



February 13, 2019

# SENATE BILL No. 565

DIGEST OF SB 565 (Updated February 12, 2019 11:09 am - DI 125)

**Citations Affected:** IC 6-2.3; IC 6-2.5; IC 6-3; IC 6-5.5; IC 6-6; IC 6-8.1; IC 16-44; noncode.

**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 7 days 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 if the department does not: (1) issue a timely demand notice; (2) file a timely tax warrant; or (3) renew tax warrants; the tax liability is extinguished.  
(Continued next page)

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

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## Holdman

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January 14, 2019, read first time and referred to Committee on Tax and Fiscal Policy.  
February 12, 2019, amended, reported favorably — Do Pass.

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SB 565—LS 7211/DI 120



Digest Continued

Provides that the department may release tax withholding or other tax information statements to certain individuals. Provides that the department may domesticate a valid tax warrant in one or more other states or countries, or in the political subunits of other states or countries. Provides that a judgment on a tax warrant must be filed in at least one Indiana county not later than 10 years after the first date on which a demand notice could be issued. Provides that if a judgment on a tax warrant is entered in at least one Indiana county, the department may file an additional tax warrant in one or more Indiana counties during the period in which one or more tax warrants are valid. Revises provisions concerning income under Section 118, Section 163, and Section 965 of the Internal Revenue Code. Makes technical corrections and conforming changes.

**SB 565—LS 7211/DI 120**



February 13, 2019

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

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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

SB 565—LS 7211/DI 120



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 ~~(i)~~ **(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 ~~(j)~~ **(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 ~~(k)~~ **(l)** Except as provided in subsection ~~(i)~~, **(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 ~~(l)~~ **(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 6-3-1-3.5, AS AMENDED BY P.L.214-2018(ss),  
 15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2019]: Sec. 3.5. When used in this article, the term "adjusted  
 17 gross income" shall mean the following:

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

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

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

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

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

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

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

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

40 (5) Subtract:

41 (A) one thousand five hundred dollars (\$1,500) for each of the  
 42 exemptions allowed under Section 151(c)(1)(B) of the Internal



- 1 Revenue Code (as effective January 1, 2004);  
 2 (B) one thousand five hundred dollars (\$1,500) for each  
 3 exemption allowed under Section 151(c) of the Internal  
 4 Revenue Code (as effective January 1, 2017) for an individual:  
 5 (i) who is less than nineteen (19) years of age or is a  
 6 full-time student who is less than twenty-four (24) years of  
 7 age;  
 8 (ii) for whom the taxpayer is the legal guardian; and  
 9 (iii) for whom the taxpayer does not claim an exemption  
 10 under clause (A); and  
 11 (C) five hundred dollars (\$500) for each additional amount  
 12 allowable under Section 63(f)(1) of the Internal Revenue Code  
 13 if the adjusted gross income of the taxpayer, or the taxpayer  
 14 and the taxpayer's spouse in the case of a joint return, is less  
 15 than forty thousand dollars (\$40,000).  
 16 This amount is in addition to the amount subtracted under  
 17 subdivision (4).  
 18 (6) Subtract any amounts included in federal adjusted gross  
 19 income under Section 111 of the Internal Revenue Code as a  
 20 recovery of items previously deducted as an itemized deduction  
 21 from adjusted gross income.  
 22 (7) Subtract any amounts included in federal adjusted gross  
 23 income under the Internal Revenue Code which amounts were  
 24 received by the individual as supplemental railroad retirement  
 25 annuities under 45 U.S.C. 231 and which are not deductible under  
 26 subdivision (1).  
 27 (8) Subtract an amount equal to the amount of federal Social  
 28 Security and Railroad Retirement benefits included in a taxpayer's  
 29 federal gross income by Section 86 of the Internal Revenue Code.  
 30 (9) In the case of a nonresident taxpayer or a resident taxpayer  
 31 residing in Indiana for a period of less than the taxpayer's entire  
 32 taxable year, the total amount of the deductions allowed pursuant  
 33 to subdivisions (3), (4), and (5) shall be reduced to an amount  
 34 which bears the same ratio to the total as the taxpayer's income  
 35 taxable in Indiana bears to the taxpayer's total income.  
 36 (10) In the case of an individual who is a recipient of assistance  
 37 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,  
 38 subtract an amount equal to that portion of the individual's  
 39 adjusted gross income with respect to which the individual is not  
 40 allowed under federal law to retain an amount to pay state and  
 41 local income taxes.  
 42 (11) In the case of an eligible individual, subtract the amount of



- 1 a Holocaust victim's settlement payment included in the  
2 individual's federal adjusted gross income.
- 3 (12) Subtract an amount equal to the portion of any premiums  
4 paid during the taxable year by the taxpayer for a qualified long  
5 term care policy (as defined in IC 12-15-39.6-5) for the taxpayer  
6 or the taxpayer's spouse, or both.
- 7 (13) Subtract an amount equal to the lesser of:  
8 (A) two thousand five hundred dollars (\$2,500); or  
9 (B) the amount of property taxes that are paid during the  
10 taxable year in Indiana by the individual on the individual's  
11 principal place of residence.
- 12 (14) Subtract an amount equal to the amount of a September 11  
13 terrorist attack settlement payment included in the individual's  
14 federal adjusted gross income.
- 15 (15) Add or subtract the amount necessary to make the adjusted  
16 gross income of any taxpayer that owns property for which bonus  
17 depreciation was allowed in the current taxable year or in an  
18 earlier taxable year equal to the amount of adjusted gross income  
19 that would have been computed had an election not been made  
20 under Section 168(k) of the Internal Revenue Code to apply bonus  
21 depreciation to the property in the year that it was placed in  
22 service.
- 23 (16) Add an amount equal to any deduction allowed under  
24 Section 172 of the Internal Revenue Code (concerning net  
25 operating losses).
- 26 (17) Add or subtract the amount necessary to make the adjusted  
27 gross income of any taxpayer that placed Section 179 property (as  
28 defined in Section 179 of the Internal Revenue Code) in service  
29 in the current taxable year or in an earlier taxable year equal to  
30 the amount of adjusted gross income that would have been  
31 computed had an election for federal income tax purposes not  
32 been made for the year in which the property was placed in  
33 service to take deductions under Section 179 of the Internal  
34 Revenue Code in a total amount exceeding twenty-five thousand  
35 dollars (\$25,000).
- 36 (18) Subtract an amount equal to the amount of the taxpayer's  
37 qualified military income that was not excluded from the  
38 taxpayer's gross income for federal income tax purposes under  
39 Section 112 of the Internal Revenue Code.
- 40 (19) Subtract income that is:  
41 (A) exempt from taxation under IC 6-3-2-21.7 (certain income  
42 derived from patents); and



- 1 (B) included in the individual's federal adjusted gross income  
 2 under the Internal Revenue Code.
- 3 (20) Add an amount equal to any income not included in gross  
 4 income as a result of the deferral of income arising from business  
 5 indebtedness discharged in connection with the reacquisition after  
 6 December 31, 2008, and before January 1, 2011, of an applicable  
 7 debt instrument, as provided in Section 108(i) of the Internal  
 8 Revenue Code. Subtract the amount necessary from the adjusted  
 9 gross income of any taxpayer that added an amount to adjusted  
 10 gross income in a previous year to offset the amount included in  
 11 federal gross income as a result of the deferral of income arising  
 12 from business indebtedness discharged in connection with the  
 13 reacquisition after December 31, 2008, and before January 1,  
 14 2011, of an applicable debt instrument, as provided in Section  
 15 108(i) of the Internal Revenue Code.
- 16 (21) Add the amount excluded from federal gross income under  
 17 Section 103 of the Internal Revenue Code for interest received on  
 18 an obligation of a state other than Indiana, or a political  
 19 subdivision of such a state, that is acquired by the taxpayer after  
 20 December 31, 2011.
- 21 (22) Subtract an amount as described in Section 1341(a)(2) of the  
 22 Internal Revenue Code to the extent, if any, that the amount was  
 23 previously included in the taxpayer's adjusted gross income for a  
 24 prior taxable year.
- 25 (23) For taxable years beginning after December 25, 2016, add an  
 26 amount equal to the deduction for deferred foreign income that  
 27 was claimed by the taxpayer for the taxable year under Section  
 28 965(c) of the Internal Revenue Code.
- 29 (24) Subtract any interest expense paid or accrued in the current  
 30 taxable year but not deducted as a result of the limitation imposed  
 31 under Section 163(j)(1) of the Internal Revenue Code. Add any  
 32 interest expense paid or accrued in a previous taxable year but  
 33 allowed as a deduction under Section 163 of the Internal Revenue  
 34 Code in the current taxable year. For purposes of this subdivision,  
 35 an interest expense is considered paid or accrued only in the first  
 36 taxable year the deduction would have been allowable under  
 37 Section 163 of the Internal Revenue Code if the limitation under  
 38 Section 163(j)(1) of the Internal Revenue Code did not exist.
- 39 (25) Subtract the amount ~~included in the taxpayer's gross income~~  
 40 ~~under Section 118(b)(2) of the Internal Revenue Code that would~~  
 41 **have been excluded from gross income but for the enactment**  
 42 **of Section 118(b)(2) of the Internal Revenue Code** for taxable



- 1           years ending after December 22, 2017.
- 2           (26) Subtract any other amounts the taxpayer is entitled to deduct
- 3           under IC 6-3-2.
- 4           (b) In the case of corporations, the same as "taxable income" (as
- 5           defined in Section 63 of the Internal Revenue Code) adjusted as
- 6           follows:
- 7           (1) Subtract income that is exempt from taxation under this article
- 8           by the Constitution and statutes of the United States.
- 9           (2) Add an amount equal to any deduction or deductions allowed
- 10          or allowable pursuant to Section 170 of the Internal Revenue
- 11          Code (concerning charitable contributions).
- 12          (3) Except as provided in subsection (c), add an amount equal to
- 13          any deduction or deductions allowed or allowable pursuant to
- 14          Section 63 of the Internal Revenue Code for taxes based on or
- 15          measured by income and levied at the state level by any state of
- 16          the United States.
- 17          (4) Subtract an amount equal to the amount included in the
- 18          corporation's taxable income under Section 78 of the Internal
- 19          Revenue Code (concerning foreign tax credits).
- 20          (5) Add or subtract the amount necessary to make the adjusted
- 21          gross income of any taxpayer that owns property for which bonus
- 22          depreciation was allowed in the current taxable year or in an
- 23          earlier taxable year equal to the amount of adjusted gross income
- 24          that would have been computed had an election not been made
- 25          under Section 168(k) of the Internal Revenue Code to apply bonus
- 26          depreciation to the property in the year that it was placed in
- 27          service.
- 28          (6) Add an amount equal to any deduction allowed under Section
- 29          172 of the Internal Revenue Code (concerning net operating
- 30          losses).
- 31          (7) Add or subtract the amount necessary to make the adjusted
- 32          gross income of any taxpayer that placed Section 179 property (as
- 33          defined in Section 179 of the Internal Revenue Code) in service
- 34          in the current taxable year or in an earlier taxable year equal to
- 35          the amount of adjusted gross income that would have been
- 36          computed had an election for federal income tax purposes not
- 37          been made for the year in which the property was placed in
- 38          service to take deductions under Section 179 of the Internal
- 39          Revenue Code in a total amount exceeding twenty-five thousand
- 40          dollars (\$25,000).
- 41          (8) Add to the extent required by IC 6-3-2-20:
- 42                (A) the amount of intangible expenses (as defined in



- 1 IC 6-3-2-20) for the taxable year that reduced the corporation's  
 2 taxable income (as defined in Section 63 of the Internal  
 3 Revenue Code) for federal income tax purposes; and  
 4 (B) any directly related interest expenses (as defined in  
 5 IC 6-3-2-20) that reduced the corporation's adjusted gross  
 6 income (determined without regard to this subdivision). **The**  
 7 **amount of interest that is considered to have reduced the**  
 8 **corporation's adjusted gross income equals:**  
 9 (i) the directly related interest expense that reduced the  
 10 taxpayer's federal taxable income (as defined in Section 63  
 11 of the Internal Revenue Code); plus  
 12 (ii) any directly related interest expenses for which a  
 13 subtraction is allowable under subdivision (15); minus  
 14 (iii) any directly related interest expenses required to be  
 15 added back under subdivision (15).  
 16 **For purposes of this subdivision, any directly related**  
 17 **interest expense that constitutes business interest within**  
 18 **the meaning of Section 163(j) of the Internal Revenue Code**  
 19 **shall be considered to have reduced the taxpayer's federal**  
 20 **taxable income only in the first taxable year in which the**  
 21 **deduction otherwise would have been allowable under**  
 22 **Section 163 of the Internal Revenue Code if the limitation**  
 23 **under Section 163(j)(1) of the Internal Revenue Code did**  
 24 **not exist.**  
 25 (9) Add an amount equal to any deduction for dividends paid (as  
 26 defined in Section 561 of the Internal Revenue Code) to  
 27 shareholders of a captive real estate investment trust (as defined  
 28 in section 34.5 of this chapter).  
 29 (10) Subtract income that is:  
 30 (A) exempt from taxation under IC 6-3-2-21.7 (certain income  
 31 derived from patents); and  
 32 (B) included in the corporation's taxable income under the  
 33 Internal Revenue Code.  
 34 (11) Add an amount equal to any income not included in gross  
 35 income as a result of the deferral of income arising from business  
 36 indebtedness discharged in connection with the reacquisition after  
 37 December 31, 2008, and before January 1, 2011, of an applicable  
 38 debt instrument, as provided in Section 108(i) of the Internal  
 39 Revenue Code. Subtract from the adjusted gross income of any  
 40 taxpayer that added an amount to adjusted gross income in a  
 41 previous year the amount necessary to offset the amount included  
 42 in federal gross income as a result of the deferral of income



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





1 Section 163 of the Internal Revenue Code if the limitation under  
2 Section 163(j)(1) of the Internal Revenue Code did not exist.

