



Reprinted
April 11, 2019

ENGROSSED SENATE BILL No. 565

DIGEST OF SB 565 (Updated April 10, 2019 6:02 pm - DI 113)

Citations Affected: IC 6-1.1; IC 6-2.3; IC 6-2.5; IC 6-3; IC 6-3.6; IC 6-5.5; IC 6-6; IC 6-8.1; IC 6-9; IC 16-44; IC 36-7.6; noncode.

Synopsis: Various income tax matters and regional development authorities. 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. 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. 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. Allows the department to waive or toll tax penalties and interest imposed on a taxpayer who is or has been incarcerated for a
(Continued next page)

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

Holdman, Houchin

(HOUSE SPONSORS — HUSTON, LEHMAN, LEONARD)

January 14, 2019, read first time and referred to Committee on Tax and Fiscal Policy.
February 12, 2019, amended, reported favorably — Do Pass.
February 25, 2019, read second time, amended, ordered engrossed.
February 26, 2019, engrossed. Read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 7, 2019, read first time and referred to Committee on Ways and Means.
April 4, 2019, amended, reported — Do Pass.
April 10, 2019, read second time, amended, ordered engrossed.

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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. 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. Updates the income tax reference to the Internal Revenue Code in effect on January 1, 2019. Revises provisions concerning income under Section 118, Section 163, and Section 965 of the Internal Revenue Code. Clarifies the treatment of a loss for a taxable year disallowed because of Section 461(l) of the Internal Revenue Code (IRC) in determining an Indiana net operating loss deduction. Modifies the adjustment to Indiana adjusted gross income for certain property involved in a like-kind exchange for which a taxpayer claims a federal deduction under Section 179 of the IRC. Modifies, for purposes of determining Indiana adjusted gross income, an amount treated as bonus depreciation under IRC Section 168(k) for certain property involved in a like-kind exchange. 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. Provides that the revised ordering of payments applies to taxable periods beginning after December 31, 2019. Specifies the taxable years to which the adjusted gross income tax changes and the financial institutions tax changes apply. Requires the department to establish an annual tax rate for the utility receipts tax and the utility services use tax by determining a tax rate that would maintain tax revenue at the state fiscal year 2018 amount. Removes the provision in current law that requires a claim for a unified tax credit for the elderly to be filed within six months following the close of the claimant's taxable year or within the extension period if an extension of time for filing the return has been granted, whichever is later. Converts the heavy equipment rental excise tax in current law to an equipment rental excise tax that, when applicable, covers a wider range of rental equipment. Allows a retail merchant engaged in the business of renting equipment to make an annual election to have the equipment rental excise tax apply to the rental of the retail merchant's rental equipment. Provides that a retail merchant who elects to have the equipment rental excise tax apply to the retail merchant's rental transactions for a calendar year is eligible to receive a 100% property tax deduction on the retail merchant's rental equipment for the calendar year. Revises the criteria for which governmental entities may form a regional development authority (new style RDA) under the general regional development authority statute. Preserves regional development authorities formed before July 1, 2019 (old style RDA). Provides that the development board of a new style RDA is comprised of the executives of the member counties, cities, and towns of the RDA. Provides that the fiscal bodies of members of a new style RDA must adopt a development authority plan. Provides that a county, city, or town that is a member of a new style RDA must, after June 30, 2021, impose either: (1) the special local income tax rate for members of a regional development authority at the local income tax rate specified in the development authority plan; or (2) the regional development food and beverage tax at the food and beverage tax rate specified in the development authority plan. Allows an old style RDA to elect to be governed as a new style RDA. Makes conforming changes.



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April 11, 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.

ENGROSSED SENATE BILL No. 565

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

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

- 1 SECTION 1. IC 6-1.1-2-7, AS AMENDED BY P.L.188-2018,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2020]: Sec. 7. (a) As used in this section, "nonbusiness
4 personal property" means personal property that is not:
5 (1) held for sale in the ordinary course of a trade or business;
6 (2) held, used, or consumed in connection with the production of
7 income; or
8 (3) held as an investment.
9 (b) The following property is not subject to assessment and taxation
10 under this article:
11 (1) A commercial vessel that is subject to the net tonnage tax
12 imposed under IC 6-6-6.
13 (2) A vehicle that is subject to the vehicle excise tax imposed
14 under IC 6-6-5.
15 (3) A motorized boat or sailboat that is subject to the boat excise

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- 1 tax imposed under IC 6-6-11.
 2 (4) Property used by a cemetery (as defined in IC 23-14-33-7) if
 3 the cemetery:
 4 (A) does not have a board of directors, board of trustees, or
 5 other governing authority other than the state or a political
 6 subdivision; and
 7 (B) has had no business transaction during the preceding
 8 calendar year.
 9 (5) A commercial vehicle that is subject to the annual excise tax
 10 imposed under IC 6-6-5.5.
 11 (6) Inventory.
 12 (7) A recreational vehicle or truck camper that is subject to the
 13 annual excise tax imposed under IC 6-6-5.1.
 14 (8) The following types of nonbusiness personal property:
 15 (A) All-terrain vehicles.
 16 (B) Snowmobiles.
 17 (C) Rowboats, canoes, kayaks, and other human powered
 18 boats.
 19 (D) Invalid chairs.
 20 (E) Yard and garden tractors.
 21 (F) Trailers that are not subject to an excise tax under:
 22 (i) IC 6-6-5;
 23 (ii) IC 6-6-5.1; or
 24 (iii) IC 6-6-5.5.
 25 (9) For an assessment date after December 31, 2018, heavy rental
 26 equipment (as defined in IC 6-6-15-2) that is rented or held in
 27 inventory for rental or sale, the rental of which is or would be
 28 subject to the heavy equipment rental excise tax under IC 6-6-15.
 29 SECTION 2. IC 6-1.1-12-47 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 31 JANUARY 1, 2020]: **Sec. 47. (a) The following definitions apply
 32 throughout this section:**
 33 (1) "Rental equipment" has the meaning set forth in
 34 IC 6-6-15-2.
 35 (2) "Retail merchant" has the meaning set forth in
 36 IC 6-2.5-1-8.
 37 (b) An owner of rental equipment who:
 38 (1) is a retail merchant engaged in the business of renting
 39 rental equipment to other persons; and
 40 (2) properly makes an election under IC 6-6-15-8 for a
 41 calendar year;
 42 is entitled to a deduction from the assessed value of the retail



1 merchant's property for the calendar year equal to one hundred
 2 percent (100%) of the assessed value of the retail merchant's rental
 3 equipment.

4 (c) A taxpayer is not required to file an application to qualify for
 5 the deduction established by this section.

6 (d) The department of local government finance shall
 7 incorporate the deduction established by this section in the
 8 personal property return form to be used each year for filing under
 9 IC 6-1.1-3-7 or IC 6-1.1-3-7.5 to permit the taxpayer to enter the
 10 deduction on the form.

11 SECTION 3. IC 6-2.3-2-2 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) The receipt of
 13 taxable gross receipts from transactions is subject to a tax rate of:

14 (1) for taxable years beginning before January 1, 2020, one
 15 and four-tenths percent (1.4%); and

16 (2) for taxable years beginning after December 31, 2019, a
 17 rate determined by the department under subsection (b).

18 (b) Before September 1, 2019, and before September 1 of each
 19 year thereafter, the department shall determine the tax rate that
 20 applies in taxable years beginning in the following calendar year
 21 and shall publish the tax rate in the Indiana Register. The
 22 department shall determine the tax rate by calculating a tax rate
 23 that if applied to the taxable gross receipts for the immediately
 24 preceding state fiscal year would have resulted in two hundred two
 25 million one hundred forty-nine thousand one hundred seventy-two
 26 dollars (\$202,149,172) of utility receipts and utility services use
 27 taxes being owed for the immediately preceding state fiscal year.

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

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

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

40 SECTION 5. IC 6-2.5-4-8 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. An Indiana
 42 governmental entity, agency, instrumentality, or political subdivision



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

7 SECTION 6. 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 7. 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 8. 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 JANUARY 1, 2019 (RETROACTIVE)]: Sec. 3.5. When used in this
- 17 article, the term "adjusted 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)~~; **the sum of:**
 36 **(A) twenty-five thousand dollars (\$25,000) to the extent**
 37 **deductions under Section 179 of the Internal Revenue**
 38 **Code were not elected as provided in clause (B); and**
 39 **(B) for taxable years beginning after December 31, 2017,**
 40 **the deductions elected under Section 179 of the Internal**
 41 **Revenue Code on property acquired in an exchange if:**
 42 **(i) the exchange would have been eligible for**



1 **nonrecognition of gain or loss under Section 1031 of the**
 2 **Internal Revenue Code in effect on January 1, 2017;**
 3 **(ii) the exchange is not eligible for nonrecognition of gain**
 4 **or loss under Section 1031 of the Internal Revenue Code;**
 5 **and**
 6 **(iii) the taxpayer made an election to take deductions**
 7 **under Section 179 of the Internal Revenue Code with**
 8 **regard to the acquired property in the year that the**
 9 **property was placed into service.**

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

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

19 (19) Subtract income that is:

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

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

24 (20) Add an amount equal to any income not included in gross
 25 income as a result of the deferral of income arising from business
 26 indebtedness discharged in connection with the reacquisition after
 27 December 31, 2008, and before January 1, 2011, of an applicable
 28 debt instrument, as provided in Section 108(i) of the Internal
 29 Revenue Code. Subtract the amount necessary from the adjusted
 30 gross income of any taxpayer that added an amount to adjusted
 31 gross income in a previous year to offset the amount included in
 32 federal gross income as a result of the deferral of income arising
 33 from business indebtedness discharged in connection with the
 34 reacquisition after December 31, 2008, and before January 1,
 35 2011, of an applicable debt instrument, as provided in Section
 36 108(i) of the Internal Revenue Code.

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

42 (22) Subtract an amount as described in Section 1341(a)(2) of the



1 Internal Revenue Code to the extent, if any, that the amount was
 2 previously included in the taxpayer's adjusted gross income for a
 3 prior taxable year.

4 (23) For taxable years beginning after December 25, 2016, add an
 5 amount equal to the deduction for deferred foreign income that
 6 was claimed by the taxpayer for the taxable year under Section
 7 965(c) of the Internal Revenue Code.

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

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

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

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

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

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

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

38 (4) Subtract an amount equal to the amount included in the
 39 corporation'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)~~: **the sum of:**

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

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

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

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

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

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

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)~~; **the sum of:**

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

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

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

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

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

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

27 (8) Subtract income that is:

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

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

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



- 1 2011, of an applicable debt instrument, as provided in Section
 2 108(i) of the Internal Revenue Code.
- 3 (10) Add an amount equal to any exempt insurance income under
 4 Section 953(e) of the Internal Revenue Code that is active
 5 financing income under Subpart F of Subtitle A, Chapter 1,
 6 Subchapter N of the Internal Revenue Code.
- 7 (11) Add the amount excluded from federal gross income under
 8 Section 103 of the Internal Revenue Code for interest received on
 9 an obligation of a state other than Indiana, or a political
 10 subdivision of such a state, that is acquired by the taxpayer after
 11 December 31, 2011.
- 12 (12) For taxable years beginning after December 25, 2016, add:
 13 (A) an amount equal to the amount reported by the taxpayer on
 14 IRC 965 Transition Tax Statement, line 1; **or**
 15 (B) **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.**
- 20 (13) Add an amount equal to the deduction that was claimed by
 21 the taxpayer for the taxable year under Section 250(a)(1)(B) of the
 22 Internal Revenue Code (attributable to global intangible
 23 low-taxed income). The taxpayer shall separately specify the
 24 amount of the reduction under Section 250(a)(1)(B)(i) of the
 25 Internal Revenue Code and under Section 250(a)(1)(B)(ii) of the
 26 Internal Revenue Code.
- 27 (14) 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 (15) Subtract the amount ~~included in the taxpayer's gross income~~
 38 ~~under Section 118(b)(2) of the Internal Revenue Code that would~~
 39 **have been excluded from gross income but for the enactment**
 40 **of Section 118(b)(2) of the Internal Revenue Code** for taxable
 41 years ending after December 22, 2017.
- 42 (16) Add or subtract any other amounts the taxpayer is:



- 1 (A) required to add or subtract; or
 2 (B) entitled to deduct;
 3 under IC 6-3-2.
 4 (e) In the case of insurance companies subject to tax under Section
 5 831 of the Internal Revenue Code and organized under Indiana law, the
 6 same as "taxable income" (as defined in Section 832 of the Internal
 7 Revenue Code), adjusted as follows:
 8 (1) Subtract income that is exempt from taxation under this article
 9 by the Constitution and statutes of the United States.
 10 (2) Add an amount equal to any deduction allowed or allowable
 11 under Section 170 of the Internal Revenue Code (concerning
 12 charitable contributions).
 13 (3) Add an amount equal to a deduction allowed or allowable
 14 under Section 805 or Section 832(c) of the Internal Revenue Code
 15 for taxes based on or measured by income and levied at the state
 16 level by any state.
 17 (4) Subtract an amount equal to the amount included in the
 18 company'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)~~; **the sum of:**
 41 **(A) twenty-five thousand dollars (\$25,000) to the extent**
 42 **deductions under Section 179 of the Internal Revenue**



1 **Code were not elected as provided in clause (B); and**
 2 **(B) for taxable years beginning after December 31, 2017,**
 3 **the deductions elected under Section 179 of the Internal**
 4 **Revenue Code on property acquired in an exchange if:**

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

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

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

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

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).~~ **the sum of:**
- 28 **(A) twenty-five thousand dollars (\$25,000) to the extent**
- 29 **deductions under Section 179 of the Internal Revenue**
- 30 **Code were not elected as provided in clause (B); and**
- 31 **(B) for taxable years beginning after December 31, 2017,**
- 32 **the deductions elected under Section 179 of the Internal**
- 33 **Revenue Code on property acquired in an exchange if:**
- 34 **(i) the exchange would have been eligible for**
- 35 **nonrecognition of gain or loss under Section 1031 of the**
- 36 **Internal Revenue Code in effect on January 1, 2017;**
- 37 **(ii) the exchange is not eligible for nonrecognition of gain**
- 38 **or loss under Section 1031 of the Internal Revenue Code;**
- 39 **and**
- 40 **(iii) the taxpayer made an election to take deductions**
- 41 **under Section 179 of the Internal Revenue Code with**
- 42 **regard to the acquired property in the year that the**



- 1 **property was placed into service.**
 2 **The amount of deductions allowable for an item of**
 3 **property under this clause may not exceed the amount of**
 4 **adjusted gross income realized on the property that would**
 5 **have been deferred under the Internal Revenue Code in**
 6 **effect on January 1, 2017.**
- 7 (6) Subtract income that is:
 8 (A) exempt from taxation under IC 6-3-2-21.7 (certain income
 9 derived from patents); and
 10 (B) included in the taxpayer's taxable income under the
 11 Internal Revenue Code.
- 12 (7) Add an amount equal to any income not included in gross
 13 income as a result of the deferral of income arising from business
 14 indebtedness discharged in connection with the reacquisition after
 15 December 31, 2008, and before January 1, 2011, of an applicable
 16 debt instrument, as provided in Section 108(i) of the Internal
 17 Revenue Code. Subtract from the adjusted gross income of any
 18 taxpayer that added an amount to adjusted gross income in a
 19 previous year the amount necessary to offset the amount included
 20 in federal gross income as a result of the deferral of income
 21 arising from business indebtedness discharged in connection with
 22 the reacquisition after December 31, 2008, and before January 1,
 23 2011, of an applicable debt instrument, as provided in Section
 24 108(i) of the Internal Revenue Code.
- 25 (8) Add the amount excluded from federal gross income under
 26 Section 103 of the Internal Revenue Code for interest received on
 27 an obligation of a state other than Indiana, or a political
 28 subdivision of such a state, that is acquired by the taxpayer after
 29 December 31, 2011.
- 30 (9) For taxable years beginning after December 25, 2016, add an
 31 amount equal to:
 32 (A) the amount reported by the taxpayer on IRC 965
 33 Transition Tax Statement, line 1;
 34 **(B) if the taxpayer deducted an amount under Section**
 35 **965(c) of the Internal Revenue Code in determining the**
 36 **taxpayer's taxable income for purposes of the federal**
 37 **income tax, the amount deducted under Section 965(c) of**
 38 **the Internal Revenue Code; and**
 39 ~~(B)~~ (C) with regard to any amounts of income under Section
 40 965 of the Internal Revenue Code distributed by the taxpayer,
 41 the deduction under Section 965(c) of the Internal Revenue
 42 Code attributable to such distributed amounts **and not**



- 1 **reported to the beneficiary.**
 2 For purposes of this article, the amount required to be added back
 3 under clause (B) is not considered to be distributed or
 4 distributable to a beneficiary of the estate or trust for purposes of
 5 Sections 651 and 661 of the Internal Revenue Code.
 6 (10) 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 (11) Add an amount equal to the deduction for qualified business
 17 income that was claimed by the taxpayer for the taxable year
 18 under Section 199A of the Internal Revenue Code.
 19 (12) Subtract the amount ~~included in the taxpayer's gross income~~
 20 ~~under Section 118(b)(2) of the Internal Revenue Code that would~~
 21 **have been excluded from gross income but for the enactment**
 22 **of Section 118(b)(2) of the Internal Revenue Code** for taxable
 23 years ending after December 22, 2017.
 24 (13) Add or subtract any other amounts the taxpayer is:
 25 (A) required to add or subtract; or
 26 (B) entitled to deduct;
 27 under IC 6-3-2.
 28 (g) Subsections (a)(26), (b)(17), (d)(16), (e)(16), or (f)(13) may not
 29 be construed to require an add back or allow a deduction or exemption
 30 more than once for a particular add back, deduction, or exemption.
 31 **(h) For taxable years beginning after December 25, 2016, if:**
 32 **(1) a taxpayer is a shareholder in a corporation that is an**
 33 **E&P deficit foreign corporation as defined in Section**
 34 **965(b)(3)(B) of the Internal Revenue Code, and the earnings**
 35 **and profit deficit, or a portion of the earnings and profit**
 36 **deficit, of the E&P deficit foreign corporation is permitted to**
 37 **reduce the federal adjusted gross income or federal taxable**
 38 **income of the taxpayer, the deficit, or the portion of the**
 39 **deficit, shall also reduce the amount taxable under this section**
 40 **to the extent permitted under the Internal Revenue Code,**
 41 **however, in no case shall this permit a reduction in the**
 42 **amount taxable under Section 965 of the Internal Revenue**



1 **Code for purposes of this section to be less than zero (0); and**
 2 **(2) the Internal Revenue Service issues guidance that such an**
 3 **income or deduction is not reported directly on a federal tax**
 4 **return or is to be reported in a manner different than**
 5 **specified in this section, this section shall be construed as if**
 6 **federal adjusted gross income or federal taxable income**
 7 **included the income or deduction.**

8 SECTION 9. IC 6-3-1-11, AS AMENDED BY P.L.214-2018(ss),
 9 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JANUARY 1, 2019 (RETROACTIVE)]: Sec. 11. (a) The term "Internal
 11 Revenue Code" means the Internal Revenue Code of 1986 of the
 12 United States as amended and in effect on ~~February 11, 2018~~. **January**
 13 **1, 2019.**

14 (b) Whenever the Internal Revenue Code is mentioned in this
 15 article, the particular provisions that are referred to, together with all
 16 the other provisions of the Internal Revenue Code in effect on ~~February~~
 17 ~~11, 2018~~, **January 1, 2019**, that pertain to the provisions specifically
 18 mentioned, shall be regarded as incorporated in this article by reference
 19 and have the same force and effect as though fully set forth in this
 20 article. To the extent the provisions apply to this article, regulations
 21 adopted under Section 7805(a) of the Internal Revenue Code and in
 22 effect on ~~February 11, 2018~~, **January 1, 2019**, shall be regarded as
 23 rules adopted by the department under this article, unless the
 24 department adopts specific rules that supersede the regulation.

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

- 31 (1) individual adjusted gross income (as defined in Section 62 of
- 32 the Internal Revenue Code);
- 33 (2) corporate taxable income (as defined in Section 63 of the
- 34 Internal Revenue Code);
- 35 (3) trust and estate taxable income (as defined in Section 641(b)
- 36 of the Internal Revenue Code);
- 37 (4) life insurance company taxable income (as defined in Section
- 38 801(b) of the Internal Revenue Code);
- 39 (5) mutual insurance company taxable income (as defined in
- 40 Section 821(b) of the Internal Revenue Code); or
- 41 (6) taxable income (as defined in Section 832 of the Internal
- 42 Revenue Code);



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

3 (d) This subsection applies to a taxable year ending before January
4 1, 2013. The following provisions of the Internal Revenue Code that
5 were amended by the Tax Relief Act, Unemployment Insurance
6 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are
7 treated as though they were not amended by the Tax Relief Act,
8 Unemployment Insurance Reauthorization, and Job Creation Act of
9 2010 (P.L. 111-312):

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

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

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

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

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

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

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

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

34 SECTION 10. IC 6-3-1-33, AS AMENDED BY P.L.246-2005,
35 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JANUARY 1, 2019 (RETROACTIVE)]: Sec. 33. As used in this
37 article, "bonus depreciation" means an amount equal to that part of any
38 depreciation allowance allowed in computing the taxpayer's federal
39 adjusted gross income or federal taxable income that is attributable to
40 the additional first-year special depreciation allowance (bonus
41 depreciation) for qualified property allowed under Section 168(k) of
42 the Internal Revenue Code, including the special depreciation



1 allowance for 50-percent bonus depreciation property. **For taxable**
 2 **years beginning after December 31, 2017, the term does not include**
 3 **any amount of additional first-year special depreciation allowance**
 4 **under Section 168(k) of the Internal Revenue Code in the amount**
 5 **of adjusted gross income realized on the exchange of property that**
 6 **otherwise would have been deferred under Section 1031 of the**
 7 **Internal Revenue Code in effect on January 1, 2017, if:**

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

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

13 (3) the taxpayer claimed a deduction for the additional
 14 first-year special depreciation allowance under Section 168(k)
 15 of the Internal Revenue Code with regard to the acquired
 16 property.

