special trust
41 account for judgments collected that arose from tax warrants. **The**
42 **sheriff shall notify the department, in a manner specified by the**



1 **department, of the name of the taxpayer and the amount of the**
 2 **payment within twenty-four (24) hours from receipt.** On or before
 3 the fifth day of each month, the sheriff shall disburse the money in the
 4 tax warrant judgment lien trust account in the following order:

5 (1) The sheriff shall pay the department the part of the collections
 6 that represents taxes, interest, and penalties.

7 (2) The sheriff shall pay the county treasurer and the clerk of the
 8 circuit or superior court the part of the collections that represents
 9 their assessed costs.

10 (3) Except as provided in subdivisions (4) and (5), the sheriff
 11 shall keep the part of the collections that represents the ten
 12 percent (10%) collection fee added under section 2(b) of this
 13 chapter.

14 (4) If the sheriff has entered a salary contract under
 15 IC 36-2-13-2.5, the sheriff shall deposit in the county general fund
 16 the part of the collections that represents the ten percent (10%)
 17 collection fee added under section 2(b) of this chapter.

18 (5) If the sheriff has not entered into a salary contract under
 19 IC 36-2-13-2.5, the sheriff shall deposit in the county general fund
 20 the part of the collections that:

21 (A) represents the ten percent (10%) collection fee added
 22 under section 2(b) of this chapter; and

23 (B) would, if kept by the sheriff, result in the total amount of
 24 the sheriff's annual compensation exceeding the maximum
 25 amount allowed under IC 36-2-13-17.

26 The department shall establish the procedure for the disbursement of
 27 partial payments so that the intent of this section is carried out.

28 (d) After the period described in subsection (a) has passed, the
 29 sheriff shall return the tax warrant to the department. However, if the
 30 department determines that:

31 (1) at the end of this period the sheriff is in the process of
 32 collecting the judgment arising from a tax warrant in periodic
 33 payments of sufficient size that the judgment will be fully paid
 34 within one (1) year after the date the judgment was filed; and

35 (2) the sheriff's electronic data base regarding tax warrants is
 36 compatible with the department's data base;

37 the sheriff may keep the tax warrant and continue collections.

38 (e) Notwithstanding any other provision of this chapter, the
 39 department may order a sheriff to return a tax warrant at any time, if the
 40 department feels that action is necessary to protect the interests of the
 41 state.

42 (f) This subsection applies only to the sheriff of a county having a



1 consolidated city or a second class city. In such a county, the ten
 2 percent (10%) collection fee added under section 2(b) of this chapter
 3 shall be divided as follows:

4 (1) Subject to subsection (g), the sheriff may retain forty thousand
 5 dollars (\$40,000), plus one-fifth (1/5) of any fees exceeding that
 6 forty thousand dollar (\$40,000) amount.

7 (2) Two-fifths (2/5) of any fees exceeding that forty thousand
 8 dollar (\$40,000) amount shall be deposited in the sheriff's
 9 department's pension trust fund.

10 (3) Two-fifths (2/5) of any fees exceeding that forty thousand
 11 dollar (\$40,000) amount shall be deposited in the county general
 12 fund.

13 (g) If an amount of the collection fee added under section 2(b) of
 14 this chapter would, if retained by the sheriff under subsection (f)(1),
 15 cause the total amount of the sheriff's annual compensation to exceed
 16 the maximum amount allowed under IC 36-2-13-17, the sheriff shall
 17 instead deposit the amount in the county general fund.

18 (h) Money deposited into a county general fund under subsections
 19 (c)(5) and (g) must be used as follows:

20 (1) To reduce any unfunded liability of a sheriff's pension trust
 21 plan established for the county's sheriff's department.

22 (2) Any amounts remaining after complying with subdivision (1)
 23 must be applied to the costs incurred to operate the county's
 24 sheriff's department.

25 SECTION 21. IC 6-8.1-9-2, AS AMENDED BY P.L.242-2015,
 26 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2019]: Sec. 2. (a) If the department finds that a person has
 28 paid more tax for a taxable year than is legally due, the department
 29 shall apply the amount of the excess against any amount of that same
 30 tax that is assessed and is currently due. The department may then
 31 apply any remaining excess against any of the listed taxes that have
 32 been assessed against the person and that are currently due. Subject to
 33 subsection (c), if any excess remains after the department has applied
 34 the overpayment against the person's tax liabilities, the department
 35 shall either refund the amount to the person or, at the person's request,
 36 credit the amount to the person's future tax liabilities.