3 (16) Subtract the amount ~~included in the taxpayer's gross income~~  
4 ~~under Section 118(b)(2) of the Internal Revenue Code that would~~  
5 **have been excluded from gross income but for the enactment**  
6 **of Section 118(b)(2) of the Internal Revenue Code** for taxable  
7 years ending after December 22, 2017.

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

9 (A) required to add or subtract; or

10 (B) entitled to deduct;

11 under IC 6-3-2.

12 (c) The following apply to taxable years beginning after December  
13 31, 2018, for purposes of the add back of any deduction allowed on the  
14 taxpayer's federal income tax return for wagering taxes, as provided in  
15 subsection (a)(2) if the taxpayer is an individual or subsection (b)(3) if  
16 the taxpayer is a corporation:

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

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

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

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

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

40 (6) For taxable years beginning after December 31, 2023, and  
41 before January 1, 2025, a taxpayer is required to add back under  
42 this section twenty-five percent (25%) of any deduction allowed



- 1 on the taxpayer's federal income tax return for wagering taxes.  
 2 (7) For taxable years beginning after December 31, 2024, and  
 3 before January 1, 2026, a taxpayer is required to add back under  
 4 this section twelve and five-tenths percent (12.5%) of any  
 5 deduction allowed on the taxpayer's federal income tax return for  
 6 wagering taxes.  
 7 (8) For taxable years beginning after December 31, 2025, a  
 8 taxpayer is not required to add back under this section any amount  
 9 of a deduction allowed on the taxpayer's federal income tax return  
 10 for wagering taxes.  
 11 (d) In the case of life insurance companies (as defined in Section  
 12 816(a) of the Internal Revenue Code) that are organized under Indiana  
 13 law, the same as "life insurance company taxable income" (as defined  
 14 in Section 801 of the Internal Revenue Code), adjusted as follows:  
 15 (1) Subtract income that is exempt from taxation under this article  
 16 by the Constitution and statutes of the United States.  
 17 (2) Add an amount equal to any deduction allowed or allowable  
 18 under Section 170 of the Internal Revenue Code (concerning  
 19 charitable contributions).  
 20 (3) Add an amount equal to a deduction allowed or allowable  
 21 under Section 805 or Section 832(c) of the Internal Revenue Code  
 22 for taxes based on or measured by income and levied at the state  
 23 level by any state.  
 24 (4) Subtract an amount equal to the amount included in the  
 25 company's taxable income under Section 78 of the Internal  
 26 Revenue Code (concerning foreign tax credits).  
 27 (5) Add or subtract the amount necessary to make the adjusted  
 28 gross income of any taxpayer that owns property for which bonus  
 29 depreciation was allowed in the current taxable year or in an  
 30 earlier taxable year equal to the amount of adjusted gross income  
 31 that would have been computed had an election not been made  
 32 under Section 168(k) of the Internal Revenue Code to apply bonus  
 33 depreciation to the property in the year that it was placed in  
 34 service.  
 35 (6) Add an amount equal to any deduction allowed under Section  
 36 172 of the Internal Revenue Code (concerning net operating  
 37 losses).  
 38 (7) Add or subtract the amount necessary to make the adjusted  
 39 gross income of any taxpayer that placed Section 179 property (as  
 40 defined in Section 179 of the Internal Revenue Code) in service  
 41 in the current taxable year or in an earlier taxable year equal to  
 42 the amount of adjusted gross income that would have been



- 1 computed had an election for federal income tax purposes not  
 2 been made for the year in which the property was placed in  
 3 service to take deductions under Section 179 of the Internal  
 4 Revenue Code in a total amount exceeding twenty-five thousand  
 5 dollars (\$25,000).
- 6 (8) Subtract income that is:
- 7 (A) exempt from taxation under IC 6-3-2-21.7 (certain income  
 8 derived from patents); and  
 9 (B) included in the insurance company's taxable income under  
 10 the Internal Revenue Code.
- 11 (9) Add an amount equal to any income not included in gross  
 12 income as a result of the deferral of income arising from business  
 13 indebtedness discharged in connection with the reacquisition after  
 14 December 31, 2008, and before January 1, 2011, of an applicable  
 15 debt instrument, as provided in Section 108(i) of the Internal  
 16 Revenue Code. Subtract from the adjusted gross income of any  
 17 taxpayer that added an amount to adjusted gross income in a  
 18 previous year the amount necessary to offset the amount included  
 19 in federal gross income as a result of the deferral of income  
 20 arising from business indebtedness discharged in connection with  
 21 the reacquisition after December 31, 2008, and before January 1,  
 22 2011, of an applicable debt instrument, as provided in Section  
 23 108(i) of the Internal Revenue Code.
- 24 (10) Add an amount equal to any exempt insurance income under  
 25 Section 953(e) of the Internal Revenue Code that is active  
 26 financing income under Subpart F of Subtitle A, Chapter 1,  
 27 Subchapter N of the Internal Revenue Code.
- 28 (11) Add the amount excluded from federal gross income under  
 29 Section 103 of the Internal Revenue Code for interest received on  
 30 an obligation of a state other than Indiana, or a political  
 31 subdivision of such a state, that is acquired by the taxpayer after  
 32 December 31, 2011.
- 33 (12) For taxable years beginning after December 25, 2016, add:
- 34 (A) an amount equal to the amount reported by the taxpayer on  
 35 IRC 965 Transition Tax Statement, line 1; **or**  
 36 (B) **if the taxpayer deducted an amount under Section**  
 37 **965(c) of the Internal Revenue Code in determining the**  
 38 **taxpayer's taxable income for purposes of the federal**  
 39 **income tax, the amount deducted under Section 965(c) of**  
 40 **the Internal Revenue Code.**
- 41 (13) Add an amount equal to the deduction that was claimed by  
 42 the taxpayer for the taxable year under Section 250(a)(1)(B) of the



1 Internal Revenue Code (attributable to global intangible  
2 low-taxed income). The taxpayer shall separately specify the  
3 amount of the reduction under Section 250(a)(1)(B)(i) of the  
4 Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the  
5 Internal Revenue Code.

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

16 (15) Subtract the amount ~~included in the taxpayer's gross income~~  
17 ~~under Section 118(b)(2) of the Internal Revenue Code that would~~  
18 **have been excluded from gross income but for the enactment**  
19 **of Section 118(b)(2) of the Internal Revenue Code** for taxable  
20 years ending after December 22, 2017.

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

22 (A) required to add or subtract; or

23 (B) entitled to deduct;

24 under IC 6-3-2.

25 (e) In the case of insurance companies subject to tax under Section  
26 831 of the Internal Revenue Code and organized under Indiana law, the  
27 same as "taxable income" (as defined in Section 832 of the Internal  
28 Revenue Code), adjusted as follows:

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

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

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

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

41 (5) Add or subtract the amount necessary to make the adjusted  
42 gross income of any taxpayer that owns property for which bonus



- 1 depreciation was allowed in the current taxable year or in an  
 2 earlier taxable year equal to the amount of adjusted gross income  
 3 that would have been computed had an election not been made  
 4 under Section 168(k) of the Internal Revenue Code to apply bonus  
 5 depreciation to the property in the year that it was placed in  
 6 service.
- 7 (6) Add an amount equal to any deduction allowed under Section  
 8 172 of the Internal Revenue Code (concerning net operating  
 9 losses).
- 10 (7) Add or subtract the amount necessary to make the adjusted  
 11 gross income of any taxpayer that placed Section 179 property (as  
 12 defined in Section 179 of the Internal Revenue Code) in service  
 13 in the current taxable year or in an earlier taxable year equal to  
 14 the amount of adjusted gross income that would have been  
 15 computed had an election for federal income tax purposes not  
 16 been made for the year in which the property was placed in  
 17 service to take deductions under Section 179 of the Internal  
 18 Revenue Code in a total amount exceeding twenty-five thousand  
 19 dollars (\$25,000).
- 20 (8) Subtract income that is:
- 21 (A) exempt from taxation under IC 6-3-2-21.7 (certain income  
 22 derived from patents); and
- 23 (B) included in the insurance company's taxable income under  
 24 the Internal Revenue Code.
- 25 (9) Add an amount equal to any income not included in gross  
 26 income as a result of the deferral of income arising from business  
 27 indebtedness discharged in connection with the reacquisition after  
 28 December 31, 2008, and before January 1, 2011, of an applicable  
 29 debt instrument, as provided in Section 108(i) of the Internal  
 30 Revenue Code. Subtract from the adjusted gross income of any  
 31 taxpayer that added an amount to adjusted gross income in a  
 32 previous year the amount necessary to offset the amount included  
 33 in federal gross income as a result of the deferral of income  
 34 arising from business indebtedness discharged in connection with  
 35 the reacquisition after December 31, 2008, and before January 1,  
 36 2011, of an applicable debt instrument, as provided in Section  
 37 108(i) of the Internal Revenue Code.
- 38 (10) Add an amount equal to any exempt insurance income under  
 39 Section 953(e) of the Internal Revenue Code that is active  
 40 financing income under Subpart F of Subtitle A, Chapter 1,  
 41 Subchapter N of the Internal Revenue Code.
- 42 (11) Add the amount excluded from federal gross income under



1 Section 103 of the Internal Revenue Code for interest received on  
 2 an obligation of a state other than Indiana, or a political  
 3 subdivision of such a state, that is acquired by the taxpayer after  
 4 December 31, 2011.

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

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

8 **(B) if the taxpayer deducted an amount under Section**  
 9 **965(c) of the Internal Revenue Code in determining the**  
 10 **taxpayer's taxable income for purposes of the federal**  
 11 **income tax, the amount deducted under Section 965(c) of**  
 12 **the Internal Revenue Code.**

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

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

30 (15) Subtract the amount ~~included in the taxpayer's gross income~~  
 31 ~~under Section 118(b)(2) of the Internal Revenue Code that would~~  
 32 **have been excluded from gross income but for the enactment**  
 33 **of Section 118(b)(2) of the Internal Revenue Code** for taxable  
 34 years ending after December 22, 2017.

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

36 (A) required to add or subtract; or

37 (B) entitled to deduct;

38 under IC 6-3-2.

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

42 (1) Subtract income that is exempt from taxation under this article



- 1 by the Constitution and statutes of the United States.
- 2 (2) Subtract an amount equal to the amount of a September 11  
3 terrorist attack settlement payment included in the federal  
4 adjusted gross income of the estate of a victim of the September  
5 11 terrorist attack or a trust to the extent the trust benefits a victim  
6 of the September 11 terrorist attack.
- 7 (3) Add or subtract the amount necessary to make the adjusted  
8 gross income of any taxpayer that owns property for which bonus  
9 depreciation was allowed in the current taxable year or in an  
10 earlier taxable year equal to the amount of adjusted gross income  
11 that would have been computed had an election not been made  
12 under Section 168(k) of the Internal Revenue Code to apply bonus  
13 depreciation to the property in the year that it was placed in  
14 service.
- 15 (4) Add an amount equal to any deduction allowed under Section  
16 172 of the Internal Revenue Code (concerning net operating  
17 losses).
- 18 (5) Add or subtract the amount necessary to make the adjusted  
19 gross income of any taxpayer that placed Section 179 property (as  
20 defined in Section 179 of the Internal Revenue Code) in service  
21 in the current taxable year or in an earlier taxable year equal to  
22 the amount of adjusted gross income that would have been  
23 computed had an election for federal income tax purposes not  
24 been made for the year in which the property was placed in  
25 service to take deductions under Section 179 of the Internal  
26 Revenue Code in a total amount exceeding twenty-five thousand  
27 dollars (\$25,000).
- 28 (6) Subtract income that is:
- 29 (A) exempt from taxation under IC 6-3-2-21.7 (certain income  
30 derived from patents); and
- 31 (B) included in the taxpayer's taxable income under the  
32 Internal Revenue Code.
- 33 (7) Add an amount equal to any income not included in gross  
34 income as a result of the deferral of income arising from business  
35 indebtedness discharged in connection with the reacquisition after  
36 December 31, 2008, and before January 1, 2011, of an applicable  
37 debt instrument, as provided in Section 108(i) of the Internal  
38 Revenue Code. Subtract from the adjusted gross income of any  
39 taxpayer that added an amount to adjusted gross income in a  
40 previous year the amount necessary to offset the amount included  
41 in federal gross income as a result of the deferral of income  
42 arising from business indebtedness discharged in connection with



1 the reacquisition after December 31, 2008, and before January 1,  
 2 2011, of an applicable debt instrument, as provided in Section  
 3 108(i) of the Internal Revenue Code.