17 **For purposes of this section, if the taxpayer elected to claim a**
 18 **deduction under Section 179 of the Internal Revenue Code with**
 19 **regard to an item of acquired property, the adjusted gross income**
 20 **realized on the exchange must be reduced (but not below zero**
 21 **dollars (\$0)) by the amount of the deduction under Section 179 of**
 22 **the Internal Revenue Code elected to be claimed on the acquired**
 23 **property.**

24 SECTION 11. IC 6-3-2-2, AS AMENDED BY P.L.214-2018(ss),
 25 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JANUARY 1, 2019 (RETROACTIVE)]: Sec. 2. (a) With regard to
 27 corporations and nonresident persons, "adjusted gross income derived
 28 from sources within Indiana", for the purposes of this article, shall
 29 mean and include:

30 (1) income from real or tangible personal property located in this
 31 state;

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

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

34 (4) compensation for labor or services rendered within this state;
 35 and

36 (5) income from stocks, bonds, notes, bank deposits, patents,
 37 copyrights, secret processes and formulas, good will, trademarks,
 38 trade brands, franchises, and other intangible personal property to
 39 the extent that the income is apportioned to Indiana under this
 40 section or if the income is allocated to Indiana or considered to be
 41 derived from sources within Indiana under this section.

42 Income from a pass through entity shall be characterized in a manner



1 consistent with the income's characterization for federal income tax
 2 purposes and shall be considered Indiana source income as if the
 3 person, corporation, or pass through entity that received the income had
 4 directly engaged in the income producing activity. Income that is
 5 derived from one (1) pass through entity and is considered to pass
 6 through to another pass through entity does not change these
 7 characteristics or attribution provisions. In the case of nonbusiness
 8 income described in subsection (g), only so much of such income as is
 9 allocated to this state under the provisions of subsections (h) through
 10 (k) shall be deemed to be derived from sources within Indiana. In the
 11 case of business income, only so much of such income as is
 12 apportioned to this state under the provision of subsection (b) shall be
 13 deemed to be derived from sources within the state of Indiana. In the
 14 case of compensation of a team member (as defined in section 2.7 of
 15 this chapter), only the portion of income determined to be Indiana
 16 income under section 2.7 of this chapter is considered derived from
 17 sources within Indiana. In the case of a corporation that is a life
 18 insurance company (as defined in Section 816(a) of the Internal
 19 Revenue Code) or an insurance company that is subject to tax under
 20 Section 831 of the Internal Revenue Code, only so much of the income
 21 as is apportioned to Indiana under subsection ~~(r)~~ (s) is considered
 22 derived from sources within Indiana.

23 (b) Except as provided in subsection (l), if business income of a
 24 corporation or a nonresident person is derived from sources within the
 25 state of Indiana and from sources without the state of Indiana, the
 26 business income derived from sources within this state shall be
 27 determined by multiplying the business income derived from sources
 28 both within and without the state of Indiana by the following:

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

31 (A) numerator of the fraction is the sum of the property factor
 32 plus the payroll factor plus the product of the sales factor
 33 multiplied by three (3); and

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

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

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

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

42 (3) For all taxable years beginning after December 31, 2008, and



- 1 before January 1, 2010, a fraction. The:
- 2 (A) numerator of the fraction is the property factor plus the
- 3 payroll factor plus the product of the sales factor multiplied by
- 4 eight (8); and
- 5 (B) denominator of the fraction is ten (10).
- 6 (4) For all taxable years beginning after December 31, 2009, and
- 7 before January 1, 2011, a fraction. The:
- 8 (A) numerator of the fraction is the property factor plus the
- 9 payroll factor plus the product of the sales factor multiplied by
- 10 eighteen (18); and
- 11 (B) denominator of the fraction is twenty (20).
- 12 (5) For all taxable years beginning after December 31, 2010, the
- 13 sales factor.
- 14 (c) The property factor is a fraction, the numerator of which is the
- 15 average value of the taxpayer's real and tangible personal property
- 16 owned or rented and used in this state during the taxable year and the
- 17 denominator of which is the average value of all the taxpayer's real and
- 18 tangible personal property owned or rented and used during the taxable
- 19 year. However, with respect to a foreign corporation, the denominator
- 20 does not include the average value of real or tangible personal property
- 21 owned or rented and used in a place that is outside the United States.
- 22 Property owned by the taxpayer is valued at its original cost. Property
- 23 rented by the taxpayer is valued at eight (8) times the net annual rental
- 24 rate. Net annual rental rate is the annual rental rate paid by the taxpayer
- 25 less any annual rental rate received by the taxpayer from subrentals.
- 26 The average of property shall be determined by averaging the values at
- 27 the beginning and ending of the taxable year, but the department may
- 28 require the averaging of monthly values during the taxable year if
- 29 reasonably required to reflect properly the average value of the
- 30 taxpayer's property.
- 31 (d) The payroll factor is a fraction, the numerator of which is the
- 32 total amount paid in this state during the taxable year by the taxpayer
- 33 for compensation, and the denominator of which is the total
- 34 compensation paid everywhere during the taxable year. However, with
- 35 respect to a foreign corporation, the denominator does not include
- 36 compensation paid in a place that is outside the United States.
- 37 Compensation is paid in this state if:
- 38 (1) the individual's service is performed entirely within the state;
- 39 (2) the individual's service is performed both within and without
- 40 this state, but the service performed without this state is incidental
- 41 to the individual's service within this state; or
- 42 (3) some of the service is performed in this state and:



- 1 (A) the base of operations or, if there is no base of operations,
 2 the place from which the service is directed or controlled is in
 3 this state; or
 4 (B) the base of operations or the place from which the service
 5 is directed or controlled is not in any state in which some part
 6 of the service is performed, but the individual is a resident of
 7 this state.
- 8 (e) The sales factor is a fraction, the numerator of which is the total
 9 sales of the taxpayer in this state during the taxable year, and the
 10 denominator of which is the total sales of the taxpayer everywhere
 11 during the taxable year. Sales include receipts from intangible property
 12 and receipts from the sale or exchange of intangible property. However,
 13 with respect to a foreign corporation, the denominator does not include
 14 sales made in a place that is outside the United States. Receipts from
 15 intangible personal property are derived from sources within Indiana
 16 if the receipts from the intangible personal property are attributable to
 17 Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point
 18 or other conditions of the sale, sales of tangible personal property are
 19 in this state if:
- 20 (1) the property is delivered or shipped to a purchaser that is
 21 within Indiana, other than the United States government; or
 22 (2) the property is shipped from an office, a store, a warehouse, a
 23 factory, or other place of storage in this state and the purchaser is
 24 the United States government.
- 25 Gross receipts derived from commercial printing as described in
 26 IC 6-2.5-1-10 and from the sale of computer software shall be treated
 27 as sales of tangible personal property for purposes of this chapter.
- 28 (f) Sales, other than receipts from intangible property covered by
 29 subsection (e) and sales of tangible personal property, are in this state
 30 if:
- 31 (1) the income-producing activity is performed in this state; or
 32 (2) the income-producing activity is performed both within and
 33 without this state and a greater proportion of the
 34 income-producing activity is performed in this state than in any
 35 other state, based on costs of performance.
- 36 (g) Rents and royalties from real or tangible personal property,
 37 capital gains, interest, dividends, or patent or copyright royalties, to the
 38 extent that they constitute nonbusiness income, shall be allocated as
 39 provided in subsections (h) through (k).
- 40 (h)(1) Net rents and royalties from real property located in this state
 41 are allocable to this state.
- 42 (2) Net rents and royalties from tangible personal property are



- 1 allocated to this state:
- 2 (i) if and to the extent that the property is utilized in this state; or
- 3 (ii) in their entirety if the taxpayer's commercial domicile is in this
- 4 state and the taxpayer is not organized under the laws of or
- 5 taxable in the state in which the property is utilized.
- 6 (3) The extent of utilization of tangible personal property in a state
- 7 is determined by multiplying the rents and royalties by a fraction, the
- 8 numerator of which is the number of days of physical location of the
- 9 property in the state during the rental or royalty period in the taxable
- 10 year, and the denominator of which is the number of days of physical
- 11 location of the property everywhere during all rental or royalty periods
- 12 in the taxable year. If the physical location of the property during the
- 13 rental or royalty period is unknown or unascertainable by the taxpayer,
- 14 tangible personal property is utilized in the state in which the property
- 15 was located at the time the rental or royalty payer obtained possession.
- 16 (i)(1) Capital gains and losses from sales of real property located in
- 17 this state are allocable to this state.
- 18 (2) Capital gains and losses from sales of tangible personal property
- 19 are allocable to this state if:
- 20 (i) the property had a situs in this state at the time of the sale; or
- 21 (ii) the taxpayer's commercial domicile is in this state and the
- 22 taxpayer is not taxable in the state in which the property had a
- 23 situs.
- 24 (3) Capital gains and losses from sales of intangible personal
- 25 property are allocable to this state if the taxpayer's commercial
- 26 domicile is in this state.
- 27 (j) Interest and dividends are allocable to this state if the taxpayer's
- 28 commercial domicile is in this state.
- 29 (k)(1) Patent and copyright royalties are allocable to this state:
- 30 (i) if and to the extent that the patent or copyright is utilized by
- 31 the taxpayer in this state; or
- 32 (ii) if and to the extent that the patent or copyright is utilized by
- 33 the taxpayer in a state in which the taxpayer is not taxable and the
- 34 taxpayer's commercial domicile is in this state.
- 35 (2) A patent is utilized in a state to the extent that it is employed
- 36 in production, fabrication, manufacturing, or other processing in
- 37 the state or to the extent that a patented product is produced in the
- 38 state. If the basis of receipts from patent royalties does not permit
- 39 allocation to states or if the accounting procedures do not reflect
- 40 states of utilization, the patent is utilized in the state in which the
- 41 taxpayer's commercial domicile is located.
- 42 (3) A copyright is utilized in a state to the extent that printing or



1 other publication originates in the state. If the basis of receipts
 2 from copyright royalties does not permit allocation to states or if
 3 the accounting procedures do not reflect states of utilization, the
 4 copyright is utilized in the state in which the taxpayer's
 5 commercial domicile is located.

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

11 (1) separate accounting;

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

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

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

20 Notwithstanding IC 6-8.1-5-1(c), a taxpayer petitioning for, or the
 21 department requiring, the use of an alternative method to effectuate an
 22 equitable allocation and apportionment of the taxpayer's income under
 23 this subsection bears the burden of proof that the allocation and
 24 apportionment provisions of this article do not fairly represent the
 25 taxpayer's income derived from sources within this state and that the
 26 alternative method to the allocation and apportionment provisions of
 27 this article is reasonable.

28 (m) In the case of two (2) or more organizations, trades, or
 29 businesses owned or controlled directly or indirectly by the same
 30 interests, the department shall distribute, apportion, or allocate the
 31 income derived from sources within the state of Indiana between and
 32 among those organizations, trades, or businesses in order to fairly
 33 reflect and report the income derived from sources within the state of
 34 Indiana by various taxpayers.

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

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

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



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

5 (1) a foreign corporation; or

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

8 (p) Notwithstanding subsections (l) and (m), the department may not
 9 require that income, deductions, and credits attributable to a taxpayer
 10 and another entity not described in subsection (o)(1) or (o)(2) be
 11 reported in a combined income tax return for any taxable year, unless
 12 the department is unable to fairly reflect the taxpayer's adjusted gross
 13 income for the taxable year through use of other powers granted to the
 14 department by subsections (l) and (m).

15 (q) Notwithstanding subsections (o) and (p), one (1) or more
 16 taxpayers may petition the department under subsection (l) for
 17 permission to file a combined income tax return for a taxable year. The
 18 petition to file a combined income tax return must be completed and
 19 filed with the department not more than thirty (30) days after the end
 20 of the taxpayer's taxable year. ~~A taxpayer filing a combined income tax
 21 return must petition the department within thirty (30) days after the end
 22 of the taxpayer's taxable year to discontinue filing a combined income
 23 tax return.~~

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

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

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

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

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



1 (s) (t) This subsection applies to receipts derived from motorsports
2 racing.

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

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

11 (A) The numerator of the fraction is the number of racing
12 events for which sponsorship or similar promotional
13 consideration has been paid in a taxable year and that occur in
14 Indiana.

15 (B) The denominator of the fraction is the total number of
16 racing events for which sponsorship or similar promotional
17 consideration has been paid in a taxable year.

18 (3) Any amounts earned as an incentive for placement or
19 participation in one (1) or more races and that are not covered
20 under subdivision (1) or (2) or under IC 6-3-2-3.2 shall be
21 attributed to Indiana in the proportion of the races that occurred
22 in Indiana.

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

25 (†) (u) For purposes of this section and section 2.2 of this chapter,
26 the following apply:

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

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

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

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

42 (ii) the deduction taken under IC 6-3-2-12 with regard to



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



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

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

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

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

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

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

13 (D) IC 6-3-1-3.5(a)(26);

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

15 (F) IC 6-3-1-3.5(f)(13).

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

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

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

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

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

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



- 1 (1) The entire amount of the Indiana net operating loss has been
 2 used as a deduction.
- 3 (2) The Indiana net operating loss has been carried over to each
 4 of the carryover years provided by subsection (f).
- 5 SECTION 13. IC 6-3-2-2.6, AS AMENDED BY P.L.214-2018(ss),
 6 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JANUARY 1, 2018 (RETROACTIVE)]: Sec. 2.6. (a) This section
 8 applies to a corporation or a nonresident person.
- 9 (b) Corporations and nonresident persons are entitled to a net
 10 operating loss deduction. The amount of the deduction taken in a
 11 taxable year may not exceed the taxpayer's unused Indiana net
 12 operating losses carried over to that year. A taxpayer is not entitled to
 13 carryback any net operating losses after December 31, 2011.
- 14 (c) An Indiana net operating loss equals:
- 15 (1) the taxpayer's federal net operating loss for a taxable year as
 16 calculated under Section 172 of the Internal Revenue Code,
 17 derived from sources within Indiana and adjusted for certain
 18 modifications required by IC 6-3-1-3.5 as set forth in subsection
 19 (d)(1); **plus**
- 20 **(2) for taxable years beginning after December 31, 2017, the**
 21 **portion of the loss for a taxable year disallowed because of**
 22 **Section 461(l) of the Internal Revenue Code and incurred**
 23 **from Indiana sources, without any modifications under**
 24 **subsection (d). Any net operating loss under this subdivision**
 25 **shall be computed in a manner consistent with the**
 26 **computation of adjusted gross income under IC 6-3.**
- 27 (d) The following provisions apply for purposes of subsection (c):
- 28 (1) The modifications that are to be applied are those
 29 modifications required under IC 6-3-1-3.5 for the same taxable
 30 year in which each net operating loss was incurred, except that the
 31 modifications do not include the modifications required under:
- 32 (A) IC 6-3-1-3.5(a)(3);
 33 (B) IC 6-3-1-3.5(a)(4);
 34 (C) IC 6-3-1-3.5(a)(5);
 35 (D) IC 6-3-1-3.5(a)(26);
 36 (E) IC 6-3-1-3.5(b)(14);
 37 (F) IC 6-3-1-3.5(b)(17);
 38 (G) IC 6-3-1-3.5(d)(13);
 39 (H) IC 6-3-1-3.5(d)(16);
 40 (I) IC 6-3-1-3.5(e)(13);
 41 (J) IC 6-3-1-3.5(e)(16);
 42 (K) IC 6-3-1-3.5(f)(11); and



- 1 (L) IC 6-3-1-3.5(f)(13).
2 (2) The amount of the taxpayer's net operating loss that is derived
3 from sources within Indiana shall be determined in the same
4 manner that the amount of the taxpayer's adjusted gross income
5 derived from sources within Indiana is determined under section
6 2 of this chapter for the same taxable year during which each loss
7 was incurred.
8 (3) An Indiana net operating loss includes a net operating loss that
9 arises when the applicable modifications required by IC 6-3-1-3.5
10 as set forth in subdivision (1) exceed the taxpayer's federal
11 taxable income (as defined in Section 63 of the Internal Revenue
12 Code), if the taxpayer is a corporation, or when the applicable
13 modifications required by IC 6-3-1-3.5 as set forth in subdivision
14 (1) exceed the taxpayer's federal adjusted gross income (as
15 defined by Section 62 of the Internal Revenue Code), if the
16 taxpayer is a nonresident person, for the taxable year in which the
17 Indiana net operating loss is determined.
18 (e) Subject to the limitations contained in subsection (g), an Indiana
19 net operating loss carryover shall be available as a deduction from the
20 taxpayer's adjusted gross income derived from sources within Indiana
21 (as defined in section 2 of this chapter) in the carryover year provided
22 in subsection (f).
23 (f) Carryovers shall be determined under this subsection as follows:
24 (1) An Indiana net operating loss shall be an Indiana net operating
25 loss carryover to each of the carryover years following the taxable
26 year of the loss.
27 (2) An Indiana net operating loss may not be carried over for
28 more than twenty (20) taxable years after the taxable year of the
29 loss.
30 (g) The entire amount of the Indiana net operating loss for any
31 taxable year shall be carried to the earliest of the taxable years to which
32 (as determined under subsection (f)) the loss may be carried. The
33 amount of the Indiana net operating loss remaining after the deduction
34 is taken under this section in a taxable year may be carried over as
35 provided in subsection (f). The amount of the Indiana net operating loss
36 carried over from year to year shall be reduced to the extent that the
37 Indiana net operating loss carryover is used by the taxpayer to obtain
38 a deduction in a taxable year until the occurrence of the earlier of the
39 following:
40 (1) The entire amount of the Indiana net operating loss has been
41 used as a deduction.
42 (2) The Indiana net operating loss has been carried over to each



- 1 of the carryover years provided by subsection (f).
- 2 (h) An Indiana net operating loss deduction determined under this
 3 section shall be allowed notwithstanding the fact that in the year the
 4 taxpayer incurred the net operating loss the taxpayer was not subject to
 5 the tax imposed under section 1 of this chapter because the taxpayer
 6 was:
- 7 (1) a life insurance company (as defined in Section 816(a) of the
 8 Internal Revenue Code); or
- 9 (2) an insurance company subject to tax under Section 831 of the
 10 Internal Revenue Code.
- 11 (i) In the case of a life insurance company, this section shall be
 12 applied by substituting life insurance company taxable income (as
 13 defined in Section 801 the Internal Revenue Code) in place of
 14 references to taxable income (as defined in Section 63 of the Internal
 15 Revenue Code).
- 16 SECTION 14. IC 6-3-3-9 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: Sec. 9. (a) The
 18 credit provided by this section shall be known as the unified tax credit
 19 for the elderly.
- 20 (b) As used in this section, unless the context clearly indicates
 21 otherwise:
- 22 (1) "Household federal adjusted gross income" means the total
 23 adjusted gross income, as defined in Section 62 of the Internal
 24 Revenue Code, of an individual, or of an individual and his
 25 spouse if they reside together for the taxable year for which the
 26 credit provided by this section is claimed.
- 27 (2) "Household" means a claimant or, if applicable, a claimant
 28 and his or her spouse if the spouse resides with the claimant and
 29 "household income" means the income of the claimant or, if
 30 applicable, the combined income of the claimant and his or her
 31 spouse if the spouse resides with the claimant.
- 32 (3) "Claimant" means an individual, other than an individual
 33 described in subsection (c) of this section, who:
- 34 (A) has filed a claim under this section;
- 35 (B) was a resident of this state for at least six (6) months
 36 during the taxable year for which he or she has filed a claim
 37 under this section; and
- 38 (C) was sixty-five (65) years of age during some portion of the
 39 taxable year for which he has filed a claim under this section
 40 or whose spouse was either sixty-five (65) years of age or over
 41 during the taxable year.
- 42 (c) The credit provided under this section shall not apply to an



1 individual who, for a period of at least one hundred eighty (180) days
 2 during the taxable year for which he has filed a claim under this
 3 section, was incarcerated in a local, state, or federal correctional
 4 institution.

5 (d) The right to file a claim under this section shall be personal to
 6 the claimant and shall not survive his death, except that a surviving
 7 spouse of a claimant is entitled to claim the credit provided by this
 8 section. For purposes of determining the amount of the credit a
 9 surviving spouse is entitled to claim under this section, the deceased
 10 spouse shall be treated as having been alive on the last day of the
 11 taxable year in which the deceased spouse died. When a claimant dies
 12 after having filed a timely claim, the amount thereof shall be disbursed
 13 to another member of the household as determined by the
 14 commissioner. If the claimant was the only member of his household,
 15 the claim may be paid to his executor or administrator, but if neither is
 16 appointed and qualified within two (2) years of the filing of the claim,
 17 the amount of the claim shall escheat to the state.

18 (e) For each taxable year, subject to the limitations provided in this
 19 section, one (1) claimant per household may claim, as a credit against
 20 Indiana adjusted gross income taxes otherwise due, the credit provided
 21 by this section. If the allowable amount of the claim exceeds the
 22 income taxes otherwise due on the claimant's household income or if
 23 there are no Indiana income taxes due on such income, the amount of
 24 the claim not used as an offset against income taxes after audit by the
 25 department, at the taxpayer's option, shall be refunded to the claimant
 26 or taken as a credit against such taxpayer's income tax liability
 27 subsequently due.

28 ~~(f) No claim filed pursuant to this section shall be allowed unless~~
 29 ~~filed within six (6) months following the close of claimant's taxable~~
 30 ~~year or within the extension period if an extension of time for filing the~~
 31 ~~return has been granted under IC 6-8.1-6-1, whichever is later.~~

32 ~~(g)~~ (f) The amount of any claim otherwise payable under this section
 33 may be applied by the department against any liability outstanding on
 34 the books of the department against the claimant, or against any other
 35 individual who was a member of his household in the taxable year to
 36 which the claim relates.