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

40 (c) As used in this subsection, "pass through entity" means a
 41 corporation that is exempt from the adjusted gross income tax under
 42 IC 6-3-2-2.8(2), a partnership, a limited liability company, or a limited



1 liability partnership and "pass through income" means a person's
 2 distributive share of adjusted gross income for a taxable year
 3 attributable to the person's interest in a pass through entity. This
 4 subsection applies to a person's overpayment of adjusted gross income
 5 tax for a taxable year if:

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

8 (2) the overpayment:

9 (A) is with respect to a taxable year beginning before January
 10 1, 2009;

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

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

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

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

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

25 The department shall apply the overpayment to the person's liability for
 26 taxes that have been assessed and are currently due as provided in
 27 subsection (a) and apply any remaining overpayment as a credit or
 28 credits in satisfaction of the person's liability for listed taxes in taxable
 29 years beginning after December 31, 2008. If the person, including any
 30 successor to the person's interest in the overpayment, does not have
 31 sufficient liability for listed taxes against which to credit all the
 32 remaining overpayment in a taxable year beginning after December 31,
 33 2008, and ending before January 1, 2019, the taxpayer is not entitled
 34 for any taxable year ending after December 31, 2018, to have any part
 35 of the remaining overpayment applied, refunded, or credited to the
 36 person's liability for listed taxes. If an overpayment or part of an
 37 overpayment is required to be applied as a credit under this subsection
 38 to the person's liability for listed taxes for a taxable year beginning after
 39 December 31, 2008, and has not been determined by the department or
 40 a court to meet the conditions of subdivision (3) by the due date of the
 41 person's return for a listed tax for a taxable year beginning after
 42 December 31, 2008, the department shall refund to the person that part



1 of the overpayment that should have been applied as a credit for such
 2 taxable year within ninety (90) days of the date that the department or
 3 a court makes the determination that the overpayment meets the
 4 conditions of subdivision (3). However, the department may establish
 5 a program to refund small overpayment amounts that do not exceed the
 6 threshold dollar value established by the department rather than
 7 crediting the amounts against tax liability accruing for a taxable year
 8 after December 31, 2008. A person that receives a refund or credit
 9 under this subsection shall file a report with the department in the form
 10 and in the schedule specified by the department that identifies under
 11 penalties of perjury the home state or other jurisdiction where the
 12 income subject to the refund or credit was reported as income
 13 attributable to that state or jurisdiction.

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

- 18 (1) the date the refund claim is filed, if the refund claim is filed
 19 before July 1, 2015; or
 20 (2) for a refund claim filed after June 30, 2015, the latest of:
 21 (A) the date the tax payment was due;
 22 (B) the date the tax was paid; or
 23 (C) July 1, 2015;

24 at the rate established under IC 6-8.1-10-1 until a date, determined by
 25 the department, that does not precede by more than thirty (30) days, the
 26 date on which the refund or credit is made. As used in this subsection
 27 **and subsection (e)**, "refund claim" includes a return and an amended
 28 return that indicates an overpayment of tax. For purposes of this
 29 subsection only, the due date for the payment of the state gross retail
 30 or use tax, the oil inspection fee, and the petroleum severance tax is
 31 December 31 of the calendar year that contains the taxable period for
 32 which the payment is remitted. Notwithstanding any other provision,
 33 no interest is due for any time before the filing of a tax return for the
 34 period and tax type for which a taxpayer files a refund claim.

35 **(e) For purposes of subsection (d):**

36 **(1) if a taxpayer files a refund claim, including any required**
 37 **attachments, that:**

- 38 **(A) is not on a required form;**
 39 **(B) does not contain the taxpayer's name, address, federal**
 40 **identification number (if applicable), and signature;**
 41 **(C) does not contain sufficient required information to**
 42 **permit the mathematical verification of the taxpayer's tax**