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

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

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

13 **(B) if the taxpayer deducted an amount under Section**  
 14 **965(c) of the Internal Revenue Code in determining the**  
 15 **taxpayer's taxable income for purposes of the federal**  
 16 **income tax, the amount deducted under Section 965(c) of**  
 17 **the Internal Revenue Code; and**

18 ~~(B)~~ (C) with regard to any amounts of income under Section  
 19 965 of the Internal Revenue Code distributed by the taxpayer,  
 20 the deduction under Section 965(c) of the Internal Revenue  
 21 Code attributable to such distributed amounts **and not**  
 22 **reported to the beneficiary.**

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

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

37 (11) Add an amount equal to the deduction for qualified business  
 38 income that was claimed by the taxpayer for the taxable year  
 39 under Section 199A of the Internal Revenue Code.

40 (12) Subtract the amount ~~included in the taxpayer's gross income~~  
 41 ~~under Section 118(b)(2) of the Internal Revenue Code that would~~  
 42 **have been excluded from gross income but for the enactment**





1           **of Section 118(b)(2) of the Internal Revenue Code** for taxable  
2 years ending after December 22, 2017.

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

4                 (A) required to add or subtract; or

5                 (B) entitled to deduct;

6           under IC 6-3-2.

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

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

11                 **(1) a taxpayer is a shareholder in a corporation that is an**  
12                 **E&P deficit foreign corporation as defined in Section**  
13                 **965(b)(3)(B) of the Internal Revenue Code, and the earnings**  
14                 **and profit deficit, or a portion of the profit deficit, of the E&P**  
15                 **deficit foreign corporation is permitted to reduce the federal**  
16                 **adjusted gross income or federal taxable income of the**  
17                 **taxpayer, the deficit, or the portion of the deficit, shall also**  
18                 **reduce the amount taxable under this section to the extent**  
19                 **permitted under the Internal Revenue Code, however, in no**  
20                 **case shall this permit a reduction in the amount taxable under**  
21                 **Section 965 of the Internal Revenue Code for purposes of this**  
22                 **section to be less than zero (0); and**

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

29          SECTION 6. IC 6-3-1-11, AS AMENDED BY P.L.214-2018(ss),  
30 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JANUARY 1, 2019 (RETROACTIVE)]: Sec. 11. (a) The term "Internal  
32 Revenue Code" means the Internal Revenue Code of 1986 of the  
33 United States as amended and in effect on ~~February 11, 2018~~. **January**  
34 **1, 2019.**

35          (b) Whenever the Internal Revenue Code is mentioned in this  
36 article, the particular provisions that are referred to, together with all  
37 the other provisions of the Internal Revenue Code in effect on ~~February~~  
38 ~~11, 2018~~, **January 1, 2019**, that pertain to the provisions specifically  
39 mentioned, shall be regarded as incorporated in this article by reference  
40 and have the same force and effect as though fully set forth in this  
41 article. To the extent the provisions apply to this article, regulations  
42 adopted under Section 7805(a) of the Internal Revenue Code and in



1 effect on ~~February 11, 2018~~, **January 1, 2019**, shall be regarded as  
 2 rules adopted by the department under this article, unless the  
 3 department adopts specific rules that supersede the regulation.

4 (c) An amendment to the Internal Revenue Code made by an act  
 5 passed by Congress before ~~February 11, 2018~~, **January 1, 2019**, other  
 6 than the federal 21st Century Cures Act (P.L. 114-255) and the federal  
 7 Disaster Tax Relief and Airport and Airway Extension Act of 2017  
 8 (P.L. 115-63), that is effective for any taxable year that began before  
 9 ~~February 11, 2018~~, **January 1, 2019**, and that affects:

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

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

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

16 (4) life insurance company taxable income (as defined in Section  
 17 801(b) of the Internal Revenue Code);

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

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

22 is also effective for that same taxable year for purposes of determining  
 23 adjusted gross income under section 3.5 of this chapter.

24 (d) This subsection applies to a taxable year ending before January  
 25 1, 2013. The following provisions of the Internal Revenue Code that  
 26 were amended by the Tax Relief Act, Unemployment Insurance  
 27 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are  
 28 treated as though they were not amended by the Tax Relief Act,  
 29 Unemployment Insurance Reauthorization, and Job Creation Act of  
 30 2010 (P.L. 111-312):

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

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

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

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

42 (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code



1           pertaining to the limitations on percentage depletion in the case  
2           of oil and gas wells.

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

7           (7) Section 954(c)(6) of the Internal Revenue Code pertaining to  
8           the look-through treatment of payments between related  
9           controlled foreign corporation under foreign personal holding  
10          company rules.

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

13          SECTION 7. IC 6-3-2-2, AS AMENDED BY P.L.214-2018(ss),  
14          SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15          JULY 1, 2019]: Sec. 2. (a) With regard to corporations and nonresident  
16          persons, "adjusted gross income derived from sources within Indiana",  
17          for the purposes of this article, shall mean and include:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (5) For all taxable years beginning after December 31, 2010, the



1 sales factor.

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

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

26 (1) the individual's service is performed entirely within the state;  
 27 (2) the individual's service is performed both within and without  
 28 this state, but the service performed without this state is incidental  
 29 to the individual's service within this state; or

30 (3) some of the service is performed in this state and:  
 31 (A) the base of operations or, if there is no base of operations,  
 32 the place from which the service is directed or controlled is in  
 33 this state; or  
 34 (B) the base of operations or the place from which the service  
 35 is directed or controlled is not in any state in which some part  
 36 of the service is performed, but the individual is a resident of  
 37 this state.

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



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

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

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

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

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

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

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

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

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

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



1 rental or royalty period is unknown or unascertainable by the taxpayer,  
 2 tangible personal property is utilized in the state in which the property  
 3 was located at the time the rental or royalty payer obtained possession.

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

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

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

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

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

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

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

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

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

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

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

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

41 (1) separate accounting;

42 (2) for a taxable year beginning before January 1, 2011, the



- 1 exclusion of any one (1) or more of the factors, except the sales  
 2 factor;
- 3 (3) the inclusion of one (1) or more additional factors which will  
 4 fairly represent the taxpayer's income derived from sources within  
 5 the state of Indiana; or
- 6 (4) the employment of any other method to effectuate an equitable  
 7 allocation and apportionment of the taxpayer's income.
- 8 Notwithstanding IC 6-8.1-5-1(c), a taxpayer petitioning for, or the  
 9 department requiring, the use of an alternative method to effectuate an  
 10 equitable allocation and apportionment of the taxpayer's income under  
 11 this subsection bears the burden of proof that the allocation and  
 12 apportionment provisions of this article do not fairly represent the  
 13 taxpayer's income derived from sources within this state and that the  
 14 alternative method to the allocation and apportionment provisions of  
 15 this article is reasonable.
- 16 (m) In the case of two (2) or more organizations, trades, or  
 17 businesses owned or controlled directly or indirectly by the same  
 18 interests, the department shall distribute, apportion, or allocate the  
 19 income derived from sources within the state of Indiana between and  
 20 among those organizations, trades, or businesses in order to fairly  
 21 reflect and report the income derived from sources within the state of  
 22 Indiana by various taxpayers.
- 23 (n) For purposes of allocation and apportionment of income under  
 24 this article, a taxpayer is taxable in another state if:
- 25 (1) in that state the taxpayer is subject to a net income tax, a  
 26 franchise tax measured by net income, a franchise tax for the  
 27 privilege of doing business, or a corporate stock tax; or
- 28 (2) that state has jurisdiction to subject the taxpayer to a net  
 29 income tax regardless of whether, in fact, the state does or does  
 30 not.
- 31 (o) Notwithstanding subsections (l) and (m), the department may  
 32 not, under any circumstances, require that income, deductions, and  
 33 credits attributable to a taxpayer and another entity be reported in a  
 34 combined income tax return for any taxable year, if the other entity is:
- 35 (1) a foreign corporation; or
- 36 (2) a corporation that is classified as a foreign operating  
 37 corporation for the taxable year by section 2.4 of this chapter.
- 38 (p) Notwithstanding subsections (l) and (m), the department may not  
 39 require that income, deductions, and credits attributable to a taxpayer  
 40 and another entity not described in subsection (o)(1) or (o)(2) be  
 41 reported in a combined income tax return for any taxable year, unless  
 42 the department is unable to fairly reflect the taxpayer's adjusted gross





1 income for the taxable year through use of other powers granted to the  
2 department by subsections (l) and (m).

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

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

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

- 22 (1) the numerator of which is the direct premiums and annuity  
23 considerations received during the taxable year for insurance  
24 upon property or risks in the state; and  
25 (2) the denominator of which is the direct premiums and annuity  
26 considerations received during the taxable year for insurance  
27 upon property or risks everywhere.

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

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

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

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

41 (A) The numerator of the fraction is the number of racing  
42 events for which sponsorship or similar promotional



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

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

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

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

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

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

- 27 (i) any amounts includible after application of  
 28 IC 6-3-1-3.5(b)(13), IC 6-3-1-3.5(d)(12), and  
 29 IC 6-3-1-3.5(e)(12); minus  
 30 (ii) the deduction taken under IC 6-3-2-12 with regard to  
 31 that income.

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

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

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

41 (B) For an entity that is eligible to claim a deduction under  
 42 IC 6-3-2-12, the amounts included in federal gross income as



- 1 a result of Section 951A of the Internal Revenue Code,  
 2 reduced by the deduction allowable under IC 6-3-2-12 with  
 3 regard to that income, shall be considered a receipt in the year  
 4 in which the amounts are includible in federal taxable income.
- 5 (3) Receipts do not include receipts derived from sources outside  
 6 the United States to the extent the taxpayer is allowed a deduction  
 7 or exclusion in determining both the taxpayer's federal taxable  
 8 income as a result of the federal Tax Cuts and Jobs Act of 2017  
 9 and the taxpayer's adjusted gross income under this chapter. If any  
 10 portion of the federal taxable income derived from these receipts  
 11 is deductible under IC 6-3-2-12, receipts shall be reduced by the  
 12 proportion of the deduction allowable under IC 6-3-2-12 with  
 13 regard to that federal taxable income.
- 14 Receipts includible in a taxable year under subdivisions (1) and (2)  
 15 shall be considered dividends from investments for apportionment  
 16 purposes.
- 17 SECTION 8. IC 6-3-2-2.5, AS AMENDED BY P.L.214-2018(ss),  
 18 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JANUARY 1, 2018 (RETROACTIVE)]: Sec. 2.5. (a) This section  
 20 applies to a resident person.
- 21 (b) Resident persons are entitled to a net operating loss deduction.  
 22 The amount of the deduction taken in a taxable year may not exceed  
 23 the taxpayer's unused Indiana net operating losses carried over to that  
 24 year. A taxpayer is not entitled to carryback any net operating losses  
 25 after December 31, 2011.
- 26 (c) An Indiana net operating loss equals the taxpayer's federal net  
 27 operating loss for a taxable year as calculated under Section 172 of the  
 28 Internal Revenue Code, adjusted for certain modifications required by  
 29 IC 6-3-1-3.5 as set forth in subsection (d)(1). **For taxable years**  
 30 **beginning after December 31, 2017, an Indiana loss for a taxable**  
 31 **year that is disallowed because of Section 461(l) of the Internal**  
 32 **Revenue Code shall be treated as a net operating loss incurred in**  
 33 **that taxable year.**
- 34 (d) The following provisions apply for purposes of subsection (c):  
 35 (1) The modifications that are to be applied are those  
 36 modifications required under IC 6-3-1-3.5 for the same taxable  
 37 year in which each net operating loss was incurred, except that the  
 38 modifications do not include the modifications required under:  
 39 (A) IC 6-3-1-3.5(a)(3);  
 40 (B) IC 6-3-1-3.5(a)(4);  
 41 (C) IC 6-3-1-3.5(a)(5);  
 42 (D) IC 6-3-1-3.5(a)(26);



- 1 (E) IC 6-3-1-3.5(f)(11); and  
 2 (F) IC 6-3-1-3.5(f)(13).
- 3 (2) An Indiana net operating loss includes a net operating loss that  
 4 arises when the applicable modifications required by IC 6-3-1-3.5  
 5 as set forth in subdivision (1) exceed the taxpayer's federal  
 6 adjusted gross income (as defined in Section 62 of the Internal  
 7 Revenue Code) for the taxable year in which the Indiana net  
 8 operating loss is determined.
- 9 (e) Subject to the limitations contained in subsection (g), an Indiana  
 10 net operating loss carryover shall be available as a deduction from the  
 11 taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the  
 12 carryover year provided in subsection (f).
- 13 (f) Carryovers shall be determined under this subsection as follows:  
 14 (1) An Indiana net operating loss shall be an Indiana net operating  
 15 loss carryover to each of the carryover years following the taxable  
 16 year of the loss.  
 17 (2) An Indiana net operating loss may not be carried over for  
 18 more than twenty (20) taxable years after the taxable year of the  
 19 loss.
- 20 (g) The entire amount of the Indiana net operating loss for any  
 21 taxable year shall be carried to the earliest of the taxable years to which  
 22 (as determined under subsection (f)) the loss may be carried. The  
 23 amount of the Indiana net operating loss remaining after the deduction  
 24 is taken under this section in a taxable year may be carried over as  
 25 provided in subsection (f). The amount of the Indiana net operating loss  
 26 carried over from year to year shall be reduced to the extent that the  
 27 Indiana net operating loss carryover is used by the taxpayer to obtain  
 28 a deduction in a taxable year until the occurrence of the earlier of the  
 29 following:  
 30 (1) The entire amount of the Indiana net operating loss has been  
 31 used as a deduction.  
 32 (2) The Indiana net operating loss has been carried over to each  
 33 of the carryover years provided by subsection (f).
- 34 SECTION 9. IC 6-3-2-2.6, AS AMENDED BY P.L.214-2018(ss),  
 35 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JANUARY 1, 2018 (RETROACTIVE)]: Sec. 2.6. (a) This section  
 37 applies to a corporation or a nonresident person.  
 38 (b) Corporations and nonresident persons are entitled to a net  
 39 operating loss deduction. The amount of the deduction taken in a  
 40 taxable year may not exceed the taxpayer's unused Indiana net  
 41 operating losses carried over to that year. A taxpayer is not entitled to  
 42 carryback any net operating losses after December 31, 2011.