37 ~~(h)~~ (g) The amount of a claim filed pursuant to this section by a
 38 claimant that either (i) does not reside with his spouse during the
 39 taxable year, or (ii) resides with his spouse during the taxable year and
 40 only one (1) of them is sixty-five (65) years of age or older at the end
 41 of the taxable year, shall be determined in accordance with the
 42 following schedule:



1 HOUSEHOLD FEDERAL
 2 ADJUSTED GROSS INCOME
 3 FOR TAXABLE YEAR CREDIT
 4 less than \$1,000 \$100
 5 at least \$1,000, but less than \$3,000 \$ 50
 6 at least \$3,000, but less than \$10,000 \$ 40
 7 (†) (h) The amount of a claim filed pursuant to this section by a
 8 claimant that resides with his spouse during his taxable year shall be
 9 determined in accordance with the following schedule if both the
 10 claimant and spouse are sixty-five (65) years of age or older at the end
 11 of the taxable year:
 12 HOUSEHOLD FEDERAL
 13 ADJUSTED GROSS INCOME
 14 FOR TAXABLE YEAR CREDIT
 15 less than \$1,000 \$140
 16 at least \$1,000, but less than \$3,000 \$ 90
 17 at least \$3,000, but less than \$10,000 \$ 80
 18 (†) (i) The department may promulgate reasonable rules under
 19 IC 4-22-2 for the administration of this section.
 20 (†) (j) Every claimant under this section shall supply to the
 21 department on forms provided under IC 6-8.1-3-4, in support of his
 22 claim, reasonable proof of household income and age.
 23 (†) (k) Whenever on the audit of any claim filed under this section
 24 the department finds that the amount of the claim has been incorrectly
 25 determined, the department shall redetermine the claim and notify the
 26 claimant of the redetermination and the reasons therefor. The
 27 redetermination shall be final.
 28 (†) (l) In any case in which it is determined that a claim is or was
 29 excessive and was filed with fraudulent intent, the claim shall be
 30 disallowed in full, and, if the claim has been paid or a credit has been
 31 allowed against income taxes otherwise payable, the credit shall be
 32 canceled and the amount paid shall be recovered by assessment as
 33 income taxes are assessed and such assessment shall bear interest from
 34 the date of payment or credit of the claim, until refunded or paid at the
 35 rate determined under IC 6-8.1-10-1. The claimant in such a case
 36 commits a Class A misdemeanor. In any case in which it is determined
 37 that a claim is or was excessive and was negligently prepared, ten
 38 percent (10%) of the corrected claim shall be disallowed and, if the
 39 claim has been paid or credited against income taxes otherwise
 40 payable, the credit shall be reduced or canceled, and the proper portion
 41 of any amount paid shall be similarly recovered by assessment as
 42 income taxes are assessed, and such assessment shall bear interest at



1 the rate determined under IC 6-8.1-10-1 from the date of payment until
2 refunded or paid.

3 SECTION 15. IC 6-3-4-16.5, AS AMENDED BY P.L.137-2012,
4 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 2020]: Sec. 16.5. (a) This section applies to:

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

14 filed with the department after December 31, 2012.

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

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

24 with the department in a calendar year, all forms and Form WH-3
25 annual withholding tax reports filed with the department in that
26 calendar year by the employer or the person or entity acting on behalf
27 of the employer must be filed in an electronic format specified by the
28 department.

29 SECTION 16. IC 6-3-4-16.7 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 2019]: **Sec. 16.7. (a) For taxable years ending after December 31,**
32 **2019, a partnership that is required to provide twenty-five (25) or**
33 **more reports to partners under section 12(b) of this chapter or a**
34 **corporation that is required to provide twenty-five (25) or more**
35 **reports to shareholders under section 13(b) of this chapter must**
36 **file all such reports in an electronic format specified by the**
37 **department.**

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

42 SECTION 17. IC 6-3.6-2-2, AS AMENDED BY P.L.239-2017,



1 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2019]: Sec. 2. "Adjusted gross income" has the meaning set
3 forth in IC 6-3-1-3.5. However:

4 (1) except as provided in subdivision (3), in the case of a local
5 taxpayer who is not treated as a resident local taxpayer of a county
6 **(or a municipality in the case of a local income tax imposed**
7 **under IC 6-3.6-7-24)**, the term includes only adjusted gross
8 income derived from the taxpayer's principal place of business or
9 employment;

10 (2) in the case of a resident local taxpayer of Perry County, the
11 term does not include adjusted gross income described in
12 IC 6-3.6-8-7; and

13 (3) in the case of a local taxpayer described in section 13(3) of
14 this chapter, the term includes only that part of the individual's
15 total income that:

16 (A) is apportioned to Indiana under IC 6-3-2-2.7 or
17 IC 6-3-2-3.2; and

18 (B) is paid to the individual as compensation for services
19 rendered in the county **(and municipality in the case of a local**
20 **income tax imposed under IC 6-3.6-7-24)** as a team member
21 or race team member.

22 SECTION 18. IC 6-3.6-2-13, AS AMENDED BY P.L.239-2017,
23 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2019]: Sec. 13. "Local taxpayer", as it relates to a particular
25 county **(or municipality in the case of a local income tax imposed**
26 **under IC 6-3.6-7-24)** means any of the following:

27 (1) An individual who resides in that county **(or municipality in**
28 **the case of a local income tax imposed under IC 6-3.6-7-24)** on
29 the date specified in IC 6-3.6-8-3.

30 (2) An individual who maintains the taxpayer's principal place of
31 business or employment in that county **(or municipality in the**
32 **case of a local income tax imposed under IC 6-3.6-7-24)** on the
33 date specified in IC 6-3.6-8-3 and who does not reside on that
34 same date in another county **(or municipality in the case of a**
35 **local income tax imposed under IC 6-3.6-7-24)** in Indiana in
36 which a tax under this article is in effect.

37 (3) An individual who:

38 (A) has income apportioned to Indiana as:

39 (i) a team member under IC 6-3-2-2.7; or

40 (ii) a race team member under IC 6-3-2-3.2;

41 for services rendered in the county; and

42 (B) is not described in subdivision (1) or (2).



1 SECTION 19. IC 6-3.6-2-13.1 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2019]: **Sec. 13.1. "Municipality" means a**
 4 **qualified city (as defined in IC 36-7.6-1-12.5), third class city, or**
 5 **town that:**

6 **(1) is a member of a regional development authority under**
 7 **IC 36-7.6 that is established after June 30, 2019; or**

8 **(2) imposed a local income tax under IC 6-3.6-7-24;**

9 **unless the context clearly indicates another or different meaning.**

10 SECTION 20. IC 6-3.6-2-15, AS ADDED BY P.L.243-2015,
 11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2019]: Sec. 15. "Resident local taxpayer", as it relates to a
 13 particular county **(or a municipality in the case of a local income tax**
 14 **imposed under IC 6-3.6-7-24)**, means any local taxpayer who resides
 15 in that county **(or municipality in the case of a local income tax**
 16 **imposed under IC 6-3.6-7-24)** on the date specified in IC 6-3.6-8-3.

17 SECTION 21. IC 6-3.6-3-5, AS ADDED BY P.L.243-2015,
 18 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2019]: Sec. 5. (a) The auditor of a county **(or the fiscal**
 20 **officer of a municipality in the case of a local income tax imposed**
 21 **under IC 6-3.6-7-24)** shall record all votes taken on ordinances
 22 presented for a vote under this article and not more than ten (10) days
 23 after the vote, send a certified copy of the results to:

24 (1) the commissioner of the department of state revenue; and

25 (2) the commissioner of the department of local government
 26 finance;

27 in an electronic format approved by the commissioner of the
 28 department of local government finance.

29 (b) This subsection applies only to a county that has a local income
 30 tax council. The county auditor may cease sending certified copies after
 31 the county auditor sends a certified copy of results showing that
 32 members of the local income tax council have cast a majority of the
 33 votes on the local income tax council for or against the proposed
 34 ordinance.

35 SECTION 22. IC 6-3.6-4-1, AS ADDED BY P.L.243-2015,
 36 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2019]: Sec. 1. (a) **Except as otherwise provided in**
 38 **IC 6-3.6-7-24**, a tax is imposed on the adjusted gross income of local
 39 taxpayers at a tax rate that is a sum of the tax rates imposed by the
 40 county's adopting body and in effect in the county.

41 (b) **Except as otherwise provided in IC 6-3.6-7-24**, the combined
 42 tax rates imposed under IC 6-3.6-5, IC 6-3.6-6, and IC 6-3.6-7



1 constitute the tax imposed on the adjusted gross income of local
2 taxpayers in the county.

3 **(c) In addition to the tax imposed in a county under subsection**
4 **(a), a tax is imposed on the adjusted gross income of local**
5 **taxpayers in a municipality at a tax rate that is imposed by the**
6 **municipality under IC 6-3.6-7-24 and in effect in the municipality.**

7 SECTION 23. IC 6-3.6-4-2, AS ADDED BY P.L.243-2015,
8 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2019]: Sec. 2. **(a)** Subject to section 3 of this chapter, a tax
10 rate authorized under IC 6-3.6-5, IC 6-3.6-6, or IC 6-3.6-7 may be
11 adopted, increased, decreased, or rescinded without adopting,
12 increasing, decreasing, or rescinding a tax rate authorized by either of
13 the two (2) other chapters. However, an adopting body may:

- 14 (1) adopt, increase, decrease, or rescind a tax authorized under a
15 particular chapter of this article; and
16 (2) adopt, increase, decrease, or rescind a tax authorized under
17 another chapter of this article;

18 in the same ordinance.

19 **(b) This section does not apply to a municipality.**

20 SECTION 24. IC 6-3.6-7-24, AS AMENDED BY THE
21 TECHNICAL CORRECTIONS BILL OF THE 2019 GENERAL
22 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2019]: Sec. 24. **(a)** This section applies only to a county that
24 is a member of a regional development authority under IC 36-7.6.

25 **(b) After June 30, 2021, the adopting fiscal body for the county of**
26 **a member may impose a tax rate on the adjusted gross income tax of**
27 **local taxpayers that is not less than five-tenths percent (0.5%) and**
28 **not greater than**

- 29 **(1) in the case of a county described in IC 36-7.6-4-2(c)(2);**
30 **twenty-five thousandths of one percent (0.025%); or**
31 **(2) in the case of any other county to which this section applies;**
32 **five-hundredths of one percent (0.05%);**

33 **one percent (1%).**

34 **(c) This subsection applies to both counties and municipalities**
35 **that impose a local income tax rate under this section. If:**

- 36 **(1) a member elects to impose a tax rate under this section;**
37 **and**
38 **(2) the member has adopted a development authority plan (as**
39 **defined in IC 36-7.6-1-8.1);**

40 **the member must impose the tax rate authorized by this section at**
41 **the local income tax rate specified in the development authority**
42 **plan.**



1 (d) The following apply if a county imposes a local income tax
2 rate under this section:

3 (1) A local income tax rate imposed by a county under this
4 section applies only to local taxpayers within the
5 unincorporated territory of the county.

6 (2) For local taxpayers in the unincorporated territory of the
7 county, a local income tax rate imposed under this section is
8 in addition to any other tax rates imposed under this article.

9 (e) The following apply if a municipality imposes a local income
10 tax rate under this section:

11 (1) A local income tax rate imposed by a municipality under
12 this section applies only to local taxpayers within territory of
13 the municipality.

14 (2) The local income tax is imposed in addition to a tax
15 imposed by the county in which the municipality is located in
16 accordance with IC 6-3.6-4-1(c).

17 (3) The following provisions of this article apply to a local
18 income tax rate imposed by a municipality under subsection
19 (b):

20 (A) IC 6-3.6-3 (adoption of the tax).

21 (B) IC 6-3.6-4 (imposition of the tax), except that
22 IC 6-3.6-4-2 and IC 6-3.6-4-3 do not apply.

23 (C) IC 6-3.6-8 (administration of the tax).

24 (4) The following provisions of this article do not apply to a
25 local income tax rate imposed by a municipality under
26 subsection (b):

27 (A) IC 6-3.6-5 (property tax relief credits).

28 (B) IC 6-3.6-6 (expenditure rate).

29 (C) IC 6-3.6-10 (permitted expenditures).

30 (D) IC 6-3.6-11 (supplemental allocation and distribution
31 requirements).

32 (f) The amount of the tax revenue that is from the local income
33 tax rate imposed under subsection (b) and that is collected for a
34 calendar year shall be distributed to the fiscal officer of the
35 member that imposed the tax before July 1 of the next calendar
36 year.

37 ~~(e)~~ (g) The revenue from a tax under this section ~~may~~ **must** be used
38 only for the ~~purpose of transferring~~ **following purposes:**

39 (1) **Fifty percent (50%) of the revenue ~~is~~ shall be transferred**
40 **to the regional development authority under IC 36-7.6.**

41 (2) **Fifty percent (50%) of the revenue shall be transferred to**
42 **the member that imposed the tax rate for deposit in the**



- 1 member's general fund and may be used for any lawful
 2 purpose.
- 3 (h) If a member of a regional development authority imposes a
 4 tax rate under this section, the regional development authority, in
 5 cooperation with the department and the Indiana office of
 6 technology, shall develop geographic information system (GIS)
 7 codes for the properties in the applicable geographic territory of
 8 the member, in accordance with guidelines issued by the
 9 department. The regional development authority shall provide the
 10 department with any information necessary for the department to
 11 use GIS codes and data to collect the local income tax imposed by
 12 the member under this section in the applicable geographic
 13 territory of the member. The regional development authority shall
 14 update the information provided to the department and the
 15 Indiana office of technology before July 1 of each year.
- 16 SECTION 25. IC 6-3.6-8-3, AS ADDED BY P.L.243-2015,
 17 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2019]: Sec. 3. (a) For purposes of this article, an individual
 19 shall be treated as a resident of the county **(or the municipality in the**
 20 **case of a local income tax imposed under IC 6-3.6-7-24)** in which
 21 the individual:
- 22 (1) maintains a home, if the individual maintains only one (1)
 23 home in Indiana;
 - 24 (2) if subdivision (1) does not apply, is registered to vote;
 - 25 (3) if subdivision (1) or (2) does not apply, registers the
 26 individual's personal automobile; or
 - 27 (4) spent the majority of the individual's time in Indiana during
 28 the taxable year in question, if subdivision (1), (2), or (3) does not
 29 apply.
- 30 (b) The residence or principal place of business or employment of
 31 an individual is to be determined on January 1 of the calendar year in
 32 which the individual's taxable year commences. If an individual
 33 changes the location of the individual's residence or principal place of
 34 employment or business to another county **(or municipality in the**
 35 **case of a local income tax imposed under IC 6-3.6-7-24)** in Indiana
 36 during a calendar year, the individual's liability for tax is not affected.
- 37 (c) Notwithstanding subsection (b), if an individual becomes a local
 38 taxpayer for purposes of IC 36-7-27 during a calendar year because the
 39 individual:
- 40 (1) changes the location of the individual's residence to a county
 41 **or municipality** in which the individual begins employment or
 42 business at a qualified economic development tax project (as



1 defined in IC 36-7-27-9); or

2 (2) changes the location of the individual's principal place of
3 employment or business to a qualified economic development tax
4 project and does not reside in another county **or municipality** in
5 which a tax is in effect;

6 the individual's adjusted gross income attributable to employment or
7 business at the qualified economic development tax project is taxable
8 only by the county **or municipality** containing the qualified economic
9 development tax project.

10 SECTION 26. IC 6-3.6-8-4, AS ADDED BY P.L.243-2015,
11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2019]: Sec. 4. (a) Using procedures provided under this
13 chapter, the adopting body of any adopting county **or municipality**
14 may pass an ordinance to enter into reciprocity agreements with the
15 taxing authority of any city, town, municipality, county, or other similar
16 local governmental entity of any other state. The reciprocity
17 agreements must provide that the income of resident local taxpayers is
18 exempt from income taxation by the other local governmental entity to
19 the extent income of the residents of the other local governmental
20 entity is exempt from the tax in the adopting county.

21 (b) A reciprocity agreement adopted under this section may not
22 become effective until it is also made effective in the other local
23 governmental entity that is a party to the agreement.

24 (c) The form and effective date of any reciprocity agreement
25 described in this section must be approved by the department.

26 SECTION 27. IC 6-3.6-8-5, AS AMENDED BY P.L.197-2016,
27 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2019]: Sec. 5. (a) Except as otherwise provided in subsection
29 (b) and the other provisions of this article, all provisions of the adjusted
30 gross income tax law (IC 6-3) concerning:

- 31 (1) definitions;
- 32 (2) declarations of estimated tax;
- 33 (3) filing of returns;
- 34 (4) deductions or exemptions from adjusted gross income;
- 35 (5) remittances;
- 36 (6) incorporation of the provisions of the Internal Revenue Code;
- 37 (7) penalties and interest; and
- 38 (8) exclusion of military pay credits for withholding;

39 apply to the imposition, collection, and administration of the tax
40 imposed by this article.

41 (b) IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax
42 imposed by this article.



1 (c) Notwithstanding subsections (a) and (b), each employer shall
 2 report to the department of state revenue the amount of withholdings
 3 attributable to each county **(or each municipality in the case of a**
 4 **local income tax imposed under IC 6-3.6-7-24)**. This report shall be
 5 submitted to the department of state revenue:

6 (1) each time the employer remits to the department the tax that
 7 is withheld; and

8 (2) annually along with the employer's annual withholding report.

9 SECTION 28. IC 6-5.5-1-2, AS AMENDED BY P.L.214-2018(ss),
 10 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JANUARY 1, 2019 (RETROACTIVE)]: Sec. 2. (a) Except as provided
 12 in subsections (b) through (d), "adjusted gross income" means taxable
 13 income as defined in Section 63 of the Internal Revenue Code, adjusted
 14 as follows:

15 (1) Add the following amounts:

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

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

21 (C) An amount equal to a deduction or deductions allowed or
 22 allowable under Section 63 of the Internal Revenue Code for
 23 taxes based on or measured by income and levied at the state
 24 level by a state of the United States or levied at the local level
 25 by any subdivision of a state of the United States.

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

31 (E) An amount equal to the deduction allowed under Section
 32 172 or 1212 of the Internal Revenue Code for net operating
 33 losses or net capital losses.

34 (F) For a taxpayer that is not a large bank (as defined in Section
 35 585(c)(2) of the Internal Revenue Code), an amount equal to
 36 the recovery of a debt, or part of a debt, that becomes worthless
 37 to the extent a deduction was allowed from gross income in a
 38 prior taxable year under Section 166(a) of the Internal Revenue
 39 Code.

40 (G) Add the amount necessary to make the adjusted gross
 41 income of any taxpayer that owns property for which bonus
 42 depreciation was allowed in the current taxable year or in an



1 earlier taxable year equal to the amount of adjusted gross
2 income that would have been computed had an election not
3 been made under Section 168(k) of the Internal Revenue Code
4 to apply bonus depreciation to the property in the year that it
5 was placed in service.

6 (H) Add the amount necessary to make the adjusted gross
7 income of any taxpayer that placed Section 179 property (as
8 defined in Section 179 of the Internal Revenue Code) in service
9 in the current taxable year or in an earlier taxable year equal to
10 the amount of adjusted gross income that would have been
11 computed had an election for federal income tax purposes not
12 been made for the year in which the property was placed in
13 service to take deductions under Section 179 of the Internal
14 Revenue Code in a total amount exceeding ~~twenty-five~~
15 ~~thousand dollars (\$25,000)~~; **the sum of:**

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

19 **(ii) for taxable years beginning after December 31, 2017,**
20 **the deductions elected under Section 179 of the Internal**
21 **Revenue Code on property acquired in an exchange if the**
22 **exchange would have been eligible for nonrecognition of**
23 **gain or loss under Section 1031 of the Internal Revenue**
24 **Code in effect on January 1, 2017, the exchange is not**
25 **eligible for nonrecognition of gain or loss under Section**
26 **1031 of the Internal Revenue Code, and the taxpayer**
27 **made an election to take deductions under Section 179 of**
28 **the Internal Revenue Code with regard to the acquired**
29 **property in the year that the property was placed into**
30 **service. The amount of deductions allowable for an item**
31 **of property under this item may not exceed the amount of**
32 **adjusted gross income realized on the property that would**
33 **have been deferred under the Internal Revenue Code in**
34 **effect on January 1, 2017.**

35 (I) Add an amount equal to any income not included in gross
36 income as a result of the deferral of income arising from
37 business indebtedness discharged in connection with the
38 reacquisition after December 31, 2008, and before January 1,
39 2011, of an applicable debt instrument, as provided in Section
40 108(i) of the Internal Revenue Code. Subtract from the adjusted
41 gross income of any taxpayer that added an amount to adjusted
42 gross income in a previous year the amount necessary to offset



- 1 the amount included in federal gross income as a result of the
 2 deferral of income arising from business indebtedness
 3 discharged in connection with the reacquisition after December
 4 31, 2008, and before January 1, 2011, of an applicable debt
 5 instrument, as provided in Section 108(i) of the Internal
 6 Revenue Code.
- 7 (J) Add an amount equal to any exempt insurance income under
 8 Section 953(e) of the Internal Revenue Code for active
 9 financing income under Subpart F, Subtitle A, Chapter 1,
 10 Subchapter N of the Internal Revenue Code.
- 11 (2) Subtract the following amounts:
- 12 (A) Income that the United States Constitution or any statute of
 13 the United States prohibits from being used to measure the tax
 14 imposed by this chapter.
- 15 (B) Income that is derived from sources outside the United
 16 States, as defined by the Internal Revenue Code.
- 17 (C) An amount equal to a debt or part of a debt that becomes
 18 worthless, as permitted under Section 166(a) of the Internal
 19 Revenue Code.
- 20 (D) An amount equal to any bad debt reserves that are included
 21 in federal income because of accounting method changes
 22 required by Section 585(c)(3)(A) or Section 593 of the Internal
 23 Revenue Code.
- 24 (E) The amount necessary to make the adjusted gross income
 25 of any taxpayer that owns property for which bonus
 26 depreciation was allowed in the current taxable year or in an
 27 earlier taxable year equal to the amount of adjusted gross
 28 income that would have been computed had an election not
 29 been made under Section 168(k) of the Internal Revenue Code
 30 to apply bonus depreciation.
- 31 (F) The amount necessary to make the adjusted gross income of
 32 any taxpayer that placed Section 179 property (as defined in
 33 Section 179 of the Internal Revenue Code) in service in the
 34 current taxable year or in an earlier taxable year equal to the
 35 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~~
 40 ~~thousand dollars (\$25,000)~~; **the sum of:**
- 41 **(i) twenty-five thousand dollars (\$25,000) to the extent**
 42 **deductions under Section 179 of the Internal Revenue**



1 Code were not elected as provided in item (ii); and
 2 (ii) for taxable years beginning after December 31, 2017,
 3 the deductions elected under Section 179 of the Internal
 4 Revenue Code on property acquired in an exchange if the
 5 exchange would have been eligible for nonrecognition of
 6 gain or loss under Section 1031 of the Internal Revenue
 7 Code in effect on January 1, 2017, the exchange is not
 8 eligible for nonrecognition of gain or loss under Section
 9 1031 of the Internal Revenue Code, and the taxpayer
 10 made an election to take deductions under Section 179 of
 11 the Internal Revenue Code with regard to the acquired
 12 property in the year that the property was placed into
 13 service. The amount of deductions allowable for an item
 14 of property under this item may not exceed the amount of
 15 adjusted gross income realized on the property that would
 16 have been deferred under the Internal Revenue Code in
 17 effect on January 1, 2017.