- 1 liability; or
 2 (D) does not otherwise provide sufficient required
 3 information to verify that the tax was paid or that the
 4 taxpayer is otherwise entitled to a refund;
 5 the refund claim shall not be treated as filed for purposes of
 6 subsection (d) until the taxpayer provides all information
 7 required in clauses (A) through (D); and
 8 (2) if the department requests in writing additional
 9 information, other than the information required under
 10 subdivision (1), that is reasonably necessary to confirm the
 11 validity of the refund claim or to process the refund claim,
 12 and the taxpayer does not provide the additional information
 13 in the time period specified by the department:
 14 (A) no interest shall be due from the date the department
 15 requested the additional information until the taxpayer
 16 provided all information requested by the department; and
 17 (B) if such request is made by the department prior to the
 18 date on which interest would accrue under this section, the
 19 date the refund claim was made for purposes of subsection
 20 (d) shall be adjusted by the number of days from the date
 21 the information was requested by the department to the
 22 date the taxpayer provides all information requested by
 23 the department.
 24 If the department makes multiple requests for information
 25 and each request is for materially different information, the
 26 period under this subdivision shall be computed separately for
 27 each request.
 28 ~~(e)~~ (f) A person who is liable for the payment of excise taxes under
 29 IC 7.1-4-3 or IC 7.1-4-4 is entitled to claim a credit against the person's
 30 excise tax liability in the amount of the excise taxes paid in duplicate
 31 by the person, or the person's assignors or predecessors, upon both:
 32 (1) the receipt of the goods subject to the excise taxes, as reported
 33 by the person, or the person's assignors or predecessors, on excise
 34 tax returns filed with the department; and
 35 (2) the withdrawal of the same goods from a storage facility
 36 operated under 19 U.S.C. 1555(a).
 37 ~~(f)~~ (g) The amount of the credit under subsection ~~(e)~~ (f) is equal to
 38 fifty percent (50%) of the amount of excise taxes:
 39 (1) that were paid by the person as described in subsection ~~(e)~~(2);
 40 (f)(2);
 41 (2) that are duplicative of excise taxes paid by the person as
 42 described in subsection ~~(e)~~(1); (f)(1); and



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

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

- 13 (1) expand employment; or
- 14 (2) assist in retaining employment within Indiana.

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

17 SECTION 22. IC 6-8.1-10-1, AS AMENDED BY P.L.214-2018(ss),
 18 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2019]: Sec. 1. (a) If a person fails to file a return for any of the
 20 listed taxes, fails to pay the full amount of tax shown on the person's
 21 return by the due date for the return or the payment, or incurs a
 22 deficiency upon a determination by the department, the person is
 23 subject to interest on the nonpayment.

24 (b) The interest for a failure described in subsection (a) is the
 25 adjusted rate established by the commissioner under subsection (c),
 26 from the due date for payment. The interest applies to:

- 27 (1) the full amount of the unpaid tax due if the person failed to
 28 file the return;
- 29 (2) the amount of the tax that is not paid, if the person filed the
 30 return but failed to pay the full amount of tax shown on the return;
- 31 or
- 32 (3) the amount of the deficiency.

33 (c) The commissioner shall establish an adjusted rate of interest for
 34 a failure described in subsection (a) and for an excess tax payment on
 35 or before November 1 of each year. For purposes of subsection (b), the
 36 adjusted rate of interest shall be the percentage rounded to the nearest
 37 whole number that equals two (2) percentage points above the average
 38 investment yield on state general fund money for the state's previous
 39 fiscal year, excluding pension fund investments, as determined by the
 40 treasurer of state on or before October 1 of each year and reported to
 41 the commissioner. For purposes of IC 6-8.1-9-2(c), the adjusted rate of
 42 interest for an excess tax payment must be the same as the adjusted rate



1 of interest determined under this subsection for a failure described in
 2 subsection (a). The adjusted rates of interest established under this
 3 subsection shall take effect on January 1 of the immediately succeeding
 4 year.

5 (d) For purposes of this section, the filing of a substantially blank or
 6 unsigned return does not constitute a return.

7 (e) Except as provided by IC 6-8.1-3-17(c), IC 6-8.1-3-17(e), ~~and~~
 8 IC 6-8.1-5-2, **and section 2.1(k) of this chapter**, the department may
 9 not waive the interest imposed under this section.

10 (f) Subsections (a) through (c) do not apply to a motor carrier fuel
 11 tax return.