1 (c) An Indiana net operating loss equals the taxpayer's federal net  
 2 operating loss for a taxable year as calculated under Section 172 of the  
 3 Internal Revenue Code, derived from sources within Indiana and  
 4 adjusted for certain modifications required by IC 6-3-1-3.5 as set forth  
 5 in subsection (d)(1). **For taxable years beginning after December 31,**  
 6 **2017, an Indiana loss for a taxable year that is disallowed because**  
 7 **of Section 461(l) of the Internal Revenue Code shall be treated as**  
 8 **a net operating loss incurred in that taxable year.**

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

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

- 14 (A) IC 6-3-1-3.5(a)(3);
- 15 (B) IC 6-3-1-3.5(a)(4);
- 16 (C) IC 6-3-1-3.5(a)(5);
- 17 (D) IC 6-3-1-3.5(a)(26);
- 18 (E) IC 6-3-1-3.5(b)(14);
- 19 (F) IC 6-3-1-3.5(b)(17);
- 20 (G) IC 6-3-1-3.5(d)(13);
- 21 (H) IC 6-3-1-3.5(d)(16);
- 22 (I) IC 6-3-1-3.5(e)(13);
- 23 (J) IC 6-3-1-3.5(e)(16);
- 24 (K) IC 6-3-1-3.5(f)(11); and
- 25 (L) IC 6-3-1-3.5(f)(13).

26 (2) The amount of the taxpayer's net operating loss that is derived  
 27 from sources within Indiana shall be determined in the same  
 28 manner that the amount of the taxpayer's adjusted gross income  
 29 derived from sources within Indiana is determined under section  
 30 2 of this chapter for the same taxable year during which each loss  
 31 was incurred.

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

42 (e) Subject to the limitations contained in subsection (g), an Indiana



1 net operating loss carryover shall be available as a deduction from the  
 2 taxpayer's adjusted gross income derived from sources within Indiana  
 3 (as defined in section 2 of this chapter) in the carryover year provided  
 4 in subsection (f).

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

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

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

12 (g) The entire amount of the Indiana net operating loss for any  
 13 taxable year shall be carried to the earliest of the taxable years to which  
 14 (as determined under subsection (f)) the loss may be carried. The  
 15 amount of the Indiana net operating loss remaining after the deduction  
 16 is taken under this section in a taxable year may be carried over as  
 17 provided in subsection (f). The amount of the Indiana net operating loss  
 18 carried over from year to year shall be reduced to the extent that the  
 19 Indiana net operating loss carryover is used by the taxpayer to obtain  
 20 a deduction in a taxable year until the occurrence of the earlier of the  
 21 following:

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

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

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

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

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

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

40 SECTION 10. IC 6-3-4-16.5, AS AMENDED BY P.L.137-2012,  
 41 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JANUARY 1, 2020]: Sec. 16.5. (a) This section applies to:

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

9 filed with the department after December 31, 2012.

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

- 12 (1) Form W-2 federal income tax withholding statements;
- 13 (2) Form W-2G certain gambling winnings; **or**
- 14 (3) Form 1099-R distributions from pensions, annuities,
- 15 retirement or profit sharing plans, IRAs, insurance contracts, or
- 16 like distributions; **or**
- 17 ~~(4) Form WH-18 miscellaneous withholding tax statements for~~
- 18 ~~nonresidents;~~

19 with the department in a calendar year, all forms and Form WH-3  
20 annual withholding tax reports filed with the department in that  
21 calendar year by the employer or the person or entity acting on behalf  
22 of the employer must be filed in an electronic format specified by the  
23 department.

24 SECTION 11. IC 6-3-4-16.7 IS ADDED TO THE INDIANA CODE  
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
26 1, 2019]: **Sec. 16.7. (a) For taxable years ending after December 31,**  
27 **2019, a partnership that is required to provide twenty-five (25) or**  
28 **more reports to partners under section 12(b) of this chapter or a**  
29 **corporation that is required to provide twenty-five (25) or more**  
30 **reports to shareholders under section 13(b) of this chapter must**  
31 **file all such reports in an electronic format specified by the**  
32 **department.**

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

37 SECTION 12. IC 6-5.5-1-2, AS AMENDED BY P.L.214-2018(ss),  
38 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
39 JULY 1, 2019]: Sec. 2. (a) Except as provided in subsections (b)  
40 through (d), "adjusted gross income" means taxable income as defined  
41 in Section 63 of the Internal Revenue Code, adjusted as follows:

- 42 (1) Add the following amounts:



- 1 (A) An amount equal to a deduction allowed or allowable  
2 under Section 166, Section 585, or Section 593 of the Internal  
3 Revenue Code.
- 4 (B) An amount equal to a deduction allowed or allowable  
5 under Section 170 of the Internal Revenue Code.
- 6 (C) An amount equal to a deduction or deductions allowed or  
7 allowable under Section 63 of the Internal Revenue Code for  
8 taxes based on or measured by income and levied at the state  
9 level by a state of the United States or levied at the local level  
10 by any subdivision of a state of the United States.
- 11 (D) The amount of interest excluded under Section 103 of the  
12 Internal Revenue Code or under any other federal law, minus  
13 the associated expenses disallowed in the computation of  
14 taxable income under Section 265 of the Internal Revenue  
15 Code.
- 16 (E) An amount equal to the deduction allowed under Section  
17 172 or 1212 of the Internal Revenue Code for net operating  
18 losses or net capital losses.
- 19 (F) For a taxpayer that is not a large bank (as defined in  
20 Section 585(c)(2) of the Internal Revenue Code), an amount  
21 equal to the recovery of a debt, or part of a debt, that becomes  
22 worthless to the extent a deduction was allowed from gross  
23 income in a prior taxable year under Section 166(a) of the  
24 Internal Revenue Code.
- 25 (G) Add the amount necessary to make the adjusted gross  
26 income of any taxpayer that owns property for which bonus  
27 depreciation was allowed in the current taxable year or in an  
28 earlier taxable year equal to the amount of adjusted gross  
29 income that would have been computed had an election not  
30 been made under Section 168(k) of the Internal Revenue Code  
31 to apply bonus depreciation to the property in the year that it  
32 was placed in service.
- 33 (H) Add the amount necessary to make the adjusted gross  
34 income of any taxpayer that placed Section 179 property (as  
35 defined in Section 179 of the Internal Revenue Code) in  
36 service in the current taxable year or in an earlier taxable year  
37 equal to the amount of adjusted gross income that would have  
38 been computed had an election for federal income tax  
39 purposes not been made for the year in which the property was  
40 placed in service to take deductions under Section 179 of the  
41 Internal Revenue Code in a total amount exceeding  
42 twenty-five thousand dollars (\$25,000).





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



1 amount of adjusted gross income that would have been  
 2 computed had an election for federal income tax purposes not  
 3 been made for the year in which the property was placed in  
 4 service to take deductions under Section 179 of the Internal  
 5 Revenue Code in a total amount exceeding twenty-five  
 6 thousand dollars (\$25,000).

7 (G) Income that is:

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

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

11 (H) ~~The amount included in the taxpayer's gross income under~~  
 12 ~~Section 118(b)(2) of the Internal Revenue Code that would~~  
 13 **have been excluded from gross income but for the**  
 14 **enactment of Section 118(b)(2) of the Internal Revenue**  
 15 **Code** for taxable years ending after December 22, 2017.

16 (3) Make the following adjustments:

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

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

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

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

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

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

40 (2) Make the following adjustments:

41 (A) Subtract the amount of any interest expense paid or  
 42 accrued in the current taxable year but not deducted as a result



- 1 of the limitation imposed under Section 163(j)(1) of the  
 2 Internal Revenue Code.
- 3 (B) Add any interest expense paid or accrued in a previous  
 4 taxable year but allowed as a deduction under Section 163 of  
 5 the Internal Revenue Code in the current taxable year.
- 6 For purposes of this subdivision, an interest expense is considered  
 7 paid or accrued only in the first taxable year the deduction would  
 8 have been allowable under Section 163 of the Internal Revenue  
 9 Code if the limitation under Section 163(j)(1) of the Internal  
 10 Revenue Code did not exist.
- 11 (3) Multiply the amount determined after the adjustments in  
 12 subdivisions (1) and (2) by the quotient of:
- 13 (A) the aggregate of the gross payments collected by the  
 14 company during the taxable year from old and new business  
 15 upon investment contracts issued by the company and held by  
 16 residents of Indiana; divided by
- 17 (B) the total amount of gross payments collected during the  
 18 taxable year by the company from the business upon  
 19 investment contracts issued by the company and held by  
 20 persons residing within Indiana and elsewhere.
- 21 (d) As used in subsection (c), "investment company" means a  
 22 person, copartnership, association, limited liability company, or  
 23 corporation, whether domestic or foreign, that:
- 24 (1) is registered under the Investment Company Act of 1940 (15  
 25 U.S.C. 80a-1 et seq.); and
- 26 (2) solicits or receives a payment to be made to itself and issues  
 27 in exchange for the payment:
- 28 (A) a so-called bond;  
 29 (B) a share;  
 30 (C) a coupon;  
 31 (D) a certificate of membership;  
 32 (E) an agreement;  
 33 (F) a pretended agreement; or  
 34 (G) other evidences of obligation;
- 35 entitling the holder to anything of value at some future date, if the  
 36 gross payments received by the company during the taxable year  
 37 on outstanding investment contracts, plus interest and dividends  
 38 earned on those contracts (by prorating the interest and dividends  
 39 earned on investment contracts by the same proportion that  
 40 certificate reserves (as defined by the Investment Company Act  
 41 of 1940) is to the company's total assets) is at least fifty percent  
 42 (50%) of the company's gross payments upon investment



1 contracts plus gross income from all other sources except  
 2 dividends from subsidiaries for the taxable year. The term  
 3 "investment contract" means an instrument listed in clauses (A)  
 4 through (G).

5 SECTION 13. IC 6-6-1.1-606.5, AS AMENDED BY  
 6 P.L.182-2009(ss), SECTION 234, IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 606.5. (a) Every person  
 8 included within the terms of section 606(a) and 606(c) of this chapter  
 9 shall register with the administrator before engaging in those activities.  
 10 The administrator shall issue a transportation license to a person who  
 11 registers with the administrator under this section.

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

- 17 (1) when the tax imposed by this chapter on the receipt of the
- 18 transported gasoline was charged and collected by the parties; and
- 19 (2) under the circumstances described in section 205 of this
- 20 chapter.

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

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

- 33 (1) points outside Indiana to points inside Indiana; and
- 34 (2) points inside Indiana to points outside Indiana.

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



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

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

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

16 (1) must require that the shipper or its agent ~~provide notification~~  
 17 ~~to the department before a diversion or correction if an intended~~  
 18 ~~diversion or correction is to occur; obtain a diversion number~~  
 19 ~~within twenty-four (24) hours of the diversion and report the~~  
 20 ~~number on the shipper's or agent's monthly return to the~~  
 21 ~~department; and~~

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

23 SECTION 14. IC 6-6-1.1-902 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 902. (a) A local transit  
 25 system is entitled to a refund of tax paid on gasoline used:

- 26 (1) for transporting persons for compensation by means of a  
 27 motor vehicle or trackless trolley; or  
 28 (2) in a maintenance or an administrative vehicle that is used by  
 29 the local transit system to support the transit service.

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

- 31 ~~(1) A quarterly operating statement.~~  
 32 ~~(2) A current balance sheet.~~  
 33 ~~(3) A schedule of all salaries in excess of ten thousand dollars~~  
 34 ~~(\$10,000) per annum paid to any officer or employee.~~

35 ~~(e)~~ **(b)** If a refund is not issued within ninety (90) days of filing of  
 36 the verified statement and all supplemental information required by  
 37 IC 6-6-1.1-904.1, the department shall pay interest at the rate  
 38 established by IC 6-8.1-9 computed from the date of filing of the refund  
 39 application until a date determined by the administrator that does not  
 40 precede by more than thirty (30) days the date on which the refund is  
 41 made.