18 (G) Income that is:

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

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

27 (3) Make the following adjustments:

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

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

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

40 (b) In the case of a credit union, "adjusted gross income" for a
 41 taxable year means the total transfers to undivided earnings minus
 42 dividends for that taxable year after statutory reserves are set aside



- 1 under IC 28-7-1-24.
- 2 (c) In the case of an investment company, "adjusted gross income"
- 3 means the company's federal taxable income adjusted as follows:
- 4 (1) 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 (2) Make the following adjustments:
- 10 (A) Subtract the amount of any interest expense paid or accrued
- 11 in the current taxable year but not deducted as a result of the
- 12 limitation imposed under Section 163(j)(1) of the Internal
- 13 Revenue Code.
- 14 (B) Add any interest expense paid or accrued in a previous
- 15 taxable year but allowed as a deduction under Section 163 of
- 16 the Internal Revenue Code in the current taxable year.
- 17 For purposes of this subdivision, an interest expense is considered
- 18 paid or accrued only in the first taxable year the deduction would
- 19 have been allowable under Section 163 of the Internal Revenue
- 20 Code if the limitation under Section 163(j)(1) of the Internal
- 21 Revenue Code did not exist.
- 22 (3) Multiply the amount determined after the adjustments in
- 23 subdivisions (1) and (2) by the quotient of:
- 24 (A) the aggregate of the gross payments collected by the
- 25 company during the taxable year from old and new business
- 26 upon investment contracts issued by the company and held by
- 27 residents of Indiana; divided by
- 28 (B) the total amount of gross payments collected during the
- 29 taxable year by the company from the business upon investment
- 30 contracts issued by the company and held by persons residing
- 31 within Indiana and elsewhere.
- 32 (d) As used in subsection (c), "investment company" means a
- 33 person, copartnership, association, limited liability company, or
- 34 corporation, whether domestic or foreign, that:
- 35 (1) is registered under the Investment Company Act of 1940 (15
- 36 U.S.C. 80a-1 et seq.); and
- 37 (2) solicits or receives a payment to be made to itself and issues
- 38 in exchange for the payment:
- 39 (A) a so-called bond;
- 40 (B) a share;
- 41 (C) a coupon;
- 42 (D) a certificate of membership;



1 (E) an agreement;
 2 (F) a pretended agreement; or
 3 (G) other evidences of obligation;
 4 entitling the holder to anything of value at some future date, if the
 5 gross payments received by the company during the taxable year
 6 on outstanding investment contracts, plus interest and dividends
 7 earned on those contracts (by prorating the interest and dividends
 8 earned on investment contracts by the same proportion that
 9 certificate reserves (as defined by the Investment Company Act
 10 of 1940) is to the company's total assets) is at least fifty percent
 11 (50%) of the company's gross payments upon investment
 12 contracts plus gross income from all other sources except
 13 dividends from subsidiaries for the taxable year. The term
 14 "investment contract" means an instrument listed in clauses (A)
 15 through (G).

16 SECTION 29. IC 6-5.5-1-20, AS AMENDED BY P.L.246-2005,
 17 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JANUARY 1, 2019 (RETROACTIVE)]: Sec. 20. As used in this
 19 article, "bonus depreciation" means an amount equal to that part of any
 20 depreciation allowance allowed in computing the taxpayer's federal
 21 taxable income that is attributable to the additional first-year special
 22 depreciation allowance (bonus depreciation) for qualified property
 23 allowed under Section 168(k) of the Internal Revenue Code, including
 24 the special depreciation allowance for 50-percent bonus depreciation
 25 property. **For taxable years beginning after December 31, 2017, the**
 26 **term does not include any amount of additional first-year special**
 27 **depreciation allowance under Section 168(k) of the Internal**
 28 **Revenue Code in the amount of adjusted gross income realized on**
 29 **the exchange of property that otherwise would have been deferred**
 30 **under Section 1031 of the Internal Revenue Code in effect on**
 31 **January 1, 2017, if:**

- 32 (1) the exchange would have been eligible for nonrecognition
 33 of gain or loss under Section 1031 of the Internal Revenue
 34 Code in effect on January 1, 2017;
 35 (2) the exchange is not eligible for nonrecognition of gain or
 36 loss under Section 1031 of the Internal Revenue Code; and
 37 (3) the taxpayer claimed a deduction for the additional
 38 first-year special depreciation allowance under Section 168(k)
 39 of the Internal Revenue Code with regard to the acquired
 40 property.

41 For purposes of this section, if the taxpayer elected to claim a
 42 deduction under Section 179 of the Internal Revenue Code with



1 **regard to an item of acquired property, the adjusted gross income**
2 **realized on the exchange must be reduced (but not below zero**
3 **dollars (\$0)) by the amount of the deduction under Section 179 of**
4 **the Internal Revenue Code elected to be claimed on the acquired**
5 **property.**

6 SECTION 30. IC 6-6-1.1-606.5, AS AMENDED BY
7 P.L.182-2009(ss), SECTION 234, IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 606.5. (a) Every person
9 included within the terms of section 606(a) and 606(c) of this chapter
10 shall register with the administrator before engaging in those activities.
11 The administrator shall issue a transportation license to a person who
12 registers with the administrator under this section.

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

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

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

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

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

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

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

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



1 vehicles may be kept accurate.

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

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

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

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

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

24 SECTION 31. IC 6-6-1.1-902 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 902. (a) A local transit
26 system is entitled to a refund of tax paid on gasoline used:

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

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

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

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

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

34 ~~(3) A schedule of all salaries in excess of ten thousand dollars~~
35 ~~(\$10,000) per annum paid to any officer or employee.~~

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



1 SECTION 32. IC 6-6-1.1-902.5 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 902.5. (a) A rural
 3 transit system is entitled to a refund of tax paid on gasoline used for
 4 transporting persons for compensation by means of a motor vehicle or
 5 trackless trolley. However, the transporting must be done:

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

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

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

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

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

15 ~~(3) A schedule of all salaries that exceed ten thousand dollars
 16 (\$10,000) per year paid to any officer or employee.~~

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

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

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



1 in Indiana are exempt from this provision with respect to the special
2 fuel. A person who violates this subsection commits a Class A
3 infraction (as defined in IC 34-28-5-4).

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

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

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

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

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



1 jointly liable for any tax otherwise due to the state as a result of a
2 diversion of the special fuel from the represented destination state.

3 SECTION 34. IC 6-6-4.1-1, AS AMENDED BY P.L.185-2018,
4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2018 (RETROACTIVE)]: Sec. 1. As used in this chapter:

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

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

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

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

15 (1) the bureau of motor vehicles; or

16 (2) a state other than Indiana.

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

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

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

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

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

30 (j) "Quarter" means calendar quarter.

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

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

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

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

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

40 SECTION 35. IC 6-6-4.1-4, AS AMENDED BY P.L.185-2018,
41 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2018 (RETROACTIVE)]: Sec. 4. (a) A tax is imposed on the



1 consumption of motor fuel by a carrier in its operations on highways in
2 Indiana. The rate of this tax is determined as follows:

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

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

10 ~~(2)~~ (3) When imposed upon the consumption of a ~~special fuel that~~
11 ~~is natural gas product or~~ an alternative fuel, the tax rate is either
12 of the following:

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

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

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

22 (b) The amount of motor fuel consumed by a carrier in its operations
23 on highways in Indiana is the total amount of motor fuel consumed in
24 its entire operations within and without Indiana, multiplied by a
25 fraction. The numerator of the fraction is the total number of miles
26 traveled on highways in Indiana, and the denominator of the fraction is
27 the total number of miles traveled within and without Indiana.

28 (c) The amount of tax that a carrier shall pay for a particular quarter
29 under this section equals the product of the tax rate in effect for that
30 quarter, multiplied by the amount of motor fuel consumed by the
31 carrier in its operation on highways in Indiana and upon which the
32 carrier has not paid tax imposed under IC 6-6-1.1, IC 6-6-2.5, or
33 section 4.5 of this chapter (before its repeal).

34 (d) Subject to section 4.8 of this chapter, a carrier is entitled to a
35 proportional use credit against the tax imposed under this section for
36 that portion of motor fuel used to propel equipment mounted on a
37 motor vehicle having a common reservoir for locomotion on the
38 highway and the operation of the equipment, as determined by rule of
39 the commissioner. An application for a proportional use credit under
40 this subsection shall be filed on a quarterly basis on a form prescribed
41 by the department.

42 SECTION 36. IC 6-6-6.5-14 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. (a) A person
 2 required to register ~~his~~ **the person's** aircraft and to pay the tax imposed
 3 under this chapter, shall do so on or before the regular annual
 4 registration date.

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

8 **(c) For a taxable period beginning after December 31, 2019,**
 9 **whenever a taxpayer makes a partial payment on the taxpayer's**
 10 **tax liability, the department shall apply the partial payment in the**
 11 **following order:**

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

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

14 **(3) To any late penalty first and then toward interest on the**
 15 **excise tax owed by the taxpayer.**

16 **(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 **(c) (d) For a taxable period beginning before January 1, 2020,**
 20 **when a taxpayer makes a partial payment on the taxpayer's tax liability,**
 21 **the department shall apply the partial payment in the following order:**

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

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

25 **(3) To any excise tax owed by the taxpayer.**

26 **(4) To any late penalty and interest on gross retail or use tax owed**
 27 **by the taxpayer.**

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

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

33 SECTION 37. IC 6-6-15-1 IS REPEALED [EFFECTIVE
 34 JANUARY 1, 2020]. ~~Sec. 1. This chapter applies only after December~~
 35 ~~31, 2018; to the rental of taxable heavy rental equipment.~~

36 SECTION 38. IC 6-6-15-2, AS AMENDED BY THE TECHNICAL
 37 CORRECTIONS BILL OF THE 2019 GENERAL ASSEMBLY, IS
 38 AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1,
 39 2020]: Sec. 2. The following definitions apply throughout this chapter:

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

41 (2) "Electing retail merchant" means a retail merchant who
 42 properly makes an election under section 8 of this chapter to



1 have this chapter apply to the retail merchant's rental of
2 rental equipment for a calendar year specified in the election.

3 **(3) "Excise taxable year" means a calendar year for which a**
4 **retail merchant has properly made an election under section**
5 **8 of this chapter to have this chapter apply to the retail**
6 **merchant's rental of rental equipment during the calendar**
7 **year.**

8 ~~(2)~~ **(4) "Gross retail income" has the meaning set forth in**
9 **IC 6-2.5-1-5, except that the term does not include taxes imposed**
10 **under IC 6-2.5 or the excise tax imposed under this chapter.**

11 **(3) "Heavy rental equipment" means personal property (including**
12 **attachments used in conjunction with the personal property):**

13 **(A) that is owned by a person or business that:**

14 **(i) is classified under 532412 of the North American Industry**
15 **Classification System Manual in effect on January 1, 2018;**
16 **and**

17 **(ii) is a retail merchant in the business of renting heavy**
18 **equipment, including any attachments;**

19 **(B) that is not intended to be permanently affixed to any real**
20 **property; and**

21 **(C) that is not subject to registration under IC 9-18.1 for use on**
22 **a public highway (as defined in IC 9-25-2-4);**

23 **However, the term does not include heavy rental equipment that**
24 **is rented for mining purposes or heavy rental equipment that is**
25 **eligible for a property tax abatement deduction under**
26 **IC 6-1.1-12.1 during the calendar year:**

27 ~~(4)~~ **(5) "Person" has the meaning set forth in IC 6-2.5-1-3.**

28 ~~(5)~~ **(6) "Rental" means any transfer of possession or control of**
29 **heavy rental equipment for consideration:**

30 **(A) for a period not to exceed three hundred sixty-five (365)**
31 **days; or**

32 **(B) for a period that is open ended under the terms of the rental**
33 **contract with no specified end date.**

34 **(7) "Rental equipment" means tangible personal property**
35 **(including attachments used with the tangible personal**
36 **property):**

37 **(A) that is held by a retail merchant for rent or lease to**
38 **another person;**

39 **(B) that is not intended to be permanently affixed to any**
40 **real property; and**

41 **(C) that is not subject to registration under IC 9-18.1 for**
42 **use on a public highway (as defined in IC 9-25-2-4).**



1 **The term does not include personal property that is rented for**
 2 **mining purposes or personal property that is eligible for a**
 3 **property tax abatement deduction under IC 6-1.1-12.1 during**
 4 **the calendar year.**

5 ~~(6)~~ (8) "Retail merchant" has the meaning set forth in
 6 IC 6-2.5-1-8.

7 SECTION 39. IC 6-6-15-3, AS ADDED BY P.L.188-2018,
 8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 2020]: Sec. 3. (a) An excise tax, known as the **heavy**
 10 equipment rental excise tax, is imposed upon the rental of **heavy** rental
 11 equipment from **a an electing** retail merchant ~~and~~ from a location in
 12 Indiana **during an excise taxable year of the electing retail**
 13 **merchant.**

14 (b) The **heavy** equipment rental excise tax imposed under this
 15 chapter is two and twenty-five hundredths percent (2.25%) of the gross
 16 retail income received by the **electing** retail merchant for the rental.

17 SECTION 40. IC 6-6-15-4, AS ADDED BY P.L.188-2018,
 18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JANUARY 1, 2020]: Sec. 4. A transaction involving the rental of
 20 **heavy** rental equipment is exempt from the tax imposed by this chapter
 21 if any of the following apply:

22 (1) The rentee is:

23 (A) the United States government;

24 (B) the state;

25 (C) a political subdivision (as defined in IC 36-1-2-13); or

26 (D) an agency or instrumentality of an entity described in
 27 clauses (A) through (C).

28 (2) The transaction is a subrent of the **heavy** rental equipment
 29 from a rentee to another person, and the rentee was liable for the
 30 tax imposed under this chapter.

31 **(3) The retail merchant who rents the rental equipment to a**
 32 **rentee is not an electing retail merchant for the calendar year**
 33 **in which the transaction occurred.**

34 SECTION 41. IC 6-6-15-5, AS ADDED BY P.L.188-2018,
 35 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JANUARY 1, 2020]: Sec. 5. A person that rents **heavy** rental
 37 equipment **from an electing retail merchant during an excise**
 38 **taxable year of the retail merchant** is liable for the **heavy** equipment
 39 rental excise tax on the transaction. The person shall pay the tax to the
 40 **electing** retail merchant as a separate amount added to the
 41 consideration for the transaction. The **electing** retail merchant shall
 42 collect the tax as an agent for the state.



1 SECTION 42. IC 6-6-15-6, AS ADDED BY P.L.188-2018,
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JANUARY 1, 2020]: Sec. 6. (a) Subject to subsection (b), **a an**
 4 **electing** retail merchant shall remit the **heavy** equipment rental excise
 5 tax that the **electing** retail merchant collects under this chapter in the
 6 same manner as the state gross retail tax is remitted under IC 6-2.5.

7 (b) The **heavy** equipment rental excise tax imposed under this
 8 chapter shall be sourced to the business location of the **electing** retail
 9 merchant from which the **heavy** rental equipment is rented.

10 (c) The return to be filed for the payment of the **heavy** equipment
 11 rental excise tax may be either a separate return or may be combined
 12 with the return filed for the payment of the state gross retail tax, as
 13 prescribed by the department.

14 SECTION 43. IC 6-6-15-7, AS ADDED BY P.L.188-2018,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JANUARY 1, 2020]: Sec. 7. (a) All revenues collected from the **heavy**
 17 equipment rental excise tax must be deposited in a special account of
 18 the state general fund called the **heavy** equipment rental excise tax
 19 account.

20 (b) On or before April 30 and October 30 of each year, all amounts
 21 held in the **heavy** equipment rental excise tax account must be
 22 distributed to counties as provided by this section.

23 (c) The amount to be distributed to a county treasurer under this
 24 section equals the part of the total **heavy** equipment rental excise taxes
 25 being distributed that were initially imposed and collected from within
 26 that county treasurer's county. The department shall notify each county
 27 auditor of the amount of taxes to be distributed to the county treasurer.
 28 At the same time each distribution is made to a county treasurer, the
 29 department shall certify to the county auditor the taxing districts within
 30 the county where **heavy** equipment rental excise taxes were collected
 31 and the amount of the county distribution that was collected with
 32 respect to each taxing district.

33 (d) A county treasurer shall deposit **heavy** equipment rental excise
 34 tax distributions in a separate account for settlement at the same time
 35 as property taxes are accounted for and settled in June and December
 36 of each year.

37 (e) The county auditor shall apportion and the county treasurer shall
 38 distribute the **heavy** equipment rental excise taxes among the taxing
 39 units of the county in the same manner that property taxes are
 40 apportioned and distributed with respect to property located in the
 41 taxing district where the **heavy** equipment rental excise tax is sourced
 42 by the department under section 6(b) of this chapter.



1 (f) Before January 1, 2020, the heavy equipment rental excise taxes
 2 distributed to a taxing unit must be deposited in the taxing unit's levy
 3 excess fund under IC 6-1.1-18.5-17, or in the case of a school
 4 corporation, the school corporation's levy excess fund under
 5 IC 20-44-3.

6 (g) After December 31, 2019, the heavy equipment rental excise
 7 taxes distributed to a taxing unit must be allocated among the taxing
 8 unit's funds in the same proportion that the taxing unit's property tax
 9 collections are allocated among those funds.

10 (h) After December 31, 2019, taxing units of a county may request
 11 and receive advances of heavy equipment rental excise tax revenues in
 12 the manner provided under IC 5-13-6-3.

13 (i) All distributions from the heavy equipment rental excise tax
 14 account must be made by warrants issued by the auditor of state to the
 15 treasurer of state ordering those distributions to the appropriate county
 16 treasurer.

17 SECTION 44. IC 6-6-15-8 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 19 JANUARY 1, 2020]: **Sec. 8. (a) A retail merchant engaged in the
 20 business of renting rental equipment may elect to have this chapter
 21 apply to the retail merchant's transactions involving the rental of
 22 rental equipment for a calendar year by making the election in the
 23 manner prescribed by the department before October 1 of the
 24 immediately preceding calendar year.**

25 **(b) A retail merchant's election under subsection (a) for a
 26 calendar year applies:**

27 **(1) to all of the retail merchant's rental equipment in Indiana;
 28 and**

29 **(2) to all of the retail merchant's locations in Indiana,
 30 including any locations that open after the date of the election
 31 and before January 1 of the calendar year immediately
 32 following the calendar year for which the election is made.**

33 **(c) Except as otherwise provided in section 4 of this chapter, if
 34 a retail merchant properly makes the election under subsection (a)
 35 for a calendar year, this chapter applies to each transaction during
 36 the calendar year in which the retail merchant rents rental
 37 equipment to another person.**

38 SECTION 45. IC 6-6-15-9 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 40 JANUARY 1, 2020]: **Sec. 9. Notwithstanding IC 6-8.1-7-1, not later
 41 than March 1 of each calendar year, for each county, the
 42 department shall provide a list of the electing retail merchants**



1 located in the county for the calendar year and, for each electing
 2 retail merchant located in the county, the addresses of the electing
 3 retail merchant's locations in the county to:

4 (1) the county assessor of the county; and

5 (2) the department of local government finance.

6 The department shall provide an updated list if any electing retail
 7 merchant opens a new location after the date on which the
 8 department provides the list required under this section.

9 SECTION 46. IC 6-8.1-3-16, AS AMENDED BY P.L.197-2016,
 10 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2019]: Sec. 16. (a) The department shall prepare a list of all
 12 outstanding tax warrants for listed taxes each month. The list shall
 13 identify each taxpayer liable for a warrant by name, address, amount of
 14 tax, and either Social Security number or employer identification
 15 number. Unless the department renews the warrant, the department
 16 shall exclude from the list a warrant issued more than ten (10) years
 17 before the date of the list. The department shall certify a copy of the list
 18 to the bureau of motor vehicles.