12 SECTION 23. IC 6-8.1-10-2.1, AS AMENDED BY P.L.181-2016,
 13 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2019]: Sec. 2.1. (a) Except as provided in IC 6-3-4-12(k) and
 15 IC 6-3-4-13(l), a person that:

- 16 (1) fails to file a return for any of the listed taxes;
- 17 (2) fails to pay the full amount of tax shown on the person's return
 18 on or before the due date for the return or payment;
- 19 (3) incurs, upon examination by the department, a deficiency that
 20 is due to negligence;
- 21 (4) fails to timely remit any tax held in trust for the state; or
- 22 (5) is required to make a payment by electronic funds transfer (as
 23 defined in IC 4-8.1-2-7), overnight courier, or personal delivery
 24 and the payment is not received by the department by the due date
 25 in funds acceptable to the department;

26 is subject to a penalty.

27 (b) Except as provided in subsection (g), the penalty described in
 28 subsection (a) is ten percent (10%) of:

- 29 (1) the full amount of the tax due if the person failed to file the
 30 return;
- 31 (2) the amount of the tax not paid, if the person filed the return
 32 but failed to pay the full amount of the tax shown on the return;
- 33 (3) the amount of the tax held in trust that is not timely remitted;
- 34 (4) the amount of deficiency as finally determined by the
 35 department; or
- 36 (5) the amount of tax due if a person failed to make payment by
 37 electronic funds transfer, overnight courier, or personal delivery
 38 by the due date.

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

41 (d) If a person subject to the penalty imposed under this section can
 42 show that the failure to file a return, pay the full amount of tax shown



1 on the person's return, timely remit tax held in trust, or pay the
 2 deficiency determined by the department was due to reasonable cause
 3 and not due to willful neglect, the department shall waive the penalty.

4 (e) A person who wishes to avoid the penalty imposed under this
 5 section must make an affirmative showing of all facts alleged as a
 6 reasonable cause for the person's failure to file the return, pay the
 7 amount of tax shown on the person's return, pay the deficiency, or
 8 timely remit tax held in trust, in a written statement containing a
 9 declaration that the statement is made under penalty of perjury. The
 10 statement must be filed with the return or payment within the time
 11 prescribed for protesting departmental assessments. A taxpayer may
 12 also avoid the penalty imposed under this section by obtaining a ruling
 13 from the department before the end of a particular tax period on the
 14 amount of tax due for that tax period.

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

18 (g) A person who fails to file a return for a listed tax that shows no
 19 tax liability for a taxable year, other than an information return (as
 20 defined in section 6 of this chapter), on or before the due date of the
 21 return shall pay a penalty of ten dollars (\$10) for each day that the
 22 return is past due, up to a maximum of two hundred fifty dollars
 23 (\$250).

24 (h) A:

- 25 (1) corporation which otherwise qualifies under IC 6-3-2-2.8(2);
- 26 (2) partnership; or
- 27 (3) trust;

28 that fails to withhold and pay any amount of tax required to be withheld
 29 under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15 shall pay a penalty
 30 equal to twenty percent (20%) of the amount of tax required to be
 31 withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15. This penalty
 32 shall be in addition to any penalty imposed by section 6 of this chapter.

33 (i) Subsections (a) through (c) do not apply to a motor carrier fuel
 34 tax return.

35 (j) If a partnership or an S corporation fails to include all
 36 nonresidential individual partners or nonresidential individual
 37 shareholders in a composite return as required by IC 6-3-4-12(i) or
 38 IC 6-3-4-13(j), a penalty of five hundred dollars (\$500) per partnership
 39 or S corporation is imposed on the partnership or S corporation.

40 **(k) If a person subject to the penalty imposed under this section**
 41 **provides the department with documentation showing that the**
 42 **person is or has been subject to incarceration for a period of a least**



1 one hundred eighty (180) days, the department shall waive any
 2 penalty under this section and interest that accrues during the time
 3 the person was incarcerated, but not to an extent greater than the
 4 penalty or interest relief to which a person would otherwise have
 5 been entitled under the federal Servicemembers Civil Relief Act
 6 (50 U.S.C. 3901-4043), if the person was in military service.
 7 Nothing in this subsection shall preclude the department from
 8 issuing a proposed assessment, demand notice, jeopardy proposed
 9 assessment, jeopardy demand notice, or warrant otherwise
 10 permitted by law.

11 SECTION 24. IC 6-8.1-10-6 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) As used in this
 13 section, "information return" means the following when a statute or rule
 14 requires the following to be filed with the department:

15 (1) Schedule K-1 of form IT-20S, IT-41, or IT-65.