42 SECTION 15. IC 6-6-1.1-902.5 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 902.5. (a) A rural  
 2 transit system is entitled to a refund of tax paid on gasoline used for  
 3 transporting persons for compensation by means of a motor vehicle or  
 4 trackless trolley. However, the transporting must be done:

5 (1) within a service area that is not larger than the rural transit  
 6 system service area and the counties contiguous to that rural  
 7 transit system service area; and

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

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

12 ~~(1) A quarterly operating statement.~~

13 ~~(2) A current balance sheet.~~

14 ~~(3) A schedule of all salaries that exceed ten thousand dollars  
 15 (\$10,000) per year paid to any officer or employee.~~

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

23 SECTION 16. IC 6-6-2.5-40, AS AMENDED BY P.L.158-2013,  
 24 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2019]: Sec. 40. (a) Each person operating a refinery, terminal,  
 26 or bulk plant in Indiana shall prepare and provide to the driver of every  
 27 vehicle receiving special fuel at the facility a shipping document setting  
 28 out on its face the destination state as represented to the terminal  
 29 operator by the shipper or the shipper's agent, except that an operator  
 30 of a bulk plant in Indiana delivering special fuel into a vehicle with a  
 31 capacity of not more than five thousand four hundred (5,400) gallons  
 32 for subsequent delivery to an end consumer in Indiana is exempt from  
 33 this requirement.

34 (b) Every person transporting special fuel in vehicles upon the  
 35 Indiana public highways shall carry on board a shipping paper issued  
 36 by the terminal operator or the bulk plant operator of the facility where  
 37 the special fuel was obtained, which shipping paper shall set out on its  
 38 face the state of destination of the special fuel transported in the  
 39 vehicle, except that operators of vehicles with a capacity of not more  
 40 than five thousand four hundred (5,400) gallons that have received  
 41 special fuel at a bulk plant in Indiana for delivery to an end consumer  
 42 in Indiana are exempt from this provision with respect to the special



1 fuel. A person who violates this subsection commits a Class A  
2 infraction (as defined in IC 34-28-5-4).

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

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

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

25 (f) The department shall provide for relief in a case where a  
26 shipment of special fuel is legitimately diverted from the represented  
27 destination state after the shipping paper has been issued by the  
28 terminal operator or where the terminal operator failed to cause proper  
29 information to be printed on the shipping paper. These relief provisions  
30 shall include a provision requiring that the shipper or its agent ~~provide~~  
31 ~~notification before the diversion or correction to the department if an~~  
32 ~~intended diversion or correction is to occur; obtain a diversion~~  
33 ~~number within twenty-four (24) hours of the diversion and report~~  
34 ~~the number on the shipper's or agent's monthly return to the~~  
35 ~~department~~, and the relief provision shall be consistent with the  
36 refund provisions of this chapter.

37 (g) The supplier and the terminal operator shall be entitled to rely  
38 for all purposes of this chapter on the representation by the shipper or  
39 the shipper's agent as to the shipper's intended state of destination or  
40 tax exempt use. The shipper, the importer, the transporter, the shipper's  
41 agent, and any purchaser, not the supplier or terminal operator, shall be  
42 jointly liable for any tax otherwise due to the state as a result of a



1 diversion of the special fuel from the represented destination state.

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

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

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

10 (c) "Commissioner" means the commissioner of the Indiana  
11 department of state revenue.

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

14 (1) the bureau of motor vehicles; or

15 (2) a state other than Indiana.

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

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

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

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

26 (i) "Motor fuel" means gasoline (as defined in IC 6-6-1.1), special  
27 fuel (as defined in IC 6-6-2.5), and alternative fuel (as defined in  
28 IC 6-6-2.5).

29 (j) "Quarter" means calendar quarter.

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

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

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

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

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

39 SECTION 18. IC 6-6-4.1-4, AS AMENDED BY P.L.185-2018,  
40 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2018 (RETROACTIVE)]: Sec. 4. (a) A tax is imposed on the  
42 consumption of motor fuel by a carrier in its operations on highways in





- 1 Indiana. The rate of this tax is determined as follows:
- 2 (1) When imposed upon the consumption of ~~gasoline or~~ special
- 3 fuel (other than a ~~special fuel that is an alternative fuel~~), **fuel or**
- 4 **a natural gas product**), the tax rate is the same rate per gallon as
- 5 the rate per gallon at which special fuel is taxed under IC 6-6-2.5.
- 6 **(2) When imposed upon the consumption of gasoline, the tax**
- 7 **rate is the same rate per gallon as the rate per gallon at which**
- 8 **gasoline is taxed under IC 6-6-1.1.**
- 9 ~~(2)~~ **(3)** When imposed upon the consumption of a ~~special fuel that~~
- 10 **is natural gas product or** an alternative fuel, the tax rate is either
- 11 of the following:
- 12 (A) The same rate per diesel gallon equivalent as the rate per
- 13 gallon at which special fuel is taxed under IC 6-6-2.5, in the
- 14 case of liquid natural gas.
- 15 (B) The same rate per gasoline gallon equivalent at which
- 16 special fuel is taxed under IC 6-6-2.5, in the case of
- 17 compressed natural gas or an alternative fuel commonly or
- 18 commercially known or sold as butane or propane.
- 19 The tax shall be paid quarterly by the carrier to the department on or
- 20 before the last day of the month immediately following the quarter.
- 21 (b) The amount of motor fuel consumed by a carrier in its operations
- 22 on highways in Indiana is the total amount of motor fuel consumed in
- 23 its entire operations within and without Indiana, multiplied by a
- 24 fraction. The numerator of the fraction is the total number of miles
- 25 traveled on highways in Indiana, and the denominator of the fraction is
- 26 the total number of miles traveled within and without Indiana.
- 27 (c) The amount of tax that a carrier shall pay for a particular quarter
- 28 under this section equals the product of the tax rate in effect for that
- 29 quarter, multiplied by the amount of motor fuel consumed by the
- 30 carrier in its operation on highways in Indiana and upon which the
- 31 carrier has not paid tax imposed under IC 6-6-1.1, IC 6-6-2.5, or
- 32 section 4.5 of this chapter (before its repeal).
- 33 (d) Subject to section 4.8 of this chapter, a carrier is entitled to a
- 34 proportional use credit against the tax imposed under this section for
- 35 that portion of motor fuel used to propel equipment mounted on a
- 36 motor vehicle having a common reservoir for locomotion on the
- 37 highway and the operation of the equipment, as determined by rule of
- 38 the commissioner. An application for a proportional use credit under
- 39 this subsection shall be filed on a quarterly basis on a form prescribed
- 40 by the department.
- 41 SECTION 19. IC 6-6-6.5-14 IS AMENDED TO READ AS
- 42 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. (a) A person



1 required to register ~~his~~ **the person's** aircraft and to pay the tax imposed  
 2 under this chapter, shall do so on or before the regular annual  
 3 registration date.

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

7 (c) When a taxpayer makes a partial payment on the taxpayer's tax  
 8 liability, the department shall apply the partial payment in the  
 9 following order:

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

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

13 ~~(3)~~ **(2)** To any excise tax owed by the taxpayer.

14 ~~(4)~~ **(3)** To any late penalty **first** and **then toward** interest on ~~gross~~  
 15 ~~retail or use the excise~~ tax owed by the taxpayer.

16 ~~(5)~~ **(4)** To any gross retail or use tax owed by the taxpayer.

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

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

23 SECTION 20. IC 6-8.1-3-16, AS AMENDED BY P.L.197-2016,  
 24 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2019]: Sec. 16. (a) The department shall prepare a list of all  
 26 outstanding tax warrants for listed taxes each month. The list shall  
 27 identify each taxpayer liable for a warrant by name, address, amount of  
 28 tax, and either Social Security number or employer identification  
 29 number. Unless the department renews the warrant, the department  
 30 shall exclude from the list a warrant issued more than ten (10) years  
 31 before the date of the list. The department shall certify a copy of the list  
 32 to the bureau of motor vehicles.

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

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

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

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

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



- 1 (2) a license under IC 6-6-1.1 or IC 6-6-2.5; or  
 2 (3) a permit under IC 6-6-4.1;  
 3 to a taxpayer whose name appears on the most recent monthly warrant  
 4 list, unless that taxpayer pays the tax, makes arrangements satisfactory  
 5 to the department for the payment of the tax, or a release is issued  
 6 under IC 6-8.1-8-2(k).
- 7 (d) The bureau of motor vehicles shall, before issuing the title to a  
 8 motor vehicle under IC 9-17, determine whether the purchaser's or  
 9 assignee's name is on the most recent monthly warrant list. If the  
 10 purchaser's or assignee's name is on the list, the bureau shall enter as  
 11 a lien on the title the name of the state as the lienholder unless the  
 12 bureau has received notice from the commissioner under  
 13 IC 6-8.1-8-2(k). The tax lien on the title:
- 14 (1) is subordinate to a perfected security interest (as defined and  
 15 perfected in accordance with IC 26-1-9.1); and  
 16 (2) shall otherwise be treated in the same manner as other title  
 17 liens.
- 18 (e) The commissioner is the custodian of all titles for which the state  
 19 is the sole lienholder under this section. Upon receipt of the title by the  
 20 department, the commissioner shall notify the owner of the  
 21 department's receipt of the title.
- 22 (f) The department shall reimburse the bureau of motor vehicles for  
 23 all costs incurred in carrying out this section.
- 24 (g) Notwithstanding IC 6-8.1-8, a person who is authorized to  
 25 collect taxes, interest, or penalties on behalf of the department under  
 26 IC 6-3 or IC 6-3.6 may not, except as provided in subsection (h) or (i),  
 27 receive a fee for collecting the taxes, interest, or penalties if:
- 28 (1) the taxpayer pays the taxes, interest, or penalties as  
 29 consideration for the release of a lien placed under subsection (d)  
 30 on a motor vehicle title; or  
 31 (2) the taxpayer has been denied a certificate or license under  
 32 subsection (c) within sixty (60) days before the date the taxes,  
 33 interest, or penalties are collected.
- 34 (h) In the case of a sheriff, subsection (g) does not apply if:
- 35 (1) the sheriff collects the taxes, interest, or penalties within sixty  
 36 (60) days after the date the sheriff receives the tax warrant; or  
 37 (2) the sheriff collects the taxes, interest, or penalties through the  
 38 sale or redemption, in a court proceeding, of a motor vehicle that  
 39 has a lien placed on its title under subsection (d).
- 40 (i) In the case of a person other than a sheriff:
- 41 (1) subsection (g)(2) does not apply if the person collects the  
 42 taxes, interests, or penalties within sixty (60) days after the date



1 the commissioner employs the person to make the collection; and  
 2 (2) subsection (g)(1) does not apply if the person collects the  
 3 taxes, interest, or penalties through the sale or redemption, in a  
 4 court proceeding, of a motor vehicle that has a lien placed on its  
 5 title under subsection (d).

6 (j) IC 5-14-3-4, IC 6-8.1-7-1, and any other law exempting  
 7 information from disclosure by the department do not apply to this  
 8 subsection. The department shall prepare a list of retail merchants  
 9 whose registered retail merchant certificate has not been renewed  
 10 under ~~IC 6-2.5-8-1(g)~~ **IC 6-2.5-8-1(h)** or whose registered retail  
 11 merchant certificate has been revoked under IC 6-2.5-8-7. The list  
 12 compiled under this subsection must identify each retail merchant by  
 13 name (including any name under which the retail merchant is doing  
 14 business), address, and county. The department shall publish the list  
 15 compiled under this subsection on the department's Internet web site  
 16 (as operated under IC 4-13.1-2) and make the list available for public  
 17 inspection and copying under IC 5-14-3. The department or an agent,  
 18 employee, or officer of the department is immune from liability for the  
 19 publication of information under this subsection.

20 SECTION 21. IC 6-8.1-5-4 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Every person  
 22 subject to a listed tax must keep **contemporaneous** books and records  
 23 so that the department can determine the amount, if any, of the person's  
 24 liability for that tax by reviewing those books and records. The records  
 25 referred to in this subsection include all source documents necessary  
 26 to determine the tax, including invoices, register tapes, receipts, and  
 27 canceled checks. **A record shall not include any information not**  
 28 **contemporaneously maintained in the ordinary course of business,**  
 29 **either in written or digital format.**

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

33 (1) for an unlimited period, if the person fails to file a return or  
 34 receives notice from the department that the person has filed a  
 35 suspected fraudulent return, or an unsigned or substantially blank  
 36 return; or

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



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

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

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

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

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

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

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

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

22 **(f) If the department requests books and records of a taxpayer**  
 23 **and the taxpayer can establish both that the taxpayer maintained**  
 24 **the books and records required by the department and that the**  
 25 **books and records were destroyed, other than by an intentional or**  
 26 **reckless act of the taxpayer, the taxpayer may produce information**  
 27 **from the books and records maintained by third parties to be**  
 28 **received as evidence. Any information that reasonably should have**  
 29 **been available in the books and records of the taxpayer and that is**  
 30 **not otherwise produced by the taxpayer may not be introduced as**  
 31 **evidence.**

32 SECTION 22. IC 6-8.1-7-1, AS AMENDED BY P.L.86-2018,  
 33 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2019]: Sec. 1. (a) This subsection does not apply to the  
 35 disclosure of information concerning a conviction on a tax evasion  
 36 charge. Unless in accordance with a judicial order or as otherwise  
 37 provided in this chapter, the department, its employees, former  
 38 employees, counsel, agents, or any other person may not divulge the  
 39 amount of tax paid by any taxpayer, terms of a settlement agreement  
 40 executed between a taxpayer and the department, investigation records,  
 41 investigation reports, or any other information disclosed by the reports  
 42 filed under the provisions of the law relating to any of the listed taxes,



1 including required information derived from a federal return, except to  
 2 any of the following when it is agreed that the information is to be  
 3 confidential and to be used solely for official purposes:

4 (1) Members and employees of the department.