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

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

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

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

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

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

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

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

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

42 (1) is subordinate to a perfected security interest (as defined and



- 1 perfected in accordance with IC 26-1-9.1); and
 2 (2) shall otherwise be treated in the same manner as other title
 3 liens.
- 4 (e) The commissioner is the custodian of all titles for which the state
 5 is the sole lienholder under this section. Upon receipt of the title by the
 6 department, the commissioner shall notify the owner of the
 7 department's receipt of the title.
- 8 (f) The department shall reimburse the bureau of motor vehicles for
 9 all costs incurred in carrying out this section.
- 10 (g) Notwithstanding IC 6-8.1-8, a person who is authorized to
 11 collect taxes, interest, or penalties on behalf of the department under
 12 IC 6-3 or IC 6-3.6 may not, except as provided in subsection (h) or (i),
 13 receive a fee for collecting the taxes, interest, or penalties if:
- 14 (1) the taxpayer pays the taxes, interest, or penalties as
 15 consideration for the release of a lien placed under subsection (d)
 16 on a motor vehicle title; or
- 17 (2) the taxpayer has been denied a certificate or license under
 18 subsection (c) within sixty (60) days before the date the taxes,
 19 interest, or penalties are collected.
- 20 (h) In the case of a sheriff, subsection (g) does not apply if:
- 21 (1) the sheriff collects the taxes, interest, or penalties within sixty
 22 (60) days after the date the sheriff receives the tax warrant; or
- 23 (2) the sheriff collects the taxes, interest, or penalties through the
 24 sale or redemption, in a court proceeding, of a motor vehicle that
 25 has a lien placed on its title under subsection (d).
- 26 (i) In the case of a person other than a sheriff:
- 27 (1) subsection (g)(2) does not apply if the person collects the
 28 taxes, interests, or penalties within sixty (60) days after the date
 29 the commissioner employs the person to make the collection; and
- 30 (2) subsection (g)(1) does not apply if the person collects the
 31 taxes, interest, or penalties through the sale or redemption, in a
 32 court proceeding, of a motor vehicle that has a lien placed on its
 33 title under subsection (d).
- 34 (j) IC 5-14-3-4, IC 6-8.1-7-1, and any other law exempting
 35 information from disclosure by the department do not apply to this
 36 subsection. The department shall prepare a list of retail merchants
 37 whose registered retail merchant certificate has not been renewed
 38 under ~~IC 6-2.5-8-1(g)~~ **IC 6-2.5-8-1(h)** or whose registered retail
 39 merchant certificate has been revoked under IC 6-2.5-8-7. The list
 40 compiled under this subsection must identify each retail merchant by
 41 name (including any name under which the retail merchant is doing
 42 business), address, and county. The department shall publish the list



1 compiled under this subsection on the department's Internet web site
 2 (as operated under IC 4-13.1-2) and make the list available for public
 3 inspection and copying under IC 5-14-3. The department or an agent,
 4 employee, or officer of the department is immune from liability for the
 5 publication of information under this subsection.

6 SECTION 47. IC 6-8.1-5-1, AS AMENDED BY P.L.242-2015,
 7 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2019]: Sec. 1. (a) As used in this section, "letter of findings"
 9 includes a supplemental letter of findings.

10 (b) If the department reasonably believes that a person has not
 11 reported the proper amount of tax due, the department shall make a
 12 proposed assessment of the amount of the unpaid tax on the basis of the
 13 best information available to the department. The amount of the
 14 assessment is considered a tax payment not made by the due date and
 15 is subject to IC 6-8.1-10 concerning the imposition of penalties and
 16 interest. The department shall send the person a notice of the proposed
 17 assessment through the United States mail.

18 (c) The notice of proposed assessment is prima facie evidence that
 19 the department's claim for the unpaid tax is valid, **including during an**
 20 **action appealed to the tax court under this chapter.** The burden of
 21 proving that the proposed assessment is wrong rests with the person
 22 against whom the proposed assessment is made.

23 (d) The notice shall state that the person has forty-five (45) days
 24 from the date the notice is mailed, if the notice was mailed before
 25 January 1, 2011, and sixty (60) days from the date the notice is mailed,
 26 if the notice was mailed after December 31, 2010, to pay the
 27 assessment or to file a written protest. If the person files a protest and
 28 requires a hearing on the protest, the department shall:

- 29 (1) set the hearing at the department's earliest convenient time;
 30 and
 31 (2) notify the person by United States mail of the time, date, and
 32 location of the hearing.

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

35 (f) After conducting a hearing on a protest, or after making a
 36 decision on a protest when no hearing is requested, the department
 37 shall issue a letter of findings and shall send a copy of the letter
 38 through the United States mail to the person who filed the protest and
 39 to the person's surety, if the surety was notified of the proposed
 40 assessment under subsection (b). The department may continue the
 41 hearing until a later date if the taxpayer presents additional information
 42 at the hearing or the taxpayer requests an opportunity to present



- 1 additional information after the hearing.
- 2 (g) A person that disagrees with a decision in a letter of findings
3 may request a rehearing not more than thirty (30) days after the date on
4 which the letter of findings is issued by the department. The
5 department shall consider the request and may grant the rehearing if the
6 department reasonably believes that a rehearing would be in the best
7 interests of the taxpayer and the state.
- 8 (h) If a person disagrees with a decision in a letter of findings, the
9 person may appeal the decision to the tax court. However, the tax court
10 does not have jurisdiction to hear an appeal that is filed more than
11 ninety (90) days after the date on which:
- 12 (1) the letter of findings is issued by the department, if the person
13 does not make a timely request for a rehearing under subsection
14 (g) on the letter of findings; or
- 15 (2) the department issues a denial of the person's timely request
16 for a rehearing under subsection (g) on the letter of findings.
- 17 The ninety (90) day period may be extended according to the terms of
18 a written agreement signed by both the department and the person. The
19 agreement must specify a date upon which the extension will terminate
20 and a statement that the person agrees to preserve the person's records
21 until that specified termination date. The specified termination date
22 agreed upon under this subsection may not be more than ninety (90)
23 days after the expiration of the period otherwise specified by this
24 subsection.
- 25 (i) The tax court shall hear an appeal under subsection (h) de novo
26 and without a jury. The tax court may do the following:
- 27 (1) Uphold or deny any part of the assessment that is appealed.
28 (2) Assess the court costs in a manner that the court believes to be
29 equitable.
30 (3) Enjoin the collection of a listed tax under IC 33-26-6-2.
- 31 (j) The department shall demand payment, as provided in
32 IC 6-8.1-8-2(a), of any part of the proposed tax assessment, interest,
33 and penalties that it finds owing because:
- 34 (1) the person failed to properly respond within the sixty (60) day
35 period;
36 (2) the person requested a hearing but failed to appear at that
37 hearing; or
38 (3) after consideration of the evidence presented in the protest or
39 hearing, the department finds that the person still owes tax.
- 40 (k) The department shall make the demand for payment in the
41 manner provided in IC 6-8.1-8-2.
- 42 (l) Subsection (b) does not apply to a motor carrier fuel tax return.



1 SECTION 48. IC 6-8.1-5-4 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Every person
 3 subject to a listed tax must keep books and records so that the
 4 department can determine the amount, if any, of the person's liability
 5 for that tax by reviewing those books and records. The records referred
 6 to in this subsection include all source documents necessary to
 7 determine the tax, including invoices, register tapes, receipts, and
 8 canceled checks.

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

12 (1) for an unlimited period, if the person fails to file a return or
 13 receives notice from the department that the person has filed a
 14 suspected fraudulent return, or an unsigned or substantially blank
 15 return; ~~or~~

16 (2) in all other cases, for a period of at least three (3) years after
 17 the date the final payment of the particular tax liability was due,
 18 **or for a period during which a judicial proceeding or appeal**
 19 **related to a listed tax is pending, whichever is later**, unless
 20 after an audit, the department consents to earlier destruction; **or**

21 ~~In addition,~~

22 (3) if the limitation on assessments provided in section 2 of this
 23 chapter is extended beyond three (3) years for a particular tax
 24 liability, the person must retain the books and records until the
 25 assessment period is over, **or for a period during which a**
 26 **judicial proceeding or appeal related to a listed tax is pending,**
 27 **whichever is later.**

28 (c) A person must allow inspection of the books and records and
 29 returns by the department or its authorized agents at all reasonable
 30 times.

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

33 **(e) The failure of a person to keep books and records in the**
 34 **ordinary course of business shall be considered for purposes of**
 35 **determining the weight of the evidence as it relates to the person's**
 36 **liability for a listed tax, and not for purposes of the admissibility of**
 37 **the evidence. In examining the evidence, the department and the**
 38 **courts may take into account any federal law regarding the**
 39 **probative value of such evidence.**

40 SECTION 49. IC 6-8.1-7-1, AS AMENDED BY P.L.86-2018,
 41 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2019]: Sec. 1. (a) This subsection does not apply to the



1 disclosure of information concerning a conviction on a tax evasion
2 charge. Unless in accordance with a judicial order or as otherwise
3 provided in this chapter, the department, its employees, former
4 employees, counsel, agents, or any other person may not divulge the
5 amount of tax paid by any taxpayer, terms of a settlement agreement
6 executed between a taxpayer and the department, investigation records,
7 investigation reports, or any other information disclosed by the reports
8 filed under the provisions of the law relating to any of the listed taxes,
9 including required information derived from a federal return, except to
10 any of the following when it is agreed that the information is to be
11 confidential and to be used solely for official purposes:

12 (1) Members and employees of the department.

13 (2) The governor.

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

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

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

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

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

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

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

35 (c) The information described in subsection (a) relating to a person
36 on public welfare or a person who has made application for public
37 welfare may be revealed to the director of the division of family
38 resources, and to any director of a county office of the division of
39 family resources located in Indiana, upon receipt of a written request
40 from either director for the information. The information shall be
41 treated as confidential by the directors. In addition, the information
42 described in subsection (a) relating to a person who has been



1 designated as an absent parent by the state Title IV-D agency shall be
 2 made available to the state Title IV-D agency upon request. The
 3 information shall be subject to the information safeguarding provisions
 4 of the state and federal Title IV-D programs.

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

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

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

- 26 (1) the state agency shows an official need for the information;
 27 and
 28 (2) the administrative head of the state agency agrees that any
 29 information released will be kept confidential and will be used
 30 solely for official purposes.

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

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

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

42 (j) All information relating to the delinquency or evasion of the



1 vehicle excise tax may be disclosed to the bureau of motor vehicles in
 2 Indiana and may be disclosed to another state, if the information is
 3 disclosed for the purpose of the enforcement and collection of the taxes
 4 imposed by IC 6-6-5.

5 (k) All information relating to the delinquency or evasion of
 6 commercial vehicle excise taxes payable to the bureau of motor
 7 vehicles in Indiana may be disclosed to the bureau and may be
 8 disclosed to another state, if the information is disclosed for the
 9 purpose of the enforcement and collection of the taxes imposed by
 10 IC 6-6-5.5.

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

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

22 (n) This section does not apply to:

- 23 (1) the beer excise tax, including brand and packaged type
 24 (IC 7.1-4-2);
- 25 (2) the liquor excise tax (IC 7.1-4-3);
- 26 (3) the wine excise tax (IC 7.1-4-4);
- 27 (4) the hard cider excise tax (IC 7.1-4-4.5);
- 28 (5) the malt excise tax (IC 7.1-4-5);
- 29 (6) the vehicle excise tax (IC 6-6-5);
- 30 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- 31 (8) the fees under IC 13-23.

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

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

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

- 41 (1) IC 5-28-26;
- 42 (2) IC 36-7-13;



1 (3) IC 36-7-26;
 2 (4) IC 36-7-27;
 3 (5) IC 36-7-31;
 4 (6) IC 36-7-31.3; or
 5 (7) any other statute providing for the calculation of incremental
 6 state taxes that will be distributed to or retained by a political
 7 subdivision or other entity;
 8 to the fiscal officer of the political subdivision or other entity that
 9 established the district or area from which the incremental taxes were
 10 received if that fiscal officer enters into an agreement with the
 11 department specifying that the political subdivision or other entity will
 12 use the information solely for official purposes.

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

15 (1) an innkeeper's tax, a food and beverage tax, or an admissions
 16 tax under IC 6-9;
 17 (2) the supplemental auto rental excise tax under IC 6-6-9.7; and
 18 (3) the covered taxes allocated to a professional sports
 19 development area fund, sports and convention facilities operating
 20 fund, or other fund under IC 36-7-31 and IC 36-7-31.3.

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

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

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

38 SECTION 50. IC 6-8.1-8-1.5 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.5. **(a) For a taxable**
 40 **period beginning after December 31, 2019, whenever a taxpayer**
 41 **makes a partial payment on the taxpayer's tax liability, the**
 42 **department shall apply the partial payment in the following order:**



1 **(1) To the tax liability of the taxpayer.**

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

3 **(3) To any interest owed by the taxpayer.**

4 **(b) For a taxable period beginning before January 1, 2020,**
5 whenever a taxpayer makes a partial payment on the taxpayer's tax
6 liability, the department shall apply the partial payment in the
7 following order:

8 (1) To any penalty owed by the taxpayer.

9 (2) To any interest owed by the taxpayer.

10 (3) To the tax liability of the taxpayer.

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

14 SECTION 51. IC 6-8.1-8-2, AS AMENDED BY P.L.181-2016,
15 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2019]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3 and
17 sections 16 and 17 of this chapter, the department must issue a demand
18 notice for the payment of a tax and any interest or penalties accrued on
19 the tax, if a person files a tax return without including full payment of
20 the tax or if the department, after ruling on a protest, finds that a person
21 owes the tax before the department issues a tax warrant. The demand
22 notice must state the following:

23 (1) That the person has twenty (20) days from the date the
24 department mails the notice to either pay the amount demanded
25 or show reasonable cause for not paying the amount demanded.

26 (2) The statutory authority of the department for the issuance of
27 a tax warrant.

28 (3) The earliest date on which a tax warrant may be filed and
29 recorded.

30 (4) The statutory authority for the department to levy against a
31 person's property that is held by a financial institution.

32 (5) The remedies available to the taxpayer to prevent the filing
33 and recording of the judgment.

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

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

39 (b) If the person does not pay the amount demanded or show
40 reasonable cause for not paying the amount demanded within the
41 twenty (20) day period, the department may issue a tax warrant for the
42 amount of the tax, interest, penalties, collection fee, sheriff's costs,



1 clerk's costs, and fees established under section 4(b) of this chapter
 2 when applicable. When the department issues a tax warrant, a
 3 collection fee of ten percent (10%) of the unpaid tax is added to the
 4 total amount due.

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

15 (1) at least twenty (20) days after the date the demand notice was
 16 mailed to the taxpayer; and

17 (2) no later than five (5) days after the date the department issues
 18 the warrant.

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

23 (1) The name of the person owing the tax.

24 (2) The amount of the tax, interest, penalties, collection fee,
 25 sheriff's costs, clerk's costs, and fees established under section
 26 4(b) of this chapter when applicable.

27 (3) The date the warrant was filed with the clerk.

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

32 (1) chose in action in the county; and

33 (2) real or personal property in the county;

34 excepting only negotiable instruments not yet due. **The department**
 35 **may domesticate a valid tax warrant in one (1) or more other states**
 36 **or countries, or in the political subunits of other states or countries,**
 37 **in the manner that any other civil judgment may be domesticated**
 38 **in that jurisdiction. The department shall be permitted all rights**
 39 **and remedies permitted in a jurisdiction in which a judgment is**
 40 **domesticated, even if the rights or remedies would not be permitted**
 41 **under Indiana law.**

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



- 1 **(1) A judgment on a tax warrant must be filed in at least one**
 2 **(1) Indiana county not later than ten (10) years after the first**
 3 **date on which a demand notice could be issued under this**
 4 **chapter.**
- 5 **(2) Except as provided in subdivision (3), if a judgment on a**
 6 **tax warrant is entered in at least one (1) Indiana county, the**
 7 **department may file an additional tax warrant in one (1) or**
 8 **more Indiana counties during the period in which one (1) or**
 9 **more tax warrants are valid under this section.**
- 10 **(3) A judgment obtained under this section is valid for ten (10)**
 11 **years from the date the judgment is filed. The department may**
 12 **renew the judgment for additional ten (10) year periods by filing**
 13 **an alias tax warrant with the circuit court clerk of the county in**
 14 **which the judgment previously existed. An amended tax**
 15 **warrant under this section or section 4 of this chapter shall**
 16 **not constitute an alias tax warrant. The failure to renew a tax**
 17 **warrant in a particular county shall preclude the issuance of**
 18 **a new tax warrant under subdivision (2).**
- 19 **(4) If the department does not:**
- 20 **(A) issue a timely demand notice under subsection (a);**
 21 **(B) file a timely tax warrant under subdivision (1); or**
 22 **(C) renew all tax warrants under subdivision (3);**
- 23 **the department shall extinguish the tax liability from which**
 24 **the demand notice or judgment arose, and no state agency**
 25 **shall treat the tax liability as a delinquency for purposes of**
 26 **Indiana law.**
- 27 **(g) A judgment arising from a tax warrant in a county shall be**
 28 **released by the department:**
- 29 **(1) after the judgment, including all accrued interest to the date of**
 30 **payment, has been fully satisfied; or**
 31 **(2) if the department determines that the tax assessment or the**
 32 **issuance of the tax warrant was in error.**
- 33 **(h) Subject to subsections (p) and (q), if the department determines**
 34 **that the filing of a tax warrant was in error or if the commissioner**
 35 **determines that the release of the judgment and expungement of the tax**
 36 **warrant are in the best interest of the state, the department shall mail a**
 37 **release of the judgment to the taxpayer and the circuit court clerk of**
 38 **each county where the warrant was filed. The circuit court clerk of each**
 39 **county where the warrant was filed shall expunge the warrant from the**
 40 **judgment debtor's column of the judgment record. The department shall**
 41 **mail the release and the order for the warrant to be expunged as soon**
 42 **as possible but no later than seven (7) days after:**



- 1 (1) the determination by the department that the filing of the
 2 warrant was in error; and
 3 (2) the receipt of information by the department that the judgment
 4 has been recorded under subsection (d).
- 5 (i) If the department determines that a judgment described in
 6 subsection (h) is obstructing a lawful transaction, the department shall
 7 immediately upon making the determination mail:
 8 (1) a release of the judgment to the taxpayer; and
 9 (2) an order requiring the circuit court clerk of each county where
 10 the judgment was filed to expunge the warrant.
- 11 (j) A release issued under subsection (h) or (i) must state that the
 12 filing of the tax warrant was in error. Upon the request of the taxpayer,
 13 the department shall mail a copy of a release and the order for the
 14 warrant to be expunged issued under subsection (h) or (i) to each major
 15 credit reporting company located in each county where the judgment
 16 was filed.
- 17 (k) The commissioner shall notify each state agency or officer
 18 supplied with a tax warrant list of the issuance of a release under
 19 subsection (h) or (i).
- 20 (l) If the sheriff collects the full amount of a tax warrant, the sheriff
 21 shall disburse the money collected in the manner provided in section
 22 3(c) of this chapter. If a judgment has been partially or fully satisfied
 23 by a person's surety, the surety becomes subrogated to the department's
 24 rights under the judgment. If a sheriff releases a judgment:
 25 (1) before the judgment is fully satisfied;
 26 (2) before the sheriff has properly disbursed the amount collected;
 27 or
 28 (3) after the sheriff has returned the tax warrant to the department;
 29 the sheriff commits a Class B misdemeanor and is personally liable for
 30 the part of the judgment not remitted to the department.
- 31 (m) A lien on real property described in subsection (e)(2) is void if
 32 both of the following occur:
 33 (1) The person owing the tax provides written notice to the
 34 department to file an action to foreclose the lien.
 35 (2) The department fails to file an action to foreclose the lien not
 36 later than one hundred eighty (180) days after receiving the
 37 notice.
- 38 (n) A person who gives notice under subsection (m) by registered
 39 or certified mail to the department may file an affidavit of service of the
 40 notice to file an action to foreclose the lien with the circuit court clerk
 41 in the county in which the property is located. The affidavit must state
 42 the following:



- 1 (1) The facts of the notice.
- 2 (2) That more than one hundred eighty (180) days have passed
- 3 since the notice was received by the department.
- 4 (3) That no action for foreclosure of the lien is pending.
- 5 (4) That no unsatisfied judgment has been rendered on the lien.
- 6 (o) Upon receipt of the affidavit described in subsection (n), the
- 7 circuit court clerk shall make an entry showing the release of the
- 8 judgment lien in the judgment records for tax warrants.
- 9 (p) The department shall adopt rules to define the circumstances
- 10 under which a release and expungement may be granted based on a
- 11 finding that the release and expungement would be in the best interest
- 12 of the state. The rules may allow the commissioner to expunge a tax
- 13 warrant in other circumstances not inconsistent with subsection (q) that
- 14 the commissioner determines are appropriate. Any releases or
- 15 expungements granted by the commissioner must be consistent with
- 16 these rules.
- 17 (q) The commissioner may expunge a tax warrant in the following
- 18 circumstances:
- 19 (1) If the taxpayer has timely and fully filed and paid all of the
- 20 taxpayer's state taxes, or has otherwise resolved any outstanding
- 21 state tax issues, for the preceding five (5) years.
- 22 (2) If the warrant was issued more than ten (10) years prior to the
- 23 expungement.
- 24 (3) If the warrant is not subject to pending litigation.
- 25 (4) Other circumstances not inconsistent with subdivisions (1)
- 26 through (3) that are specified in the rules adopted under
- 27 subsection (p).
- 28 (r) Notwithstanding any other provision in this section, the
- 29 commissioner may decline to release a judgment or expunge a warrant
- 30 upon a finding that the warrant was issued based on the taxpayer's
- 31 fraudulent, intentional, or reckless conduct.
- 32 (s) The rules required under subsection (p) shall specify the process
- 33 for requesting that the commissioner release and expunge a tax
- 34 warrant.
- 35 SECTION 52. IC 6-8.1-8-3, AS AMENDED BY P.L.99-2011,
- 36 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 37 JULY 1, 2019]: Sec. 3. (a) The county sheriff of a county shall attempt
- 38 to levy on and collect a judgment arising from a tax warrant in that
- 39 county for a period of one hundred twenty (120) days from the date the
- 40 judgment lien is entered, unless the sheriff is relieved of that duty at an
- 41 earlier time by the department. The sheriff shall also have authority to
- 42 attempt to levy on and collect the outstanding tax liability if the



1 taxpayer does not pay the amount demanded under section 2(b) of this
 2 chapter and the taxpayer has taken an action under section 2(n) of this
 3 chapter to foreclose the lien. The sheriff's authority to collect the
 4 warrant exists only while the sheriff holds the tax warrant, and if the
 5 sheriff surrenders the warrant to the department for any reason the
 6 sheriff's authority to collect that tax warrant ceases. During the period
 7 that the sheriff has the duty to collect a tax warrant, the sheriff shall
 8 collect from the person owing the tax, an amount equal to the amount
 9 of the judgment lien plus the accrued interest to the date of the
 10 payment. Subject to subsection (b), the sheriff shall make the collection
 11 by garnisheeing the person's wages and by levying on and selling any
 12 interest in property or rights in any chose in action that the person has
 13 in the county. The Indiana laws which provide relief for debtors by
 14 exempting certain property from levy by creditors do not apply to levy
 15 and sale proceedings for judgments arising from tax warrants.