16 (2) Any form, statement, or schedule required to be filed with the
 17 department with respect to an amount from which tax is required
 18 to be deducted and withheld under IC 6 or from which tax would
 19 be required to be deducted and withheld but for an exemption
 20 under IC 6.

21 (3) Any form, statement, or schedule required to be filed with the
 22 Internal Revenue Service under 26 C.F.R. 301.6721-1(g) (1993).

23 The term does not include form IT-20FIT, IT-20S, IT-20SC, IT-41, or
 24 IT-65.

25 (b) If a person fails to file an information return required by the
 26 department, **or fails to electronically file an information return that**
 27 **is required by the department to be filed in an electronic format,**
 28 a penalty of ten dollars (\$10) for:

29 (1) each failure to file a timely return; or

30 (2) **each failure to electronically file a timely return required**
 31 **by the department to be in an electronic format;**

32 not to exceed twenty-five thousand dollars (\$25,000) in any one (1)
 33 calendar year, is imposed.

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

36 SECTION 25. IC 16-44-2-18, AS AMENDED BY P.L.214-2005,
 37 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2019]: Sec. 18. (a) Except as provided in subsection (b), fees
 39 for the inspection of gasoline or kerosene shall be at the rate of fifty
 40 cents (\$0.50) per barrel (fifty (50) gallons) on all gasoline or kerosene
 41 received in Indiana less deductions provided in this section.

42 (b) A fee for inspection of gasoline or kerosene may not be charged



- 1 for the following:
- 2 (1) On transport or tank car shipments direct to the federal
- 3 government.
- 4 (2) On gasoline or kerosene received and subsequently exported
- 5 from Indiana or returned to refineries or marine or pipeline
- 6 terminals in Indiana.
- 7 (c) Fees shall be paid to the state department by the person receiving
- 8 gasoline or kerosene in Indiana at the time gasoline or kerosene
- 9 products are received, unless the person receiving the gasoline or
- 10 kerosene is licensed as a distributor under the gasoline tax law
- 11 (IC 6-6-1.1). In that case, the person in receipt of the gasoline or
- 12 kerosene shall do the following:
- 13 (1) Include in the person's monthly gasoline tax report a statement
- 14 of all gasoline and kerosene received during the preceding
- 15 calendar month on which inspection fees are due.
- 16 (2) Remit the amount of the inspection fees at the same time the
- 17 monthly motor fuel tax report is due.
- 18 (d) A refiner or other person supplying gasoline or kerosene to the
- 19 first receiver in Indiana may elect to pay the fees monthly on all
- 20 gasoline or kerosene supplied to persons in Indiana not licensed as
- 21 distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is
- 22 not licensed as a distributor under the gasoline tax law of Indiana
- 23 (IC 6-6-1.1), the supplier shall, as a condition precedent to such
- 24 election, file with the state department a corporate surety bond that
- 25 meets the following conditions:
- 26 (1) Is in the form and amount that the state department
- 27 determines, not to exceed two thousand dollars (\$2,000).
- 28 (2) Is conditioned that the supplier does the following:
- 29 (A) Reports all gasoline and kerosene supplied by the supplier
- 30 to persons in Indiana not licensed as distributors under the
- 31 gasoline tax law (IC 6-6-1.1).
- 32 (B) Pays inspection fees monthly on or before the twenty-fifth
- 33 day of each calendar month for the preceding calendar month.
- 34 (e) A person taking credit for gasoline or kerosene exported or
- 35 returned to a refinery or terminal shall substantiate that credit in the
- 36 manner that the state department reasonably requires by rule.
- 37 (f) A distributor who fails to file a monthly report and pay the tax
- 38 due as required by this chapter is subject to a penalty of five percent
- 39 (5%) of the amount of unpaid tax due and interest on the unpaid tax
- 40 and penalty at the rate of eight percent (8%) annually. However, if a
- 41 delay not exceeding ten (10) days is due to a mistake, an accident, or
- 42 an oversight without intent to avoid payment, the administrator may



1 waive the penalty and interest.
2 SECTION 26. [EFFECTIVE JANUARY 1, 2019
3 (RETROACTIVE)] **(a) IC 6-3.1-4-8, as added by this act, applies to**
4 **taxable years beginning after December 31, 2018.**
5 **(b) This SECTION expires June 30, 2021.**
6 SECTION 27. An emergency is declared for this act.