5 (2) The governor.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

14 (n) This section does not apply to:

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

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

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

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

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

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





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

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

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

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

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

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

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

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

24 **(2) the taxpayer's spouse, if:**

25 **(A) the taxpayer is deceased or incapacitated; and**

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

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

30 SECTION 23. IC 6-8.1-8-1.5 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.5. Whenever a  
 32 taxpayer makes a partial payment on the taxpayer's tax liability, the  
 33 department shall apply the partial payment in the following order:

34 (1) To any ~~penalty~~ **owed by the tax liability of the taxpayer.**

35 (2) To any ~~interest~~ **penalty** owed by the taxpayer.

36 (3) To the ~~tax liability~~ **of any interest owed by the taxpayer.**

37 **In the case of a taxpayer with multiple liabilities, the department**  
 38 **may adopt rules under IC 4-22-2 to establish the manner in which**  
 39 **payments are applied to the taxpayer's outstanding liabilities.**

40 SECTION 24. IC 6-8.1-8-2, AS AMENDED BY P.L.181-2016,  
 41 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2019]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3 and



1 sections 16 and 17 of this chapter, the department must issue a demand  
 2 notice for the payment of a tax and any interest or penalties accrued on  
 3 the tax, if a person files a tax return without including full payment of  
 4 the tax or if the department, after ruling on a protest, finds that a person  
 5 owes the tax before the department issues a tax warrant. The demand  
 6 notice must state the following:

- 7 (1) That the person has twenty (20) days from the date the  
 8 department mails the notice to either pay the amount demanded  
 9 or show reasonable cause for not paying the amount demanded.  
 10 (2) The statutory authority of the department for the issuance of  
 11 a tax warrant.  
 12 (3) The earliest date on which a tax warrant may be filed and  
 13 recorded.  
 14 (4) The statutory authority for the department to levy against a  
 15 person's property that is held by a financial institution.  
 16 (5) The remedies available to the taxpayer to prevent the filing  
 17 and recording of the judgment.

18 If the department files a tax warrant in more than one (1) county, the  
 19 department is not required to issue more than one (1) demand notice.  
 20 **The department may not issue a demand notice for a liability more**  
 21 **than nine (9) years after the first date the department is permitted**  
 22 **to issue a demand notice under this chapter.**

23 (b) If the person does not pay the amount demanded or show  
 24 reasonable cause for not paying the amount demanded within the  
 25 twenty (20) day period, the department may issue a tax warrant for the  
 26 amount of the tax, interest, penalties, collection fee, sheriff's costs,  
 27 clerk's costs, and fees established under section 4(b) of this chapter  
 28 when applicable. When the department issues a tax warrant, a  
 29 collection fee of ten percent (10%) of the unpaid tax is added to the  
 30 total amount due.

31 (c) When the department issues a tax warrant, it may not file the  
 32 warrant with the circuit court clerk of any county in which the person  
 33 owns property until at least twenty (20) days after the date the demand  
 34 notice was mailed to the taxpayer. **If a taxpayer does not own**  
 35 **property in Indiana, or if the department is unable to determine**  
 36 **whether the taxpayer owns property in Indiana, the department**  
 37 **may file the tax warrant with the circuit court clerk of Marion**  
 38 **County.** The department may also send the warrant to the sheriff of any  
 39 county in which the person owns property and direct the sheriff to file  
 40 the warrant with the circuit court clerk:

- 41 (1) at least twenty (20) days after the date the demand notice was  
 42 mailed to the taxpayer; and



- 1 (2) no later than five (5) days after the date the department issues  
 2 the warrant.
- 3 (d) When the circuit court clerk receives a tax warrant from the  
 4 department or the sheriff, the clerk shall record the warrant by making  
 5 an entry in the judgment debtor's column of the judgment record,  
 6 listing the following:
- 7 (1) The name of the person owing the tax.  
 8 (2) The amount of the tax, interest, penalties, collection fee,  
 9 sheriff's costs, clerk's costs, and fees established under section  
 10 4(b) of this chapter when applicable.  
 11 (3) The date the warrant was filed with the clerk.
- 12 (e) When the entry is made, the total amount of the tax warrant  
 13 becomes a judgment against the person owing the tax. The judgment  
 14 creates a lien in favor of the state that attaches to all the person's  
 15 interest in any:
- 16 (1) chose in action in the county; and  
 17 (2) real or personal property in the county;  
 18 excepting only negotiable instruments not yet due. **The department**  
 19 **may domesticate a valid tax warrant in one (1) or more other states**  
 20 **or countries, or in the political subunits of other states or countries,**  
 21 **in the manner that any other civil judgment may be domesticated**  
 22 **in that jurisdiction. The department shall be permitted all rights**  
 23 **and remedies permitted in a jurisdiction in which a judgment is**  
 24 **domesticated, even if the rights or remedies would not be permitted**  
 25 **under Indiana law.**
- 26 (f) **The following apply to a judgment on a tax warrant:**
- 27 (1) **A judgment on a tax warrant must be filed in at least one**  
 28 **(1) Indiana county not later than ten (10) years after the first**  
 29 **date on which a demand notice could be issued under this**  
 30 **chapter.**
- 31 (2) **Except as provided in subdivision (3), if a judgment on a**  
 32 **tax warrant is entered in at least one (1) Indiana county, the**  
 33 **department may file an additional tax warrant in one (1) or**  
 34 **more Indiana counties during the period in which one (1) or**  
 35 **more tax warrants are valid under this section.**
- 36 (3) A judgment obtained under this section is valid for ten (10)  
 37 years from the date the judgment is filed. The department may  
 38 renew the judgment for additional ten (10) year periods by filing  
 39 an alias tax warrant with the circuit court clerk of the county in  
 40 which the judgment previously existed. **An amended tax**  
 41 **warrant under this section or section 4 of this chapter shall**  
 42 **not constitute an alias tax warrant. The failure to renew a tax**



1           **warrant in a particular county shall preclude the issuance of**  
 2           **a new tax warrant under subdivision (2).**

3           **(4) If the department does not:**

4               **(A) issue a timely demand notice under subsection (a);**

5               **(B) file a timely tax warrant under subdivision (1); or**

6               **(C) renew all tax warrants under subdivision (3);**

7           **the department shall extinguish the tax liability from which**  
 8           **the demand notice or judgment arose, and no state agency**  
 9           **shall treat the tax liability as a delinquency for purposes of**  
 10           **Indiana law.**

11           (g) A judgment arising from a tax warrant in a county shall be  
 12           released by the department:

13               (1) after the judgment, including all accrued interest to the date of  
 14               payment, has been fully satisfied; or

15               (2) if the department determines that the tax assessment or the  
 16               issuance of the tax warrant was in error.

17           (h) Subject to subsections (p) and (q), if the department determines  
 18           that the filing of a tax warrant was in error or if the commissioner  
 19           determines that the release of the judgment and expungement of the tax  
 20           warrant are in the best interest of the state, the department shall mail a  
 21           release of the judgment to the taxpayer and the circuit court clerk of  
 22           each county where the warrant was filed. The circuit court clerk of each  
 23           county where the warrant was filed shall expunge the warrant from the  
 24           judgment debtor's column of the judgment record. The department shall  
 25           mail the release and the order for the warrant to be expunged as soon  
 26           as possible but no later than seven (7) days after:

27               (1) the determination by the department that the filing of the  
 28               warrant was in error; and

29               (2) the receipt of information by the department that the judgment  
 30               has been recorded under subsection (d).

31           (i) If the department determines that a judgment described in  
 32           subsection (h) is obstructing a lawful transaction, the department shall  
 33           immediately upon making the determination mail:

34               (1) a release of the judgment to the taxpayer; and

35               (2) an order requiring the circuit court clerk of each county where  
 36               the judgment was filed to expunge the warrant.

37           (j) A release issued under subsection (h) or (i) must state that the  
 38           filing of the tax warrant was in error. Upon the request of the taxpayer,  
 39           the department shall mail a copy of a release and the order for the  
 40           warrant to be expunged issued under subsection (h) or (i) to each major  
 41           credit reporting company located in each county where the judgment  
 42           was filed.



1 (k) The commissioner shall notify each state agency or officer  
 2 supplied with a tax warrant list of the issuance of a release under  
 3 subsection (h) or (i).

4 (l) If the sheriff collects the full amount of a tax warrant, the sheriff  
 5 shall disburse the money collected in the manner provided in section  
 6 3(c) of this chapter. If a judgment has been partially or fully satisfied  
 7 by a person's surety, the surety becomes subrogated to the department's  
 8 rights under the judgment. If a sheriff releases a judgment:

9 (1) before the judgment is fully satisfied;

10 (2) before the sheriff has properly disbursed the amount collected;

11 or

12 (3) after the sheriff has returned the tax warrant to the department;  
 13 the sheriff commits a Class B misdemeanor and is personally liable for  
 14 the part of the judgment not remitted to the department.

15 (m) A lien on real property described in subsection (e)(2) is void if  
 16 both of the following occur:

17 (1) The person owing the tax provides written notice to the  
 18 department to file an action to foreclose the lien.

19 (2) The department fails to file an action to foreclose the lien not  
 20 later than one hundred eighty (180) days after receiving the  
 21 notice.

22 (n) A person who gives notice under subsection (m) by registered  
 23 or certified mail to the department may file an affidavit of service of the  
 24 notice to file an action to foreclose the lien with the circuit court clerk  
 25 in the county in which the property is located. The affidavit must state  
 26 the following:

27 (1) The facts of the notice.

28 (2) That more than one hundred eighty (180) days have passed  
 29 since the notice was received by the department.

30 (3) That no action for foreclosure of the lien is pending.

31 (4) That no unsatisfied judgment has been rendered on the lien.

32 (o) Upon receipt of the affidavit described in subsection (n), the  
 33 circuit court clerk shall make an entry showing the release of the  
 34 judgment lien in the judgment records for tax warrants.

35 (p) The department shall adopt rules to define the circumstances  
 36 under which a release and expungement may be granted based on a  
 37 finding that the release and expungement would be in the best interest  
 38 of the state. The rules may allow the commissioner to expunge a tax  
 39 warrant in other circumstances not inconsistent with subsection (q) that  
 40 the commissioner determines are appropriate. Any releases or  
 41 expungements granted by the commissioner must be consistent with  
 42 these rules.



1 (q) The commissioner may expunge a tax warrant in the following  
2 circumstances:

3 (1) If the taxpayer has timely and fully filed and paid all of the  
4 taxpayer's state taxes, or has otherwise resolved any outstanding  
5 state tax issues, for the preceding five (5) years.

6 (2) If the warrant was issued more than ten (10) years prior to the  
7 expungement.

8 (3) If the warrant is not subject to pending litigation.

9 (4) Other circumstances not inconsistent with subdivisions (1)  
10 through (3) that are specified in the rules adopted under  
11 subsection (p).

12 (r) Notwithstanding any other provision in this section, the  
13 commissioner may decline to release a judgment or expunge a warrant  
14 upon a finding that the warrant was issued based on the taxpayer's  
15 fraudulent, intentional, or reckless conduct.

16 (s) The rules required under subsection (p) shall specify the process  
17 for requesting that the commissioner release and expunge a tax  
18 warrant.

19 SECTION 25. IC 6-8.1-8-3, AS AMENDED BY P.L.99-2011,  
20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2019]: Sec. 3. (a) The county sheriff of a county shall attempt  
22 to levy on and collect a judgment arising from a tax warrant in that  
23 county for a period of one hundred twenty (120) days from the date the  
24 judgment lien is entered, unless the sheriff is relieved of that duty at an  
25 earlier time by the department. The sheriff shall also have authority to  
26 attempt to levy on and collect the outstanding tax liability if the  
27 taxpayer does not pay the amount demanded under section 2(b) of this  
28 chapter and the taxpayer has taken an action under section 2(n) of this  
29 chapter to foreclose the lien. The sheriff's authority to collect the  
30 warrant exists only while the sheriff holds the tax warrant, and if the  
31 sheriff surrenders the warrant to the department for any reason the  
32 sheriff's authority to collect that tax warrant ceases. During the period  
33 that the sheriff has the duty to collect a tax warrant, the sheriff shall  
34 collect from the person owing the tax, an amount equal to the amount  
35 of the judgment lien plus the accrued interest to the date of the  
36 payment. Subject to subsection (b), the sheriff shall make the collection  
37 by garnisheeing the person's wages and by levying on and selling any  
38 interest in property or rights in any chose in action that the person has  
39 in the county. The Indiana laws which provide relief for debtors by  
40 exempting certain property from levy by creditors do not apply to levy  
41 and sale proceedings for judgments arising from tax warrants.