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

32 (c) The sheriff shall deposit all amounts that the sheriff collects
 33 under this section, including partial payments, into a special trust
 34 account for judgments collected that arose from tax warrants. **The**
 35 **sheriff shall notify the department, in a manner specified by the**
 36 **department, of the name of the taxpayer and the amount of the**
 37 **payment within seven (7) days of receipt. In the event of an**
 38 **emergency, a taxpayer may direct the sheriff to make a payment**
 39 **on the taxpayer's behalf using the department's electronic payment**
 40 **portal when certified funds have been received by the sheriff.** On
 41 or before the fifth day of each month, the sheriff shall disburse the
 42 money in the tax warrant judgment lien trust account in the following



- 1 order:
- 2 (1) The sheriff shall pay the department the part of the collections
- 3 that represents taxes, interest, and penalties.
- 4 (2) The sheriff shall pay the county treasurer and the clerk of the
- 5 circuit or superior court the part of the collections that represents
- 6 their assessed costs.
- 7 (3) Except as provided in subdivisions (4) and (5), the sheriff
- 8 shall keep the part of the collections that represents the ten
- 9 percent (10%) collection fee added under section 2(b) of this
- 10 chapter.
- 11 (4) If the sheriff has entered a salary contract under
- 12 IC 36-2-13-2.5, the sheriff shall deposit in the county general fund
- 13 the part of the collections that represents the ten percent (10%)
- 14 collection fee added under section 2(b) of this chapter.
- 15 (5) If the sheriff has not entered into a salary contract under
- 16 IC 36-2-13-2.5, the sheriff shall deposit in the county general fund
- 17 the part of the collections that:
- 18 (A) represents the ten percent (10%) collection fee added under
- 19 section 2(b) of this chapter; and
- 20 (B) would, if kept by the sheriff, result in the total amount of
- 21 the sheriff's annual compensation exceeding the maximum
- 22 amount allowed under IC 36-2-13-17.
- 23 The department shall establish the procedure for the disbursement of
- 24 partial payments so that the intent of this section is carried out.
- 25 (d) After the period described in subsection (a) has passed, the
- 26 sheriff shall return the tax warrant to the department. However, if the
- 27 department determines that:
- 28 (1) at the end of this period the sheriff is in the process of
- 29 collecting the judgment arising from a tax warrant in periodic
- 30 payments of sufficient size that the judgment will be fully paid
- 31 within one (1) year after the date the judgment was filed; and
- 32 (2) the sheriff's electronic data base regarding tax warrants is
- 33 compatible with the department's data base;
- 34 the sheriff may keep the tax warrant and continue collections.
- 35 (e) Notwithstanding any other provision of this chapter, the
- 36 department may order a sheriff to return a tax warrant at any time, if the
- 37 department feels that action is necessary to protect the interests of the
- 38 state.
- 39 (f) This subsection applies only to the sheriff of a county having a
- 40 consolidated city or a second class city. In such a county, the ten
- 41 percent (10%) collection fee added under section 2(b) of this chapter
- 42 shall be divided as follows:



- 1 (1) Subject to subsection (g), the sheriff may retain forty thousand
 2 dollars (\$40,000), plus one-fifth (1/5) of any fees exceeding that
 3 forty thousand dollar (\$40,000) amount.
- 4 (2) Two-fifths (2/5) of any fees exceeding that forty thousand
 5 dollar (\$40,000) amount shall be deposited in the sheriff's
 6 department's pension trust fund.
- 7 (3) Two-fifths (2/5) of any fees exceeding that forty thousand
 8 dollar (\$40,000) amount shall be deposited in the county general
 9 fund.
- 10 (g) If an amount of the collection fee added under section 2(b) of
 11 this chapter would, if retained by the sheriff under subsection (f)(1),
 12 cause the total amount of the sheriff's annual compensation to exceed
 13 the maximum amount allowed under IC 36-2-13-17, the sheriff shall
 14 instead deposit the amount in the county general fund.
- 15 (h) Money deposited into a county general fund under subsections
 16 (c)(5) and (g) must be used as follows:
- 17 (1) To reduce any unfunded liability of a sheriff's pension trust
 18 plan established for the county's sheriff's department.
- 19 (2) Any amounts remaining after complying with subdivision (1)
 20 must be applied to the costs incurred to operate the county's
 21 sheriff's department.
- 22 SECTION 53. IC 6-8.1-10-1, AS AMENDED BY P.L.214-2018(ss),
 23 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2019]: Sec. 1. (a) If a person fails to file a return for any of the
 25 listed taxes, fails to pay the full amount of tax shown on the person's
 26 return by the due date for the return or the payment, or incurs a
 27 deficiency upon a determination by the department, the person is
 28 subject to interest on the nonpayment.
- 29 (b) The interest for a failure described in subsection (a) is the
 30 adjusted rate established by the commissioner under subsection (c),
 31 from the due date for payment. The interest applies to:
- 32 (1) the full amount of the unpaid tax due if the person failed to
 33 file the return;
- 34 (2) the amount of the tax that is not paid, if the person filed the
 35 return but failed to pay the full amount of tax shown on the return;
- 36 or
- 37 (3) the amount of the deficiency.
- 38 (c) The commissioner shall establish an adjusted rate of interest for
 39 a failure described in subsection (a) and for an excess tax payment on
 40 or before November 1 of each year. For purposes of subsection (b), the
 41 adjusted rate of interest shall be the percentage rounded to the nearest
 42 whole number that equals two (2) percentage points above the average



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

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

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

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

17 SECTION 54. IC 6-8.1-10-2.1, AS AMENDED BY P.L.181-2016,
 18 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2019]: Sec. 2.1. (a) Except as provided in IC 6-3-4-12(k) and
 20 IC 6-3-4-13(l), a person that:

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

31 is subject to a penalty.

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

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



- 1 by the due date.
- 2 (c) For purposes of this section, the filing of a substantially blank or
3 unsigned return does not constitute a return.
- 4 (d) If a person subject to the penalty imposed under this section can
5 show that the failure to file a return, pay the full amount of tax shown
6 on the person's return, timely remit tax held in trust, or pay the
7 deficiency determined by the department was due to reasonable cause
8 and not due to willful neglect, the department shall waive the penalty.
- 9 (e) A person who wishes to avoid the penalty imposed under this
10 section must make an affirmative showing of all facts alleged as a
11 reasonable cause for the person's failure to file the return, pay the
12 amount of tax shown on the person's return, pay the deficiency, or
13 timely remit tax held in trust, in a written statement containing a
14 declaration that the statement is made under penalty of perjury. The
15 statement must be filed with the return or payment within the time
16 prescribed for protesting departmental assessments. A taxpayer may
17 also avoid the penalty imposed under this section by obtaining a ruling
18 from the department before the end of a particular tax period on the
19 amount of tax due for that tax period.
- 20 (f) The department shall adopt rules under IC 4-22-2 to prescribe the
21 circumstances that constitute reasonable cause and negligence for
22 purposes of this section.
- 23 (g) A person who fails to file a return for a listed tax that shows no
24 tax liability for a taxable year, other than an information return (as
25 defined in section 6 of this chapter), on or before the due date of the
26 return shall pay a penalty of ten dollars (\$10) for each day that the
27 return is past due, up to a maximum of two hundred fifty dollars
28 (\$250).
- 29 (h) A:
- 30 (1) corporation which otherwise qualifies under IC 6-3-2-2.8(2);
31 (2) partnership; or
32 (3) trust;
- 33 that fails to withhold and pay any amount of tax required to be withheld
34 under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15 shall pay a penalty
35 equal to twenty percent (20%) of the amount of tax required to be
36 withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15. This penalty
37 shall be in addition to any penalty imposed by section 6 of this chapter.
- 38 (i) Subsections (a) through (c) do not apply to a motor carrier fuel
39 tax return.
- 40 (j) If a partnership or an S corporation fails to include all
41 nonresidential individual partners or nonresidential individual
42 shareholders in a composite return as required by IC 6-3-4-12(i) or



1 IC 6-3-4-13(j), a penalty of five hundred dollars (\$500) per partnership
2 or S corporation is imposed on the partnership or S corporation.

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

16 SECTION 55. IC 6-8.1-10-6 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) As used in this
18 section, "information return" means the following when a statute or rule
19 requires the following to be filed with the department:

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

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

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

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

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

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

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

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

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

41 SECTION 56. IC 6-9-54 IS ADDED TO THE INDIANA CODE AS
42 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

ES 565—LS 7211/DI 120



1, 2019]:

Chapter 54. Regional Development Food and Beverage Tax

Sec. 1. This chapter applies to a member of a development authority that has adopted a development authority plan.

Sec. 2. The following definitions apply throughout this chapter:

(1) The definitions in IC 6-9-12-1.

(2) "Development authority" has the meaning set forth in IC 36-7.6-1-8.

(3) "Development authority plan" has the meaning set forth in IC 36-7.6-1-8.1.

(4) "Fiscal body" has the meaning set forth in IC 36-1-2-6.

(5) "Fiscal officer" has the meaning set forth in IC 36-1-2-7.

(6) "Food and beverage tax territory" of a member means:

(A) for a member that is a county, the unincorporated territory of the county; or

(B) for a member that is a city or town, the territory of the city or town.

(7) "Member" means a county, city, or town that is a member of a development authority.

Sec. 3. (a) After June 30, 2021, the fiscal body of a member may adopt an ordinance to impose an excise tax, known as the regional development food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the member may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the regional development food and beverage tax is the only substantive issue on the agenda for the public hearing.

(b) If the fiscal body of a member elects to impose the regional development food and beverage tax, the regional development food and beverage tax must be imposed at the lesser of:

(1) the food and beverage tax rate that is specified in the development authority plan adopted by the member; or

(2) one percent (1%);

on the gross retail income received by the merchant from a food or beverage transaction described in section 4 of this chapter.

(c) Subject to subsection (b), if a member adopts a revised development plan, the food and beverage tax rate specified in the development plan is changed, and the member continues to impose the regional development food and beverage tax, the fiscal body of the member shall adopt an ordinance in the manner described in subsection (a) to increase or decrease the tax rate at which the



1 regional development food and beverage tax is imposed to match
 2 the food and beverage tax rate specified in the revised development
 3 plan.

4 (d) Except as otherwise provided in subsection (g), if an
 5 ordinance imposing the regional development food and beverage
 6 tax is in effect in the food and beverage tax territory of the
 7 member, the fiscal body of the member may rescind the ordinance
 8 imposing the regional development food and beverage tax.
 9 However, except as otherwise provided in subsection (g), if the
 10 fiscal body of a member has imposed the regional development
 11 food and beverage tax and the member terminates the member's
 12 participation in a development authority, the fiscal body of the
 13 member shall rescind the ordinance imposing the regional
 14 development food and beverage tax.

15 (e) If the fiscal body of a member adopts an ordinance under
 16 this section, the fiscal body of the member shall immediately send
 17 a certified copy of the ordinance to the department of state revenue
 18 and the applicable regional development authority.

19 (f) If the fiscal body of a member adopts an ordinance under
 20 this section, the regional development food and beverage tax
 21 applies to transactions that occur after the later of the following:

22 (1) The day specified in the ordinance.

23 (2) The last day of the month that succeeds the month in
 24 which the ordinance is adopted.

25 (g) If the member's regional development food and beverage tax
 26 revenue was pledged for the payment of principal and interest on
 27 bonds issued or leases entered into under IC 36-7.6, the fiscal body
 28 of the member may not rescind an ordinance imposing the regional
 29 development food and beverage tax until the obligations are paid
 30 in full.

31 Sec. 4. (a) Except as provided in subsection (c), a tax imposed
 32 under section 3 of this chapter by a member applies to a
 33 transaction in which a food or beverage is furnished, prepared, or
 34 served:

35 (1) by a retail merchant for consideration;

36 (2) for consumption at a location or on equipment provided by
 37 the retail merchant; and

38 (3) in the food and beverage tax territory of the member.

39 (b) Transactions described in subsection (a)(1) include
 40 transactions in which food or beverage is:

41 (1) served by a retail merchant off the merchant's premises;

42 (2) food sold in a heated state or heated by a retail merchant;



1 (3) made of two (2) or more food ingredients, mixed or
 2 combined by a retail merchant for sale as a single item (other
 3 than food that is only cut, repackaged, or pasteurized by the
 4 seller, and eggs, fish, meat, poultry, and foods containing these
 5 raw animal foods requiring cooking by the consumer as
 6 recommended by the federal Food and Drug Administration
 7 in chapter 3, subpart 3-401.11 of its Food Code so as to
 8 prevent food borne illnesses); or

9 (4) food sold with eating utensils provided by a retail
 10 merchant, including plates, knives, forks, spoons, glasses,
 11 cups, napkins, or straws (for purposes of this subdivision, a
 12 plate does not include a container or package used to
 13 transport the food).

14 (c) The regional development food and beverage tax does not
 15 apply to the furnishing, preparing, or serving of a food or beverage
 16 in a transaction that is exempt, or to the extent the transaction is
 17 exempt, from the state gross retail tax imposed by IC 6-2.5.

18 Sec. 5. For purposes of this chapter, the gross retail income
 19 received by the retail merchant from a transaction does not include
 20 the amount of tax imposed on the transaction under IC 6-2.5.

21 Sec. 6. (a) A tax imposed under this chapter shall be imposed,
 22 paid, and collected in the same manner that the state gross retail
 23 tax is imposed, paid, and collected under IC 6-2.5. However, the
 24 return to be filed with the payment of the tax imposed under this
 25 chapter may be made on a separate return or may be combined
 26 with the return filed for the payment of the state gross retail tax,
 27 as prescribed by the department of state revenue.

28 (b) If a member of a regional development authority imposes the
 29 regional development food and beverage tax, the regional
 30 development authority, in cooperation with the department and the
 31 Indiana office of technology, shall develop geographic information
 32 system (GIS) codes for the properties in the food and beverage tax
 33 territory of the member, in accordance with guidelines issued by
 34 the department. The regional development authority shall provide
 35 the department with any information necessary for the department
 36 to use GIS codes and data to collect the regional development food
 37 and beverage tax in the food and beverage tax territory of the
 38 member. The regional development authority shall update the
 39 information provided to the department and the Indiana office of
 40 technology before July 1 of each year.

41 Sec. 7. The amounts received from the tax imposed under this
 42 chapter shall be paid monthly by the treasurer of state to the fiscal



1 officer of the member upon warrants issued by the auditor of state.

2 **Sec. 8. (a) If a tax is imposed under section 3 of this chapter by**
 3 **a member, the fiscal officer of the member shall establish a**
 4 **regional development food and beverage tax receipts fund.**

5 **(b) The fiscal officer of the member shall deposit in the fund all**
 6 **amounts received under this chapter.**

7 **(c) Money earned from the investment of money in the fund**
 8 **becomes a part of the fund.**

9 **Sec. 9. Money in the regional development food and beverage**
 10 **tax receipts fund must be used by the member only for the**
 11 **following purposes:**

12 **(1) Fifty percent (50%) shall be transferred to the regional**
 13 **development authority and must be used to satisfy a**
 14 **member's required contribution to the development authority**
 15 **under IC 36-7.6-4-2.**

16 **(2) Fifty percent (50%) shall be transferred to the member**
 17 **that imposed the tax for deposit in the member's general fund**
 18 **and may be used by the member for any lawful purpose.**

19 **Revenue derived from the imposition of a tax under this chapter**
 20 **may be treated by the member as additional revenue for the**
 21 **purpose of fixing its budget for the budget year during which the**
 22 **revenues are to be distributed to the city.**

23 **Sec. 10. With respect to obligations for which a pledge has been**
 24 **made under section 9 of this chapter, the general assembly**
 25 **covenants with the holders of the obligations that this chapter will**
 26 **not be repealed or amended in a manner that will adversely affect**
 27 **the imposition or collection of the tax imposed under this chapter**
 28 **if the payment of any of the obligations is outstanding.**

29 SECTION 57. IC 16-44-2-18, AS AMENDED BY P.L.214-2005,
 30 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2019]: Sec. 18. (a) Except as provided in subsection (b), fees
 32 for the inspection of gasoline or kerosene shall be at the rate of fifty
 33 cents (\$0.50) per barrel (fifty (50) gallons) on all gasoline or kerosene
 34 received in Indiana less deductions provided in this section.

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

37 (1) On transport or tank car shipments direct to the federal
 38 government.

39 (2) On gasoline or kerosene received and subsequently exported
 40 from Indiana or returned to refineries or marine or pipeline
 41 terminals in Indiana.

42 (c) Fees shall be paid to the state department by the person receiving



1 gasoline or kerosene in Indiana at the time gasoline or kerosene
 2 products are received, unless the person receiving the gasoline or
 3 kerosene is licensed as a distributor under the gasoline tax law
 4 (IC 6-6-1.1). In that case, the person in receipt of the gasoline or
 5 kerosene shall do the following:

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

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

11 (d) A refiner or other person supplying gasoline or kerosene to the
 12 first receiver in Indiana may elect to pay the fees monthly on all
 13 gasoline or kerosene supplied to persons in Indiana not licensed as
 14 distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is
 15 not licensed as a distributor under the gasoline tax law of Indiana
 16 (IC 6-6-1.1), the supplier shall, as a condition precedent to such
 17 election, file with the state department a corporate surety bond that
 18 meets the following conditions:

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

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

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

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

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

30 (f) A distributor who fails to file a monthly report and pay the tax
 31 due as required by this chapter is subject to a penalty of five percent
 32 (5%) of the amount of unpaid tax due and interest on the unpaid tax
 33 and penalty at the rate of eight percent (8%) annually. However, if a
 34 delay not exceeding ten (10) days is due to a mistake, an accident, or
 35 an oversight without intent to avoid payment, the administrator may
 36 waive the penalty and interest.

37 SECTION 58. IC 36-7.6-1-8.1 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2019]: **Sec. 8.1. "Development authority
 40 plan" refers to the plan adopted by the fiscal body of each member
 41 of a development authority under IC 36-7.6-2-11.5.**

42 SECTION 59. IC 36-7.6-1-11.1 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2019]: **Sec. 11.1. "Food and beverage tax"**
 3 **refers to the regional development food and beverage tax under**
 4 **IC 6-9-54.**

5 SECTION 60. IC 36-7.6-2-3, AS AMENDED BY P.L.178-2015,
 6 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2019]: Sec. 3. (a) A development authority may be established
 8 by any of the following:

9 (1) One (1) or more counties and one (1) or more adjacent
 10 counties:

11 (2) One (1) or more counties and one (1) or more qualified cities
 12 in adjacent counties:

13 (3) One (1) or more qualified cities and one (1) or more qualified
 14 cities in adjacent counties:

15 (1) Any combination of two (2) or more:

16 (A) counties;

17 (B) qualified cities;

18 (C) third class cities; or

19 (D) towns;

20 if the total combined population equals or exceeds one
 21 hundred thousand (100,000).

22 (2) Any combination of five (5) or more:

23 (A) counties;

24 (B) qualified cities;

25 (C) third class cities; or

26 (D) towns;

27 if the total combined population does not exceed one hundred
 28 thousand (100,000).

29 For the purposes of determining the population of a county under
 30 this subsection, the population of the county does not include the
 31 populations of any qualified cities, third class cities, or towns in the
 32 county that are seeking to establish a development authority with
 33 the county. A development authority established under this section
 34 before July 1, 2019, continues in existence after June 30, 2019,
 35 unless otherwise terminated under this article.

36 (b) A county, or qualified city, **third class city, or town** may
 37 participate in the establishment of a development authority under this
 38 section and become a member of the development authority only if the
 39 fiscal body of the county, or qualified city, **third class city, or town**
 40 adopts an ordinance authorizing the county, or qualified city, **third**
 41 **class city, or town** to participate in the establishment of the
 42 development authority.



1 (c) **This subsection does not apply to the members of a**
 2 **development authority that is formed after June 30, 2019.** When a
 3 county establishes a development authority with another unit as
 4 provided in this chapter, each qualified city and third class city in the
 5 county also becomes a member of the development authority, without
 6 further action by the qualified city, **the** third class city, or the
 7 development authority.

8 (d) Notwithstanding any other provision of this article, a county or
 9 municipality may be a member of only one (1) development authority.

10 (e) Notwithstanding any other provision of this article, a county or
 11 municipality that is a member of the northwest Indiana regional
 12 development authority under IC 36-7.5 may not be a member of a
 13 development authority under this article.

14 (f) A development authority shall notify the Indiana economic
 15 development corporation in writing promptly after the development
 16 authority is established.

17 SECTION 61. IC 36-7.6-2-4, AS AMENDED BY P.L.178-2015,
 18 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2019]: Sec. 4. (a) A county that:

20 (1) is not a member of a development authority; and

21 (2) is adjacent to a county that:

22 (A) is a member of a development authority; or

23 (B) contains a member of a development authority;

24 may join that development authority under this article.

25 (b) A qualified city or a third class city that:

26 (1) is not a member of a development authority; and

27 (2) is located in a county that:

28 (A) is adjacent to a county that is a member of a development
 29 authority; or

30 (B) is adjacent to a county containing a member of a
 31 development authority;

32 may join that development authority under this article.

33 (c) A town that:

34 (1) is not a member of a development authority; and

35 (2) is located in a county that:

36 (A) is a member of a development authority;

37 (B) is adjacent to a county that is a member of a development
 38 authority; or

39 (C) is adjacent to a county containing a member of a
 40 development authority;

41 may join that development authority under this article.

42 (d) A county or qualified city described in subsection (a), (b), or (c)



1 may join a development authority under this article only if:

2 (1) the fiscal body of the county, qualified city, third class city, or
 3 town adopts an ordinance authorizing the county, qualified city,
 4 third class city, or town to become a member of the development
 5 authority; and

6 (2) the development board of the development authority adopts a
 7 resolution authorizing the county, qualified city, third class city,
 8 or town to become a member of the development authority.

9 (e) A county, qualified city, third class city, or town becomes a
 10 member of a development authority upon passage of a resolution under
 11 subsection (d)(2) authorizing the county, qualified city, third class city,
 12 or town to become a member of the development authority.