42 (b) A sheriff shall sell property to satisfy a tax warrant in a manner



1 that is reasonably likely to bring the highest net proceeds from the sale  
 2 after deducting the expenses of the offer to sell and sale. A sheriff may  
 3 engage an auctioneer to advertise a sale and to conduct a public  
 4 auction, unless the person being levied files an objection with the clerk  
 5 of the circuit or superior court having the tax warrant within five (5)  
 6 days of the day that the sheriff informs the person of the person's right  
 7 to object. The advertising conducted by the auctioneer is in addition to  
 8 any other notice required by law, and shall include a detailed  
 9 description of the property to be sold. When an auctioneer is engaged  
 10 under this subsection and the auctioneer files a verified claim with the  
 11 clerk of the circuit or superior court with whom the tax warrant is filed,  
 12 the sheriff may pay the reasonable fee and reasonable expenses of the  
 13 auctioneer from the gross proceeds of the sale before other expenses  
 14 and the judgment arising from the tax warrant are paid. As used in this  
 15 section, "auctioneer" means an auctioneer licensed under IC 25-6.1.

16 (c) The sheriff shall deposit all amounts that the sheriff collects  
 17 under this section, including partial payments, into a special trust  
 18 account for judgments collected that arose from tax warrants. **The**  
 19 **sheriff shall notify the department, in a manner specified by the**  
 20 **department, of the name of the taxpayer and the amount of the**  
 21 **payment within seven (7) days of receipt. In the event of an**  
 22 **emergency, a taxpayer may direct the sheriff to make a payment**  
 23 **on the taxpayer's behalf using the department's electronic payment**  
 24 **portal when certified funds have been received by the sheriff.** On  
 25 or before the fifth day of each month, the sheriff shall disburse the  
 26 money in the tax warrant judgment lien trust account in the following  
 27 order:

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

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

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

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

41 (5) If the sheriff has not entered into a salary contract under  
 42 IC 36-2-13-2.5, the sheriff shall deposit in the county general fund



1 the part of the collections that:

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

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

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

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

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

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

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

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

23 (f) This subsection applies only to the sheriff of a county having a  
24 consolidated city or a second class city. In such a county, the ten  
25 percent (10%) collection fee added under section 2(b) of this chapter  
26 shall be divided as follows:

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

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

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

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

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





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

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

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

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

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

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

31 (2) the overpayment:

32 (A) is with respect to a taxable year beginning before January  
33 1, 2009;

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

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

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

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



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

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

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

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



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

2 (A) the date the tax payment was due;

3 (B) the date the tax was paid; or

4 (C) July 1, 2015;

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

16 **(e) For purposes of subsection (d), if a taxpayer files a refund**  
17 **claim, including any required attachments, that:**

18 **(1) is not on a required form;**

19 **(2) does not contain the taxpayer's name, address, federal**  
20 **identification number (if applicable), and signature;**

21 **(3) does not contain sufficient required information to permit**  
22 **the mathematical verification of the taxpayer's tax liability;**

23 **or**

24 **(4) does not otherwise provide sufficient information to verify**  
25 **that the tax for which a refund is sought was paid by the**  
26 **taxpayer;**

27 **the ninety (90) day period during which the department may issue**  
28 **a refund without paying interest under subsection (d) begins on the**  
29 **date the taxpayer provides all information required in subdivisions**  
30 **(1) through (4).**

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

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

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

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

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



1           **(f)(2);**

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

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

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

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

16           (1) expand employment; or

17           (2) assist in retaining employment within Indiana.

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

20          SECTION 27. IC 6-8.1-10-1, AS AMENDED BY P.L.214-2018(ss),  
21          SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22          JULY 1, 2019]: Sec. 1. (a) If a person fails to file a return for any of the  
23          listed taxes, fails to pay the full amount of tax shown on the person's  
24          return by the due date for the return or the payment, or incurs a  
25          deficiency upon a determination by the department, the person is  
26          subject to interest on the nonpayment.

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

30           (1) the full amount of the unpaid tax due if the person failed to  
31           file the return;

32           (2) the amount of the tax that is not paid, if the person filed the  
33           return but failed to pay the full amount of tax shown on the return;

34           or

35           (3) the amount of the deficiency.

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



1 treasurer of state on or before October 1 of each year and reported to  
 2 the commissioner. For purposes of IC 6-8.1-9-2(c), the adjusted rate of  
 3 interest for an excess tax payment must be the same as the adjusted rate  
 4 of interest determined under this subsection for a failure described in  
 5 subsection (a). The adjusted rates of interest established under this  
 6 subsection shall take effect on January 1 of the immediately succeeding  
 7 year.

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

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

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

15 SECTION 28. IC 6-8.1-10-2.1, AS AMENDED BY P.L.181-2016,  
 16 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2019]: Sec. 2.1. (a) Except as provided in IC 6-3-4-12(k) and  
 18 IC 6-3-4-13(l), a person that:

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

29 is subject to a penalty.

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

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

42 (c) For purposes of this section, the filing of a substantially blank or



1 unsigned return does not constitute a return.

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

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

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

21 (g) A person who fails to file a return for a listed tax that shows no  
22 tax liability for a taxable year, other than an information return (as  
23 defined in section 6 of this chapter), on or before the due date of the  
24 return shall pay a penalty of ten dollars (\$10) for each day that the  
25 return is past due, up to a maximum of two hundred fifty dollars  
26 (\$250).

27 (h) A:

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

29 (2) partnership; or

30 (3) trust;

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

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

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



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

14           SECTION 29. IC 6-8.1-10-6 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) As used in this  
 16 section, "information return" means the following when a statute or rule  
 17 requires the following to be filed with the department:

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

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

24           (3) Any form, statement, or schedule required to be filed with the  
 25 Internal Revenue Service under 26 C.F.R. 301.6721-1(g) (1993).  
 26 The term does not include form IT-20FIT, IT-20S, IT-20SC, IT-41, or  
 27 IT-65.

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

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

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

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

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

39           SECTION 30. IC 16-44-2-18, AS AMENDED BY P.L.214-2005,  
 40 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2019]: Sec. 18. (a) Except as provided in subsection (b), fees  
 42 for the inspection of gasoline or kerosene shall be at the rate of fifty



1 cents (\$0.50) per barrel (fifty (50) gallons) on all gasoline or kerosene  
2 received in Indiana less deductions provided in this section.

3 (b) A fee for inspection of gasoline or kerosene may not be charged  
4 for the following:

5 (1) On transport or tank car shipments direct to the federal  
6 government.

7 (2) On gasoline or kerosene received and subsequently exported  
8 from Indiana or returned to refineries or marine or pipeline  
9 terminals in Indiana.

10 (c) Fees shall be paid to the state department by the person receiving  
11 gasoline or kerosene in Indiana at the time gasoline or kerosene  
12 products are received, unless the person receiving the gasoline or  
13 kerosene is licensed as a distributor under the gasoline tax law  
14 (IC 6-6-1.1). In that case, the person in receipt of the gasoline or  
15 kerosene shall do the following:

16 (1) Include in the person's monthly gasoline tax report a statement  
17 of all gasoline and kerosene received during the preceding  
18 calendar month on which inspection fees are due.

19 (2) Remit the amount of the inspection fees at the same time the  
20 monthly motor fuel tax report is due.

21 (d) A refiner or other person supplying gasoline or kerosene to the  
22 first receiver in Indiana may elect to pay the fees monthly on all  
23 gasoline or kerosene supplied to persons in Indiana not licensed as  
24 distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is  
25 not licensed as a distributor under the gasoline tax law of Indiana  
26 (IC 6-6-1.1), the supplier shall, as a condition precedent to such  
27 election, file with the state department a corporate surety bond that  
28 meets the following conditions:

29 (1) Is in the form and amount that the state department  
30 determines, not to exceed two thousand dollars (\$2,000).

31 (2) Is conditioned that the supplier does the following:

32 (A) Reports all gasoline and kerosene supplied by the supplier  
33 to persons in Indiana not licensed as distributors under the  
34 gasoline tax law (IC 6-6-1.1).

35 (B) Pays inspection fees monthly on or before the twenty-fifth  
36 day of each calendar month for the preceding calendar month.

37 (e) A person taking credit for gasoline or kerosene exported or  
38 returned to a refinery or terminal shall substantiate that credit in the  
39 manner that the state department reasonably requires by rule.

40 (f) A distributor who fails to file a monthly report and pay the tax  
41 due as required by this chapter is subject to a penalty of five percent  
42 (5%) of the amount of unpaid tax due and interest on the unpaid tax





1 and penalty at the rate of eight percent (8%) annually. However, if a  
2 delay not exceeding ten (10) days is due to a mistake, an accident, or  
3 an oversight without intent to avoid payment, the administrator may  
4 waive the penalty and interest.

5 SECTION 31. [EFFECTIVE JANUARY 1, 2019  
6 (RETROACTIVE)] (a) **IC 6-3-1-11, as amended by this act, applies**  
7 **to taxable years beginning after December 31, 2018.**

8 (b) **This SECTION expires June 30, 2021.**

9 SECTION 32. **An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 565, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 8, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 5. IC 6-3-1-3.5, AS AMENDED BY P.L.214-2018(ss), SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

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

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

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

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

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

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

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

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

(5) Subtract:

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

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

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



age;

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

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

(C) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

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

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

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

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

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

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

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

(12) Subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.



- (13) Subtract an amount equal to the lesser of:
- (A) two thousand five hundred dollars (\$2,500); or
  - (B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.
- (14) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.
- (15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (16) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (concerning net operating losses).
- (17) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (18) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.
- (19) Subtract income that is:
- (A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and
  - (B) included in the individual's federal adjusted gross income under the Internal Revenue Code.
- (20) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable



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

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

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

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

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

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

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

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

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- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code (concerning charitable contributions).
- (3) Except as provided in subsection (c), add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code (concerning foreign tax credits).
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (concerning net operating losses).
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (8) Add to the extent required by IC 6-3-2-20:
  - (A) the amount of intangible expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes; and
  - (B) any directly related interest expenses (as defined in IC 6-3-2-20) that reduced the corporation's adjusted gross income (determined without regard to this subdivision). ~~The~~



amount of interest that is considered to have reduced the corporation's adjusted gross income equals:

- (i) the directly related interest expense that reduced the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code); plus
- (ii) any directly related interest expenses for which a subtraction is allowable under subdivision (15); minus
- (iii) any directly related interest expenses required to be added back under subdivision (15).

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

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

(10) Subtract income that is:

- (A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and
- (B) included in the corporation's taxable income under the Internal Revenue Code.

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

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



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

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

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

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

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

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

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

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

(16) Subtract the amount ~~included in the taxpayer's gross income under Section 118(b)(2) of the Internal Revenue Code~~ **that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code** for taxable





years ending after December 22, 2017.

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

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Subtract income that is:



- (A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and
- (B) included in the insurance company's taxable income under the Internal Revenue Code.
- (9) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.
- (10) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.
- (11) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.
- (12) For taxable years beginning after December 25, 2016, add:
- (A) an amount equal to the amount reported by the taxpayer on IRC 965 Transition Tax Statement, line 1; **or**
- (B) if the taxpayer deducted an amount under Section 965(c) of the Internal Revenue Code in determining the taxpayer's taxable income for purposes of the federal income tax, the amount deducted under Section 965(c) of the Internal Revenue Code.**
- (13) Add an amount equal to the deduction that was claimed by the taxpayer for the taxable year under Section 250(a)(1)(B) of the Internal Revenue Code (attributable to global intangible low-taxed income). The taxpayer shall separately specify the amount of the reduction under Section 250(a)(1)(B)(i) of the Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the Internal Revenue Code.
- (14) Subtract any interest expense paid or accrued in the current



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

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

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

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.

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

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

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

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

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

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



- (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (concerning net operating losses).
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (8) Subtract income that is:
- (A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and
  - (B) included in the insurance company's taxable income under the Internal Revenue Code.
- (9) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.
- (10) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.
- (11) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.
- (12) For taxable years beginning after December 25, 2016, add:
- (A) an amount equal to the amount reported by the taxpayer on



IRC 965 Transition Tax Statement, line 1; or

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

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

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

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

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

- (A) required to add or subtract; or
- (B) entitled to deduct;

under IC 6-3-2.

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

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

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



- (3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code (concerning net operating losses).
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (6) Subtract income that is:
- (A) exempt from taxation under IC 6-3-2-21.7 (certain income derived from patents); and
  - (B) included in the taxpayer's taxable income under the Internal Revenue Code.
- (7) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.
- (8) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political



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

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

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

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

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

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

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

(11) Add an amount equal to the deduction for qualified business income that was claimed by the taxpayer for the taxable year under Section 199A of the Internal Revenue Code.

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

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

(A) required to add or subtract; or

(B) entitled to deduct;

under IC 6-3-2.





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

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

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

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

SECTION 6. IC 6-3-1-11, AS AMENDED BY P.L.214-2018(ss), SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on ~~February 11, 2018~~; **January 1, 2019**.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on ~~February 11, 2018~~; **January 1, 2019**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on ~~February 11, 2018~~; **January 1, 2019**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before ~~February 11, 2018~~; **January 1, 2019**, other than the federal 21st Century Cures Act (P.L. 114-255) and the federal



Disaster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63), that is effective for any taxable year that began before ~~February 11, 2018~~, **January 1, 2019**, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

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

- (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to an adjustment of basis of the stock of shareholders.
- (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal Revenue Code pertaining to the treatment of certain dividends of regulated investment companies.
- (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code pertaining to regulated investment companies qualified entity treatment.
- (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code pertaining to the modification of tax treatment of certain payments to controlling exempt organizations.
- (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code pertaining to the limitations on percentage depletion in the case of oil and gas wells.
- (6) Section 451(i)(3) of the Internal Revenue Code pertaining to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy for qualified electric utilities.



(7) Section 954(c)(6) of the Internal Revenue Code pertaining to the look-through treatment of payments between related controlled foreign corporation under foreign personal holding company rules.

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

Page 14, line 13, after "taxpayer" insert "**who desires to discontinue**".

Page 14, line 15, after "year" insert "**for permission**".

Page 16, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 8. IC 6-3-2-2.5, AS AMENDED BY P.L.214-2018(ss), SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 2.5. (a) This section applies to a resident person.

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

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, adjusted for certain modifications required by IC 6-3-1-3.5 as set forth in subsection (d)(1). **For taxable years beginning after December 31, 2017, an Indiana loss for a taxable year that is disallowed because of Section 461(l) of the Internal Revenue Code shall be treated as a net operating loss incurred in that taxable year.**

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

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

- (A) IC 6-3-1-3.5(a)(3);
- (B) IC 6-3-1-3.5(a)(4);
- (C) IC 6-3-1-3.5(a)(5);
- (D) IC 6-3-1-3.5(a)(26);
- (E) IC 6-3-1-3.5(f)(11); and
- (F) IC 6-3-1-3.5(f)(13).

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



Revenue Code) for the taxable year in which the Indiana net operating loss is determined.

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

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

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

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

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

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

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

SECTION 9. IC 6-3-2-2.6, AS AMENDED BY P.L.214-2018(ss), SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

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

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for certain modifications required by IC 6-3-1-3.5 as set forth in subsection (d)(1). **For taxable years beginning after December 31, 2017, an Indiana loss for a taxable year that is disallowed because**



**of Section 461(l) of the Internal Revenue Code shall be treated as a net operating loss incurred in that taxable year.**

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

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

- (A) IC 6-3-1-3.5(a)(3);
- (B) IC 6-3-1-3.5(a)(4);
- (C) IC 6-3-1-3.5(a)(5);
- (D) IC 6-3-1-3.5(a)(26);
- (E) IC 6-3-1-3.5(b)(14);
- (F) IC 6-3-1-3.5(b)(17);
- (G) IC 6-3-1-3.5(d)(13);
- (H) IC 6-3-1-3.5(d)(16);
- (I) IC 6-3-1-3.5(e)(13);
- (J) IC 6-3-1-3.5(e)(16);
- (K) IC 6-3-1-3.5(f)(11); and
- (L) IC 6-3-1-3.5(f)(13).

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

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

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

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

(1) An Indiana net operating loss shall be an Indiana net operating



loss carryover to each of the carryover years following the taxable year of the loss.

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

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

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

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

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

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

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

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

Page 17, delete lines 15 through 42.

Page 18, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 12. IC 6-5.5-1-2, AS AMENDED BY P.L.214-2018(ss), SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

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- (A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.
- (B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.
- (D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.
- (E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.
- (F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.
- (G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).



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

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

(2) Subtract the following amounts:

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

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

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

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

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

(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the





amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(G) Income that is:

- (i) exempt from taxation under IC 6-3-2-21.7; and
- (ii) included in the taxpayer's taxable income under the Internal Revenue Code.

(H) ~~The amount included in the taxpayer's gross income under Section 118(b)(2) of the Internal Revenue Code that would have been excluded from gross income but for the enactment of Section 118(b)(2) of the Internal Revenue Code~~ for taxable years ending after December 22, 2017.

(3) Make the following adjustments:

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

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

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

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

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

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

(2) Make the following adjustments:

(A) Subtract the amount of any interest expense paid or accrued in the current taxable year but not deducted as a result



of the limitation imposed under Section 163(j)(1) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment



contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G)."

Page 31, between lines 31 and 32, begin a new paragraph and insert:

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

- (1) the taxpayer on whose behalf the tax withholding or other tax information statement was provided to the department;**
- (2) the taxpayer's spouse, if:**
  - (A) the taxpayer is deceased or incapacitated; and**
  - (B) the taxpayer's spouse is filing a joint income tax return with the taxpayer; or**
- (3) an administrator, executor, trustee, or other fiduciary acting on behalf of the taxpayer if the taxpayer is deceased."**

Page 31, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 24. IC 6-8.1-8-2, AS AMENDED BY P.L.181-2016, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3 and sections 16 and 17 of this chapter, the department must issue a demand notice for the payment of a tax and any interest or penalties accrued on the tax, if a person files a tax return without including full payment of the tax or if the department, after ruling on a protest, finds that a person owes the tax before the department issues a tax warrant. The demand notice must state the following:

- (1) That the person has twenty (20) days from the date the department mails the notice to either pay the amount demanded or show reasonable cause for not paying the amount demanded.
- (2) The statutory authority of the department for the issuance of a tax warrant.
- (3) The earliest date on which a tax warrant may be filed and recorded.
- (4) The statutory authority for the department to levy against a person's property that is held by a financial institution.
- (5) The remedies available to the taxpayer to prevent the filing and recording of the judgment.

If the department files a tax warrant in more than one (1) county, the department is not required to issue more than one (1) demand notice.

**The department may not issue a demand notice for a liability more than nine (9) years after the first date the department is permitted to issue a demand notice under this chapter.**



(b) If the person does not pay the amount demanded or show reasonable cause for not paying the amount demanded within the twenty (20) day period, the department may issue a tax warrant for the amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable. When the department issues a tax warrant, a collection fee of ten percent (10%) of the unpaid tax is added to the total amount due.

(c) When the department issues a tax warrant, it may not file the warrant with the circuit court clerk of any county in which the person owns property until at least twenty (20) days after the date the demand notice was mailed to the taxpayer. **If a taxpayer does not own property in Indiana, or if the department is unable to determine whether the taxpayer owns property in Indiana, the department may file the tax warrant with the circuit court clerk of Marion County.** The department may also send the warrant to the sheriff of any county in which the person owns property and direct the sheriff to file the warrant with the circuit court clerk:

- (1) at least twenty (20) days after the date the demand notice was mailed to the taxpayer; and
- (2) no later than five (5) days after the date the department issues the warrant.

(d) When the circuit court clerk receives a tax warrant from the department or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record, listing the following:

- (1) The name of the person owing the tax.
- (2) The amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable.
- (3) The date the warrant was filed with the clerk.

(e) When the entry is made, the total amount of the tax warrant becomes a judgment against the person owing the tax. The judgment creates a lien in favor of the state that attaches to all the person's interest in any:

- (1) chose in action in the county; and
- (2) real or personal property in the county;

excepting only negotiable instruments not yet due. **The department may domesticate a valid tax warrant in one (1) or more other states or countries, or in the political subunits of other states or countries, in the manner that any other civil judgment may be domesticated in that jurisdiction. The department shall be permitted all rights**



**and remedies permitted in a jurisdiction in which a judgment is domesticated, even if the rights or remedies would not be permitted under Indiana law.**

**(f) The following apply to a judgment on a tax warrant:**

**(1) A judgment on a tax warrant must be filed in at least one (1) Indiana county not later than ten (10) years after the first date on which a demand notice could be issued under this chapter.**

**(2) Except as provided in subdivision (3), if a judgment on a tax warrant is entered in at least one (1) Indiana county, the department may file an additional tax warrant in one (1) or more Indiana counties during the period in which one (1) or more tax warrants are valid under this section.**

**(3) A judgment obtained under this section is valid for ten (10) years from the date the judgment is filed. The department may renew the judgment for additional ten (10) year periods by filing an alias tax warrant with the circuit court clerk of the county in which the judgment previously existed. An amended tax warrant under this section or section 4 of this chapter shall not constitute an alias tax warrant. The failure to renew a tax warrant in a particular county shall preclude the issuance of a new tax warrant under subdivision (2).**

**(4) If the department does not:**

**(A) issue a timely demand notice under subsection (a);**

**(B) file a timely tax warrant under subdivision (1); or**

**(C) renew all tax warrants under subdivision (3);**

**the department shall extinguish the tax liability from which the demand notice or judgment arose, and no state agency shall treat the tax liability as a delinquency for purposes of Indiana law.**

**(g) A judgment arising from a tax warrant in a county shall be released by the department:**

**(1) after the judgment, including all accrued interest to the date of payment, has been fully satisfied; or**

**(2) if the department determines that the tax assessment or the issuance of the tax warrant was in error.**

**(h) Subject to subsections (p) and (q), if the department determines that the filing of a tax warrant was in error or if the commissioner determines that the release of the judgment and expungement of the tax warrant are in the best interest of the state, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. The circuit court clerk of each**



county where the warrant was filed shall expunge the warrant from the judgment debtor's column of the judgment record. The department shall mail the release and the order for the warrant to be expunged as soon as possible but no later than seven (7) days after:

(1) the determination by the department that the filing of the warrant was in error; and

(2) the receipt of information by the department that the judgment has been recorded under subsection (d).

(i) If the department determines that a judgment described in subsection (h) is obstructing a lawful transaction, the department shall immediately upon making the determination mail:

(1) a release of the judgment to the taxpayer; and

(2) an order requiring the circuit court clerk of each county where the judgment was filed to expunge the warrant.

(j) A release issued under subsection (h) or (i) must state that the filing of the tax warrant was in error. Upon the request of the taxpayer, the department shall mail a copy of a release and the order for the warrant to be expunged issued under subsection (h) or (i) to each major credit reporting company located in each county where the judgment was filed.

(k) The commissioner shall notify each state agency or officer supplied with a tax warrant list of the issuance of a release under subsection (h) or (i).

(l) If the sheriff collects the full amount of a tax warrant, the sheriff shall disburse the money collected in the manner provided in section 3(c) of this chapter. If a judgment has been partially or fully satisfied by a person's surety, the surety becomes subrogated to the department's rights under the judgment. If a sheriff releases a judgment:

(1) before the judgment is fully satisfied;

(2) before the sheriff has properly disbursed the amount collected;  
or

(3) after the sheriff has returned the tax warrant to the department; the sheriff commits a Class B misdemeanor and is personally liable for the part of the judgment not remitted to the department.

(m) A lien on real property described in subsection (e)(2) is void if both of the following occur:

(1) The person owing the tax provides written notice to the department to file an action to foreclose the lien.

(2) The department fails to file an action to foreclose the lien not later than one hundred eighty (180) days after receiving the notice.

(n) A person who gives notice under subsection (m) by registered



or certified mail to the department may file an affidavit of service of the notice to file an action to foreclose the lien with the circuit court clerk in the county in which the property is located. The affidavit must state the following:

- (1) The facts of the notice.
- (2) That more than one hundred eighty (180) days have passed since the notice was received by the department.
- (3) That no action for foreclosure of the lien is pending.
- (4) That no unsatisfied judgment has been rendered on the lien.

(o) Upon receipt of the affidavit described in subsection (n), the circuit court clerk shall make an entry showing the release of the judgment lien in the judgment records for tax warrants.

(p) The department shall adopt rules to define the circumstances under which a release and expungement may be granted based on a finding that the release and expungement would be in the best interest of the state. The rules may allow the commissioner to expunge a tax warrant in other circumstances not inconsistent with subsection (q) that the commissioner determines are appropriate. Any releases or expungements granted by the commissioner must be consistent with these rules.

(q) The commissioner may expunge a tax warrant in the following circumstances:

- (1) If the taxpayer has timely and fully filed and paid all of the taxpayer's state taxes, or has otherwise resolved any outstanding state tax issues, for the preceding five (5) years.
- (2) If the warrant was issued more than ten (10) years prior to the expungement.
- (3) If the warrant is not subject to pending litigation.
- (4) Other circumstances not inconsistent with subdivisions (1) through (3) that are specified in the rules adopted under subsection (p).

(r) Notwithstanding any other provision in this section, the commissioner may decline to release a judgment or expunge a warrant upon a finding that the warrant was issued based on the taxpayer's fraudulent, intentional, or reckless conduct.

(s) The rules required under subsection (p) shall specify the process for requesting that the commissioner release and expunge a tax warrant."

Page 33, line 2, delete "twenty-four (24) hours from receipt." and insert "**seven (7) days of receipt. In the event of an emergency, a taxpayer may direct the sheriff to make a payment on the taxpayer's behalf using the department's electronic payment portal**



**when certified funds have been received by the sheriff."**

Page 36, delete lines 35 through 42, begin a new paragraph and insert:

**"(e) For purposes of subsection (d), if a taxpayer files a refund claim, including any required attachments, that:**

**(1) is not on a required form;**

**(2) does not contain the taxpayer's name, address, federal identification number (if applicable), and signature;**

**(3) does not contain sufficient required information to permit the mathematical verification of the taxpayer's tax liability;**

**or**

**(4) does not otherwise provide sufficient information to verify that the tax for which a refund is sought was paid by the taxpayer;**

**the ninety (90) day period during which the department may issue a refund without paying interest under subsection (d) begins on the date the taxpayer provides all information required in subdivisions (1) through (4)."**

Page 37, delete lines 1 through 27.

Page 43, line 3, delete "IC 6-3.1-4-8, as added" and insert "**IC 6-3-1-11, as amended**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 565 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 13, Nays 0.