13 (f) **This subsection does not apply to the members of a**
 14 **development authority that is formed after June 30, 2019.**
 15 Notwithstanding subsection (e), if a county joins a development
 16 authority under this section, each qualified city and third class city in
 17 the county also becomes a member of the development authority,
 18 without further action by the qualified city, ~~the~~ third class city, or the
 19 development authority.

20 (g) A development authority shall notify the Indiana economic
 21 development corporation promptly in writing when a new member
 22 joins the development authority.

23 SECTION 62. IC 36-7.6-2-5, AS AMENDED BY P.L.178-2015,
 24 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2019]: Sec. 5. (a) This section applies to a county, qualified
 26 city, third class city, or town authorized to establish or join a
 27 development authority under this article.

28 (b) A county, qualified city, third class city, or town described in
 29 subsection (a) shall be a member of the development authority for at
 30 least ~~eight (8)~~ **twelve (12)** years **and not more than twenty-two (22)**
 31 **years** after the date the county, qualified city, third class city, or town
 32 becomes a member of the development authority.

33 (c) At least twelve (12) months and not more than eighteen (18)
 34 months before the end of a county's, qualified city's, third class city's,
 35 or town's membership period under subsection (b) or this subsection,
 36 the county, qualified city, third class city, or town described in
 37 subsection (a) must adopt an ordinance that:

38 (1) commits the county, qualified city, third class city, or town to
 39 **at least** an additional ~~eight (8)~~ **twelve (12)** years **and not more**
 40 **than twenty-two (22) years** as a member of the development
 41 authority, beginning at the end of the current membership period;
 42 or



- 1 (2) withdraws the county, qualified city, third class city, or town
 2 from membership in the development authority not earlier than
 3 the end of the current membership period.
- 4 (d) A county, qualified city, third class city, or town described in
 5 subsection (a) may withdraw from a development authority as provided
 6 in this section without the approval of the development board.
 7 However, the withdrawal of a county does not affect the membership
 8 of a qualified city or third class city that became a member of the
 9 development authority as a result of the county's membership.
- 10 (e) If at the end of a county's membership period a county described
 11 in subsection (a) does not withdraw from the development authority
 12 under this section and remains a member of the development authority,
 13 the qualified cities and third class cities in the county may not
 14 withdraw from the development authority and remain members of the
 15 development authority.
- 16 (f) A development authority shall notify the Indiana economic
 17 development corporation promptly in writing when a member
 18 withdraws from the development authority.
- 19 SECTION 63. IC 36-7.6-2-7, AS AMENDED BY P.L.178-2015,
 20 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2019]: Sec. 7. (a) A development authority is governed by a
 22 development board appointed under this section.
- 23 (b) A development board is composed of five (5) members
 24 appointed by written agreement of the executives of the members of the
 25 development authority. **However, for a development authority:**
 26 **(1) established after June 30, 2019; or**
 27 **(2) whose members have adopted a resolution to be covered**
 28 **by section 11.5 of this chapter;**
 29 **the development board is composed of the executives of the**
 30 **members of the development authority.**
- 31 (c) **This subsection applies to a development authority**
 32 **established before July 1, 2019, and that is not covered by**
 33 **subsection (b)(2).** A member appointed to the development board:
 34 (1) may not be an elected official or an employee of a member
 35 county or municipality; and
 36 (2) must have knowledge of and at least five (5) years
 37 professional work experience in at least one (1) of the following:
 38 (A) Transportation.
 39 (B) Regional economic development.
 40 (C) Business or finance.
 41 (D) Private, nonprofit sector, or academia.
- 42 SECTION 64. IC 36-7.6-2-9, AS AMENDED BY P.L.178-2015,



1 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2019]: Sec. 9. (a) **This subsection applies to a development
3 authority established before July 1, 2019, and that is not covered
4 by section 7(b)(2) of this chapter.** A member appointed to a
5 development board serves a four (4) year term. A member may be
6 reappointed to subsequent terms.

7 (b) **This subsection applies to a development authority
8 established before July 1, 2019, and that is not covered by section
9 7(b)(2) of this chapter.** A member of a development board may only
10 be removed from the development board before the expiration of the
11 four (4) year term by written agreement of at least three-fourths (3/4)
12 of the executives of the members of the development authority.

13 (c) **This subsection applies to a development authority
14 established before July 1, 2019, and that is not covered by section
15 7(b)(2) of this chapter.** If a vacancy occurs on a development board,
16 the executives of the members of the development authority at the time
17 of the vacancy shall fill the vacancy by appointing a new member for
18 the remainder of the vacated term and as otherwise provided in
19 subsection (a).

20 (d) **This subsection applies to a development authority
21 established after June 30, 2019, or that is covered by section 7(b)(2)
22 of this chapter. A member of a development board who ceases to
23 be an executive of a member of the development authority
24 simultaneously ceases to be a member of the development board.
25 The vacancy shall be filled by the next executive of the member of
26 the development authority.**

27 ~~(d)~~ (e) Each member appointed to of a development board, before
28 entering upon the duties of office, must take and subscribe an oath of
29 office under IC 5-4-1, which shall be endorsed upon the certificate of
30 appointment and filed with the records of the development board.

31 ~~(e)~~ (f) A member appointed to of a development board is not
32 entitled to receive any compensation for performance of the member's
33 duties. However, a member is entitled to a per diem from the
34 development authority for the member's participation in development
35 board meetings. The amount of the per diem is equal to the amount of
36 the per diem provided under IC 4-10-11-2.1(b).

37 SECTION 65. IC 36-7.6-2-11.5 IS ADDED TO THE INDIANA
38 CODE AS A NEW SECTION TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2019]: **Sec. 11.5. (a) This section applies to
40 the members of a development authority that is:**

- 41 (1) established after June 30, 2019; or
42 (2) established before July 1, 2019, if the fiscal body of each



- 1 member adopts a substantially similar resolution to be
 2 covered by this section.
- 3 (b) The fiscal bodies of counties or municipalities that are
 4 members of a development authority shall each adopt by
 5 substantially similar resolutions a development authority plan for
 6 the development authority.
- 7 (c) A development authority plan must include the following:
- 8 (1) The tax rates that each member must adopt under:
- 9 (A) IC 6-3.6-7-24; or
 10 (B) IC 6-9-54.
- 11 (2) A description of the method to be used in determining the
 12 weight of each member's vote in the development authority,
 13 which may include factors such as population, anticipated
 14 annual revenue contribution to the development authority, or
 15 other factors that the development authority considers
 16 relevant for establishing the weight of each member's vote for
 17 purposes of conducting development authority business.
- 18 (d) The following apply to the revenue sources described in
 19 subsection (c)(1) that are to be pledged to the development
 20 authority:
- 21 (1) After June 30, 2021, each member shall impose either:
- 22 (A) the local income tax rate under IC 6-3.6-7-24; or
 23 (B) the regional development food and beverage tax under
 24 IC 6-9-54;
- 25 while the member continues its membership in the regional
 26 development authority.
- 27 (2) Each member may independently elect whether to impose:
- 28 (A) the local income tax rate under IC 6-3.6-7-24; or
 29 (B) the regional development food and beverage tax under
 30 IC 6-9-54.
- 31 (3) If a member elects to impose the local income tax rate
 32 under IC 6-3.6-7-24, the member must impose the local
 33 income tax under IC 6-3.6-7-24 at the local income tax rate
 34 specified in the development authority plan.
- 35 (4) If a member elects to impose the regional development
 36 food and beverage tax under IC 6-9-54, the member must
 37 impose the regional development food and beverage tax at the
 38 food and beverage tax rate specified in the development
 39 authority plan.
- 40 SECTION 66. IC 36-7.6-2-14, AS AMENDED BY P.L.237-2017,
 41 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2019]: Sec. 14. (a) The office of management and budget shall



1 contract with a certified public accountant for an annual financial audit
2 of each development authority. The certified public accountant may not
3 have a significant financial interest, as determined by the office of
4 management and budget, in a project, facility, or service funded by or
5 leased by or to any development authority.

6 (b) The certified public accountant shall present an audit report not
7 later than four (4) months after the end of each calendar year and shall
8 make recommendations to improve the efficiency of development
9 authority operations. The certified public accountant shall also perform
10 a study and evaluation of internal accounting controls and shall express
11 an opinion on the controls that were in effect during the audit period.

12 (c) A development authority shall pay the cost of the annual
13 financial audit under subsection (a). In addition, the state board of
14 accounts may at any time conduct an audit of any phase of the
15 operations of a development authority. ~~A development authority shall
16 pay the cost of any audit by the state board of accounts.~~

17 (d) The office of management and budget may waive the
18 requirement that a certified public accountant perform an annual
19 financial audit of a development authority for a particular year if the
20 development authority certifies to the office of management and budget
21 that the development authority had no financial activity during that
22 year.

23 SECTION 67. IC 36-7.6-3-2, AS AMENDED BY P.L.86-2018,
24 SECTION 351, IS AMENDED TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A development authority may
26 do any of the following:

- 27 (1) Finance, improve, construct, reconstruct, renovate, purchase,
28 lease, acquire, and equip land and projects that are of regional
29 importance.
- 30 (2) Lease land or a project to an eligible political subdivision.
- 31 (3) Finance and construct additional improvements to projects or
32 other capital improvements owned by the development authority
33 and lease them to or for the benefit of an eligible political
34 subdivision.
- 35 (4) Construct or reconstruct highways, roads, and bridges.
- 36 (5) Acquire land or all or a part of one (1) or more projects from
37 an eligible political subdivision by purchase or lease and lease the
38 land or projects back to the eligible political subdivision, with any
39 additional improvements that may be made to the land or projects.
- 40 (6) Acquire all or a part of one (1) or more projects from an
41 eligible political subdivision by purchase or lease to fund or
42 refund indebtedness incurred on account of the projects to enable



- 1 the eligible political subdivision to make a savings in debt service
- 2 obligations or lease rental obligations or to obtain relief from
- 3 covenants that the eligible political subdivision considers to be
- 4 unduly burdensome.
- 5 (7) Make loans, loan guarantees, and grants or provide other
- 6 financial assistance to or on behalf of the following:
- 7 (A) A commuter transportation district.
- 8 (B) An airport authority.
- 9 (C) A regional transportation authority. A loan, a loan
- 10 guarantee, a grant, or other financial assistance under this
- 11 clause may be used by a regional transportation authority for
- 12 acquiring, improving, operating, maintaining, financing, and
- 13 supporting the following:
- 14 (i) Bus services (including fixed route services and flexible
- 15 or demand-responsive services) that are a component of a
- 16 public transportation system.
- 17 (ii) Bus terminals, stations, or facilities or other regional bus
- 18 authority projects.
- 19 (D) A county.
- 20 (E) A municipality.
- 21 (8) Provide funding to assist a railroad that is providing commuter
- 22 transportation services in a county containing territory included
- 23 in the development authority.
- 24 (9) Provide funding to assist an airport authority located in a
- 25 county containing territory included in the development authority
- 26 in the construction, reconstruction, renovation, purchase, lease,
- 27 acquisition, and equipping of an airport facility or airport project.
- 28 (10) Provide funding for intermodal transportation projects and
- 29 facilities.
- 30 (11) Provide funding for regional trails and greenways.
- 31 (12) Provide funding for economic development projects.
- 32 (13) Provide funding for regional transportation infrastructure
- 33 projects under IC 36-9-43.
- 34 (14) Hold, use, lease, rent, purchase, acquire, and dispose of by
- 35 purchase, exchange, gift, bequest, grant, condemnation (subject
- 36 to subsection (d)), lease, or sublease, on the terms and conditions
- 37 determined by the development authority, any real or personal
- 38 property.
- 39 (15) After giving notice, enter upon any lots or lands for the
- 40 purpose of surveying or examining them to determine the location
- 41 of a project.
- 42 (16) Make or enter into all contracts and agreements necessary or



1 incidental to the performance of the development authority's
2 duties and the execution of the development authority's powers
3 under this article.
4 (17) Sue, be sued, plead, and be impleaded.
5 (18) Design, order, contract for, construct, reconstruct, and
6 renovate a project or improvements to a project.
7 (19) Appoint an executive director and employ appraisers, real
8 estate experts, engineers, architects, surveyors, attorneys,
9 accountants, auditors, clerks, construction managers, and any
10 consultants or employees that are necessary or desired by the
11 development authority in exercising its powers or carrying out its
12 duties under this article.
13 (20) Accept loans, grants, and other forms of financial assistance
14 from the federal government, the state government, a political
15 subdivision, or any other public or private source.
16 (21) Use the development authority's funds to match federal
17 grants or make loans, loan guarantees, or grants to carry out the
18 development authority's powers and duties under this article.
19 **(22) Issue bonds under IC 36-7.6-4-3.**
20 ~~(22)~~ **(23)** Except as prohibited by law, take any action necessary
21 to carry out this article.
22 (b) Projects funded by a development authority must be of regional
23 importance.
24 (c) If a development authority is unable to agree with the owners,
25 lessees, or occupants of any real property selected for the purposes of
26 this article, the development authority may (subject to subsection (d))
27 proceed under IC 32-24-1 to procure the condemnation of the property.
28 The development authority may not institute a proceeding until it has
29 adopted a resolution that:
30 (1) describes the real property sought to be acquired and the
31 purpose for which the real property is to be used;
32 (2) declares that the public interest and necessity require the
33 acquisition by the development authority of the property involved;
34 and
35 (3) sets out any other facts that the development authority
36 considers necessary or pertinent.
37 The resolution is conclusive evidence of the public necessity of the
38 proposed acquisition.
39 (d) A development authority may exercise the power of eminent
40 domain as provided in subsections (a)(14) and (c) concerning a
41 particular property only if that exercise of the power of eminent domain
42 is approved by:



- 1 (1) the legislative body of the municipality in which the property
- 2 is located; or
- 3 (2) the legislative body of the county in which the property is
- 4 located, if the property is not located within a municipality.

5 SECTION 68. IC 36-7.6-3-5, AS AMENDED BY P.L.237-2017,
 6 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2019]: Sec. 5. ~~(a)~~ A development authority **that applies for**
 8 **a grant or loan under IC 5-28-38** shall prepare a comprehensive
 9 strategic development plan that includes detailed information
 10 concerning the following:

- 11 (1) The proposed projects ~~to be undertaken or financed for which~~
 12 **the grant or loan is sought** by the development authority.
- 13 (2) The following information for each project included under
 14 subdivision (1):
- 15 (A) Timeline and budget.
- 16 (B) The return on investment.
- 17 (C) The projected or expected need for an ongoing subsidy.
- 18 (D) Any projected or expected federal matching funds.

19 ~~(b) The development authority shall, not later than January 1 of the~~
 20 ~~second year following the year in which the development authority is~~
 21 ~~established, submit the comprehensive strategic development plan for~~
 22 ~~review by the budget committee and approval by the director of the~~
 23 ~~office of management and budget and the Indiana economic~~
 24 ~~development corporation. However, a development authority that has~~
 25 ~~already submitted its comprehensive strategic development plan as part~~
 26 ~~of an application for a grant or a loan under IC 5-28-37 (before its~~
 27 ~~repeal) or IC 5-28-38 is not required to resubmit its comprehensive~~
 28 ~~strategic development plan under this subsection.~~

29 SECTION 69. IC 36-7.6-4-1, AS AMENDED BY P.L.178-2015,
 30 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2019]: Sec. 1. (a) A development board shall establish and
 32 administer a development authority fund.

- 33 (b) A development authority fund consists of the following:
- 34 (1) Amounts transferred under section 2 of this chapter by each
- 35 county and municipality that is a member of the development
- 36 authority.
- 37 (2) Amounts transferred to the fund by each county or
- 38 municipality that is a member of the development authority,
- 39 including any payments required under an interlocal agreement
- 40 ~~entered into under section 3(h) of this chapter. for a project that~~
 41 **specifically states:**
- 42 (A) **the amount for which each member is responsible; and**



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(B) the term of the agreement.

The transfers allowed by this subdivision may be made from any local revenue of the county or municipality, including property tax revenue, **food and beverage tax revenue**, distributions, incentive payments, money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16, money received by the county or municipality under a development agreement (as defined by IC 36-1-8-9.5), or any other local revenue that is not otherwise restricted by law or committed for the payment of other obligations.

(3) Appropriations, grants, or other distributions made to the fund by the state.

(4) Money received from the federal government.

(5) Gifts, contributions, donations, and private grants made to the fund.

(6) Money transferred to the redevelopment authority under an interlocal agreement entered into under section 6(b)(3) of this chapter.

(c) On the date a development authority issues bonds for any purpose under this article, which are secured in whole or in part by the development authority fund, the development board shall, **in addition to the general account**, establish and administer ~~two (2)~~ **accounts within the development authority fund. The accounts must be the general account and the lease rental a debt service account.** After the ~~accounts are~~ **debt service account is** established, ~~an amount of~~ **money that is sufficient to meet the requirements specified in the agreements governing the development authority's outstanding debt obligations shall be** transferred to the development authority fund under subsection (b)(1) **and** shall be deposited in the ~~lease rental debt service~~ **debt service** account and used only for the payment of or to secure the payment of **outstanding debt** obligations of an eligible political subdivision under a lease entered into by the eligible political subdivision and the development authority. ~~under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the secretary-treasurer of the development authority to the unit that contributed the money to the development authority.~~

(d) Notwithstanding subsection (c), if the amount of all money transferred to a development authority fund under subsection (b)(1) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to the product of:

(1) one and twenty-five hundredths (1.25); multiplied by



1 (2) the total of the highest annual debt service on any bonds then
 2 outstanding to their final maturity date, which have been issued
 3 under this article and are not secured by a lease, plus the highest
 4 annual lease payments on any leases to their final maturity, which
 5 are then in effect under this article;
 6 then all or a part of the excess may instead be deposited in the general
 7 account.

8 ~~(e)~~ **(d)** All other money and revenue of a development authority may
 9 be deposited in the general account or the ~~lease rental debt service~~
 10 account at the discretion of the development board. Money on deposit
 11 in the ~~lease rental debt service~~ account may be used only to make
 12 **payments of principal and interest on debt obligations issued or**
 13 rental payments on leases entered into by the development authority
 14 under this article. Money on deposit in the general account may be used
 15 for any purpose authorized by this article.

16 ~~(f)~~ **(e)** A development authority fund shall be administered by the
 17 development authority that established the development authority fund.

18 ~~(g)~~ **(f)** Money in a development authority fund shall be used by the
 19 development authority to carry out this article and does not revert to
 20 any other fund.

21 SECTION 70. IC 36-7.6-4-2, AS AMENDED BY P.L.197-2016,
 22 SECTION 145, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2019]: Sec. 2. ~~(a) This section applies only to~~
 24 ~~a development authority and its member counties and municipalities to~~
 25 ~~the extent necessary to make required payments and maintain a~~
 26 ~~required reserve for debt obligations or leases that were issued or~~
 27 ~~entered into by the development authority before May 1, 2015.~~

28 ~~(b)~~ **(a)** Beginning January 1 of the year following the year in which
 29 a development authority is established, the fiscal officer of each county
 30 and each municipality that is a member of the development authority
 31 shall transfer the amount determined under subsection ~~(e)~~ **(b)** to the
 32 development authority for deposit in the development authority fund.

33 ~~(e)~~ **(b)** The amount of the transfer required each year by subsection
 34 ~~(b)~~ **(a)** from each county and each municipality is equal to the
 35 following:

36 (1) Except as provided in subdivision (2), **(3), or (4)**, the amount
 37 that would be distributed to the county or the municipality as
 38 certified distributions of local income tax revenue raised from a
 39 local income tax rate of five-hundredths of one percent (0.05%)
 40 in the county that is dedicated to economic development purposes
 41 under IC 6-3.6-6.

42 (2) In the case of a county or municipality that becomes a member



1 of a development authority after June 30, 2011, and before July 1,
 2 2013, the amount that would be distributed to the county or
 3 municipality as certified distributions of local income tax revenue
 4 raised from a local income tax rate of twenty-five thousandths of
 5 one percent (0.025%) in the county that is dedicated to economic
 6 development purposes under IC 6-3.6-6.

7 **(3) In the case of a county or municipality that becomes a**
 8 **member of a development authority after June 30, 2019, fifty**
 9 **percent (50%) of the revenue that would be distributed to the**
 10 **county or municipality from the imposition of either of the**
 11 **following, as applicable:**

12 (A) The local income tax revenue raised under
 13 IC 6-3.6-7-24.

14 (B) The regional development food and beverage tax
 15 revenue raised under IC 6-9-54.

16 **(4) In the case of a development authority formed before July**
 17 **1, 2019, that elects to be governed under this subdivision, fifty**
 18 **percent (50%) of the amount that would be distributed to the**
 19 **county or municipality from the imposition of either of the**
 20 **following, as applicable:**

21 (A) The local income tax revenue raised under
 22 IC 6-3.6-7-24.

23 (B) The regional development food and beverage tax
 24 revenue raised under IC 6-9-54.

25 **(c) A development authority is not eligible to operate under**
 26 **subsection (b)(4) until the fiscal body of each county and each**
 27 **municipality that is a member of the development authority adopts**
 28 **an ordinance:**

29 **(1) imposing a local income tax under IC 6-3.6-7-24 at the**
 30 **local income tax rate specified in the development authority**
 31 **plan; or**

32 **(2) imposing the regional development food and beverage tax**
 33 **under IC 6-9-54 at the food and beverage tax rate specified in**
 34 **the development authority plan.**

35 **(d) Notwithstanding subsection (c); (b), if the additional local**
 36 **income tax rate permitted under IC 6-3.6-7-24 or the regional**
 37 **development food and beverage tax permitted under IC 6-9-54 is**
 38 **in effect in a county, the obligations of the county and each**
 39 **municipality in the county under this section are satisfied by the**
 40 **transfer to the development fund of all local income tax revenue**
 41 **derived from the additional tax and deposited in the county regional**
 42 **development authority fund: fifty percent (50%) of revenue derived**



- 1 **from:**
2 **(1) the additional local income tax imposed under**
3 **IC 6-3.6-7-24; or**
4 **(2) the regional development food and beverage tax imposed**
5 **under IC 6-9-54;**
6 **and deposited in the county regional development authority fund.**
7 (e) The following apply to the transfers required by this section:
8 (1) The transfers shall be made without appropriation by the fiscal
9 body of the county or the fiscal body of the municipality.
10 (2) Except as provided in subdivision (3), the fiscal officer of
11 each county and each municipality that is a member of the
12 development authority shall transfer twenty-five percent (25%) of
13 the total transfers due for the year before the last business day of
14 January, April, July, and October of each year.
15 (3) Local income tax revenue derived from the additional local
16 income tax rate permitted under IC 6-3.6-7-24 **or the regional**
17 **development food and beverage tax under IC 6-9-54** must be
18 transferred to the development fund not more than thirty (30) days
19 after being deposited in the county regional development fund.
20 (4) This subdivision does not apply to a county in which the
21 additional local income tax rate permitted under IC 6-3.6-7-24 has
22 been imposed or to any municipality in the county. The transfers
23 required by this section may be made from any local revenue
24 (other than property tax revenue) of the county or municipality,
25 including excise tax revenue, local income tax revenue, **food and**
26 **beverage tax revenue**, riverboat tax revenue, distributions,
27 incentive payments, or money deposited in the county's or
28 municipality's local major moves construction fund under
29 IC 8-14-16.
30 SECTION 71. IC 36-7.6-4-3, AS AMENDED BY P.L.178-2015,
31 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2019]: Sec. 3. (a) A development authority may issue bonds
33 for the purpose of obtaining money to pay the cost of:
34 (1) acquiring real or personal property, including existing capital
35 improvements;
36 (2) acquiring, constructing, improving, reconstructing, or
37 renovating one (1) or more projects; or
38 (3) funding or refunding bonds issued under this chapter,
39 IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law.
40 (b) The bonds are payable solely from:
41 (1) the lease rentals from the lease of the projects for which the
42 bonds were issued, insurance proceeds, and any other funds



- 1 pledged or available; and
- 2 (2) except as otherwise provided by law, revenue received by the
- 3 development authority and amounts deposited in the development
- 4 authority fund.
- 5 (c) The bonds must be authorized by a resolution of the
- 6 development board of the development authority that issues the bonds.
- 7 (d) The terms and form of the bonds must either be set out in the
- 8 resolution or in a form of trust indenture approved by the resolution.
- 9 (e) The bonds must mature within forty (40) years.
- 10 ~~(f) A development board shall sell the bonds only to the Indiana~~
- 11 ~~bond bank established by IC 5-1.5-2-1 upon the terms determined by~~
- 12 ~~the development board and the Indiana bond bank.~~
- 13 ~~(g)~~ (f) All money received from any bonds issued under this chapter
- 14 shall be applied solely to the payment of the cost of acquiring,
- 15 constructing, improving, reconstructing, or renovating one (1) or more
- 16 projects, or the cost of refunding or refinancing outstanding bonds, for
- 17 which the bonds are issued. The cost may include:
- 18 (1) planning and development of equipment or a facility and all
- 19 buildings, facilities, structures, equipment, and improvements
- 20 related to the facility;
- 21 (2) acquisition of a site and clearing and preparing the site for
- 22 construction;
- 23 (3) equipment, facilities, structures, and improvements that are
- 24 necessary or desirable to make the project suitable for use and
- 25 operations;
- 26 (4) architectural, engineering, consultant, and attorney's fees;
- 27 (5) incidental expenses in connection with the issuance and sale
- 28 of bonds;
- 29 (6) reserves for principal and interest;
- 30 (7) interest during construction;
- 31 (8) financial advisory fees;
- 32 (9) insurance during construction;
- 33 (10) municipal bond insurance, debt service reserve insurance,
- 34 letters of credit, or other credit enhancement; and
- 35 (11) in the case of refunding or refinancing, payment of the
- 36 principal of, redemption premiums (if any) for, and interest on the
- 37 bonds being refunded or refinanced.
- 38 ~~(h) A development authority may not issue bonds under this article~~
- 39 ~~or otherwise finance debt unless:~~
- 40 ~~(1) the development authority enters into an interlocal agreement~~
- 41 ~~with each member that is committing funds to a project to be~~
- 42 ~~supported by the bonds; and~~



1 (2) the fiscal body of each member that is committing funds to the
2 project to be supported by the bonds approves the agreement
3 described in subdivision (1) by ordinance.

4 SECTION 72. IC 36-7.6-4-5, AS ADDED BY P.L.232-2007,
5 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2019]: Sec. 5. (a) A development authority may secure bonds
7 issued under this chapter by a trust indenture between the development
8 authority and a corporate trustee, which may be any trust company or
9 national or state bank in Indiana that has trust powers.

10 (b) The trust indenture may:

11 (1) pledge or assign revenue received by the development
12 authority, amounts deposited in the development authority fund
13 **and the debt service fund**, and lease rentals, receipts, and
14 income from leased projects, but may not mortgage land or
15 projects;

16 (2) contain reasonable and proper provisions for protecting and
17 enforcing the rights and remedies of the bondholders, including
18 covenants setting forth the duties of the development authority
19 and development board;

20 (3) set forth the rights and remedies of bondholders and trustees;
21 and

22 (4) restrict the individual right of action of bondholders.

23 (c) Any pledge or assignment made by the development authority
24 under this section is valid and binding in accordance with IC 5-1-14-4
25 from the time that the pledge or assignment is made, against all persons
26 whether they have notice of the lien or not. Any trust indenture by
27 which a pledge is created or an assignment made need not be filed or
28 recorded. The lien is perfected against third parties in accordance with
29 IC 5-1-14-4.

30 SECTION 73. IC 36-7.6-4-6, AS ADDED BY P.L.232-2007,
31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2019]: Sec. 6. (a) Bonds issued under IC 8-5-15, IC 8-22-3,
33 IC 36-9-3, or prior law may be refunded as provided in this section.

34 (b) An eligible political subdivision may **do any of the following**:

35 (1) Lease all or a part of land or a project or projects to a
36 development authority, which may be at a nominal lease rental
37 with a lease back to the eligible political subdivision, conditioned
38 upon the development authority assuming bonds issued under
39 IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law and issuing its bonds
40 to refund those bonds. ~~and~~

41 (2) Sell all or a part of land or a project or projects to a
42 development authority for a price sufficient to provide for the



- 1 refunding of those bonds and lease back the land or project or
- 2 projects from the development authority.
- 3 **(3) Enter into an interlocal agreement with the redevelopment**
- 4 **authority.**
- 5 SECTION 74. IC 36-7.6-4-7, AS ADDED BY P.L.232-2007,
- 6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2019]: Sec. 7. (a) Before a lease may be entered into by an
- 8 eligible political subdivision under this chapter, the eligible political
- 9 subdivision must find that the lease rental provided for is fair and
- 10 reasonable.
- 11 (b) A lease of land or a project from a development authority to an
- 12 eligible political subdivision:
- 13 (1) may not have a term exceeding forty (40) years;
- 14 (2) may not require payment of lease rentals for a newly
- 15 constructed project or for improvements to an existing project
- 16 until the project or improvements to the project have been
- 17 completed and are ready for occupancy or use;
- 18 (3) may contain provisions:
- 19 (A) allowing the eligible political subdivision to continue to
- 20 operate an existing project until completion of the acquisition,
- 21 improvements, reconstruction, or renovation of that project or
- 22 any other project; and
- 23 (B) requiring payment of lease rentals for land, for an existing
- 24 project being used, reconstructed, or renovated, or for any other
- 25 existing project;
- 26 (4) may contain an option to renew the lease for the same or a
- 27 shorter term on the conditions provided in the lease;
- 28 (5) must contain an option for the eligible political subdivision to
- 29 purchase the project upon the terms stated in the lease during the
- 30 term of the lease for a price equal to the amount required to pay
- 31 all indebtedness incurred on account of the project, including
- 32 indebtedness incurred for the refunding of that indebtedness;
- 33 (6) may be entered into before acquisition or construction of a
- 34 project;
- 35 (7) may provide that the eligible political subdivision shall agree
- 36 to:
- 37 (A) pay any taxes and assessments on the project;
- 38 (B) maintain insurance on the project for the benefit of the
- 39 development authority;
- 40 (C) assume responsibility for utilities, repairs, alterations, and
- 41 any costs of operation; and
- 42 (D) pay a deposit or series of deposits to the development



1 authority from any funds available to the eligible political
 2 subdivision before the commencement of the lease to secure the
 3 performance of the eligible political subdivision's obligations
 4 under the lease; and

5 (8) ~~must~~ **may** provide that the lease rental payments by the
 6 eligible political subdivision shall be made from **any**
 7 **combination of:**

8 ~~(A)~~ **(A)** the development authority fund established under section
 9 1 of this chapter; ~~and may provide that the lease rental~~
 10 ~~payments by the eligible political subdivision shall be made~~
 11 ~~from:~~

12 ~~(A)~~ **(B)** the net revenues of the project; **or**

13 ~~(B)~~ **(C)** any other funds available to the eligible political
 14 subdivision. **or**

15 ~~(C)~~ **(D)** both sources described in clauses ~~(A)~~ and ~~(B)~~.

16 SECTION 75. IC 36-7.6-4-16, AS AMENDED BY P.L.178-2015,
 17 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2019]: Sec. 16. (a) This section applies if the county or
 19 municipality fails to make a transfer or part of a transfer required by:

20 (1) section 2 of this chapter; or

21 (2) an interlocal agreement executed under section ~~3(h)~~ **1(b)(2)**
 22 **or 6(b)(3)** of this chapter that is required to satisfy the county's or
 23 municipality's obligation to contribute to the satisfaction of
 24 outstanding bonds or other debt of the development authority.

25 (b) The treasurer of state shall do the following:

26 (1) Withhold an amount equal to the amount of the transfer or part
 27 of the transfer under section 2 of this chapter that the county or
 28 municipality failed to make from money in the possession of the
 29 state that would otherwise be available for distribution to the
 30 county or municipality under any other law.

31 (2) Pay the amount withheld under subdivision (1) to the
 32 development authority to satisfy the county's or municipality's
 33 obligations to the development authority.

34 SECTION 76. IC 36-7.6-4-17, AS ADDED BY P.L.232-2007,
 35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2019]: Sec. 17. (a) If there are bonds outstanding that have
 37 been issued under this article by a development authority, ~~and are not~~
 38 ~~secured by a lease~~; or if there are leases in effect under this article, the
 39 general assembly covenants that it will not reduce the amount required
 40 to be transferred under section 2 of this chapter from a county or
 41 municipality that is a member of a development authority to the
 42 development authority below an amount that would produce one and



1 twenty-five hundredths (1.25) multiplied by the total of the highest
 2 annual debt service on the bonds to their final maturity plus the highest
 3 annual lease payments on the leases to their final termination date.

4 (b) The general assembly also covenants that it will not:

5 (1) repeal or amend this article in a manner that would adversely
 6 affect owners of outstanding bonds, or the payment of lease
 7 rentals, secured by the amounts pledged under this chapter; or

8 (2) in any way impair the rights of owners of bonds of a
 9 development authority, or the owners of bonds secured by lease
 10 rentals, secured by a pledge of revenues under this chapter;

11 except as otherwise set forth in subsection (a).

12 SECTION 77. [EFFECTIVE JULY 1, 2019] (a) **The following**
 13 **definitions apply throughout this SECTION:**

14 (1) **"Rental equipment" means tangible personal property**
 15 **(including attachments used with the tangible personal**
 16 **property):**

17 (A) **that is held by a retail merchant for rent or lease to**
 18 **another person;**

19 (B) **that is not intended to be permanently affixed to any**
 20 **real property; and**

21 (C) **that is not subject to registration under IC 9-18.1 for**
 22 **use on a public highway (as defined in IC 9-25-2-4).**

23 **The term does not include personal property that is rented for**
 24 **mining purposes or personal property that is eligible for a**
 25 **property tax abatement deduction under IC 6-1.1-12.1 during**
 26 **the calendar year.**

27 (2) **"Retail merchant" has the meaning set forth in**
 28 **IC 6-2.5-1-8.**

29 (b) **A retail merchant engaged in the business of renting rental**
 30 **equipment may elect to have IC 6-6-15, as amended by this act,**
 31 **apply to the retail merchant's transactions involving the rental of**
 32 **rental equipment for 2020 by making the election in the manner**
 33 **prescribed by the department before October 1, 2019.**

34 (c) **A retail merchant's election under subsection (b) for 2020**
 35 **applies:**

36 (1) **to all of the retail merchant's rental equipment in Indiana;**
 37 **and**

38 (2) **to all of the retail merchant's locations in Indiana,**
 39 **including any locations that open after the date of the election**
 40 **and before January 1, 2021.**

41 (d) **Except as otherwise provided in IC 6-6-15-4, as amended by**
 42 **this act, if a retail merchant properly makes the election under**



1 subsection (a) for 2020, IC 6-6-15, as amended by this act, applies
2 to each transaction during 2020 in which the retail merchant rents
3 rental equipment to another person.
4 (e) This SECTION expires January 1, 2020.
5 SECTION 78. [EFFECTIVE JANUARY 1, 2019
6 (RETROACTIVE)] (a) IC 6-3-1-3.5, IC 6-3-1-33, IC 6-3-2-2,
7 IC 6-3-3-9, IC 6-5.5-1-2, and IC 6-5.5-1-20, all as amended by this
8 act, apply to taxable years beginning after December 31, 2018.
9 (b) IC 6-3-2-2.5 and IC 6-3-2-2.6, both as amended by this act
10 apply to taxable years beginning after December 31, 2017.
11 (c) However, if a different taxable year is specified for the
12 application of any of the provisions referred to in subsection (a) or
13 (b), the specified taxable year applies.
14 (d) This SECTION expires June 30, 2022.
15 SECTION 79. 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:

(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:

(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.

SENATE MOTION

Madam President: I move that Senate Bill 565 be amended to read as follows:

Page 50, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 21. IC 6-8.1-5-1, AS AMENDED BY P.L.242-2015, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) As used in this section, "letter of findings" includes a supplemental letter of findings.

(b) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the

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best information available to the department. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The department shall send the person a notice of the proposed assessment through the United States mail.

(c) The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid, **including during an action appealed to the tax court under this chapter**. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

(d) The notice shall state that the person has forty-five (45) days from the date the notice is mailed, if the notice was mailed before January 1, 2011, and sixty (60) days from the date the notice is mailed, if the notice was mailed after December 31, 2010, to pay the assessment or to file a written protest. If the person files a protest and requires a hearing on the protest, the department shall:

- (1) set the hearing at the department's earliest convenient time; and
- (2) notify the person by United States mail of the time, date, and location of the hearing.

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

(f) After conducting a hearing on a protest, or after making a decision on a protest when no hearing is requested, the department shall issue a letter of findings and shall send a copy of the letter through the United States mail to the person who filed the protest and to the person's surety, if the surety was notified of the proposed assessment under subsection (b). The department may continue the hearing until a later date if the taxpayer presents additional information at the hearing or the taxpayer requests an opportunity to present additional information after the hearing.

(g) A person that disagrees with a decision in a letter of findings may request a rehearing not more than thirty (30) days after the date on which the letter of findings is issued by the department. The department shall consider the request and may grant the rehearing if the department reasonably believes that a rehearing would be in the best interests of the taxpayer and the state.

(h) If a person disagrees with a decision in a letter of findings, the person may appeal the decision to the tax court. However, the tax court does not have jurisdiction to hear an appeal that is filed more than ninety (90) days after the date on which:

- (1) the letter of findings is issued by the department, if the person



does not make a timely request for a rehearing under subsection (g) on the letter of findings; or

(2) the department issues a denial of the person's timely request for a rehearing under subsection (g) on the letter of findings.

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

(i) The tax court shall hear an appeal under subsection (h) de novo and without a jury. The tax court may do the following:

(1) Uphold or deny any part of the assessment that is appealed.

(2) Assess the court costs in a manner that the court believes to be equitable.

(3) Enjoin the collection of a listed tax under IC 33-26-6-2.

(j) The department shall demand payment, as provided in IC 6-8.1-8-2(a), of any part of the proposed tax assessment, interest, and penalties that it finds owing because:

(1) the person failed to properly respond within the sixty (60) day period;

(2) the person requested a hearing but failed to appear at that hearing; or

(3) after consideration of the evidence presented in the protest or hearing, the department finds that the person still owes tax.

(k) The department shall make the demand for payment in the manner provided in IC 6-8.1-8-2.

(l) Subsection (b) does not apply to a motor carrier fuel tax return.".
Page 50, line 22, delete "contemporaneous".

Page 50, line 27, delete "A record shall not include any information not".

Page 50, delete lines 28 through 29.

Page 50, line 36, strike "or".

Page 50, line 40, delete "of the person".

Page 50, line 42, delete "destruction." and insert "destruction; or".

Page 51, line 1, strike "In addition,".

Page 51, line 1, before "if" begin a new line block indented and insert:

"(3)".

Page 51, line 4, delete "the date on" and insert "**for a period**



during".

Page 51, line 5, delete "no longer".

Page 51, line 7, delete "and copying".

Page 51, delete lines 12 through 31, begin a new paragraph and insert:

"(e) The failure of a person to keep books and records in the ordinary course of business shall be considered for purposes of determining the weight of the evidence as it relates to the person's liability for a listed tax, and not for purposes of the admissibility of the evidence. In examining the evidence, the department and the courts may take into account any federal law regarding the probative value of such evidence."

Page 63, delete lines 6 through 42.

Delete pages 64 through 65.

Page 66, delete lines 1 through 19.

Renumber all SECTIONS consecutively.

(Reference is to SB 565 as printed February 13, 2019.)

HOLDMAN

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 565, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 5 with "[EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]".

Replace the effective date in SECTION 7 with "[EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]".

Replace the effective date in SECTION 12 with "[EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-2.3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. **(a)** The receipt of taxable gross receipts from transactions is subject to a tax rate of:

(1) for taxable years beginning before January 1, 2020, one and four-tenths percent (1.4%); and

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(2) for taxable years beginning after December 31, 2019, a rate determined by the department under subsection (b).

(b) Before September 1, 2019, and before September 1 of each year thereafter, the department shall determine the tax rate that applies in taxable years beginning in the following calendar year and shall publish the tax rate in the Indiana Register. The department shall determine the tax rate by calculating a tax rate that if applied to the taxable gross receipts for the immediately preceding state fiscal year would have resulted in two hundred two million one hundred forty-nine thousand one hundred seventy-two dollars (\$202,149,172) of utility receipts and utility services use taxes being owed for the immediately preceding state fiscal year."

Page 10, line 34, strike "twenty-five thousand".

Page 10, line 35, strike "dollars (\$25,000)." and insert "the sum of:

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

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

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

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

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

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

Page 12, line 39, strike "twenty-five thousand".

Page 12, line 40, strike "dollars (\$25,000)." and insert "the sum of:

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

(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal



Revenue Code on property acquired in an exchange if:

- (i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;
- (ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and
- (iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

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

Page 17, line 4, strike "twenty-five thousand".

Page 17, line 5, strike "dollars (\$25,000)." and insert "**the sum of:**

(A) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and
(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

- (i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;
- (ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and
- (iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

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

Page 19, line 18, strike "twenty-five thousand".

Page 19, line 19, strike "dollars (\$25,000)." and insert "**the sum of:**

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



deductions under Section 179 of the Internal Revenue Code were not elected as provided in clause (B); and
(B) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if:

- (i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;
- (ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and
- (iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

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

Page 21, line 26, strike "twenty-five thousand".

Page 21, line 27, strike "dollars (\$25,000)." and insert "**the sum of:**

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

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

- (i) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;
- (ii) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and
- (iii) the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

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



January 1, 2017."

Page 22, line 13, delete "(B)" and insert "**(B)**".

Page 23, line 14, after "of the" insert "**earnings and**".

Page 25, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 7. IC 6-3-1-33, AS AMENDED BY P.L.246-2005, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: Sec. 33. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, including the special depreciation allowance for 50-percent bonus depreciation property. **For taxable years beginning after December 31, 2017, the term does not include any amount of additional first-year special depreciation allowance under Section 168(k) of the Internal Revenue Code in the amount of adjusted gross income realized on the exchange of property that otherwise would have been deferred under Section 1031 of the Internal Revenue Code in effect on January 1, 2017, if:**

- (1) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;**
- (2) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and**
- (3) the taxpayer claimed a deduction for the additional first-year special depreciation allowance under Section 168(k) of the Internal Revenue Code with regard to the acquired property.**

For purposes of this section, if the taxpayer elected to claim a deduction under Section 179 of the Internal Revenue Code with regard to an item of acquired property, the adjusted gross income realized on the exchange must be reduced (but not below zero dollars (\$0)) by the amount of the deduction under Section 179 of the Internal Revenue Code elected to be claimed on the acquired property."

Page 33, line 26, after "equals" insert ":

(1)".

Page 33, line 29, delete "(d)(1). For taxable years" and insert "(d)(1); **plus**".

Page 33, delete lines 30 through 33, begin a new line block indented and insert:



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

Page 35, line 1, after "equals" insert ":

(1)".

Page 35, line 5, delete "(d)(1). For taxable years beginning after December 31," and insert "(d)(1); **plus**".

Page 35, delete lines 6 through 8, begin a new line block indented and insert:

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

Page 36, between lines 39 and 40, begin a new paragraph and insert:
 "SECTION 10. IC 6-3-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]:
 Sec. 9. (a) The credit provided by this section shall be known as the unified tax credit for the elderly.

(b) As used in this section, unless the context clearly indicates otherwise:

(1) "Household federal adjusted gross income" means the total adjusted gross income, as defined in Section 62 of the Internal Revenue Code, of an individual, or of an individual and his spouse if they reside together for the taxable year for which the credit provided by this section is claimed.

(2) "Household" means a claimant or, if applicable, a claimant and his or her spouse if the spouse resides with the claimant and "household income" means the income of the claimant or, if applicable, the combined income of the claimant and his or her spouse if the spouse resides with the claimant.

(3) "Claimant" means an individual, other than an individual described in subsection (c) of this section, who:

(A) has filed a claim under this section;

(B) was a resident of this state for at least six (6) months during the taxable year for which he or she has filed a claim under this section; and

(C) was sixty-five (65) years of age during some portion of the taxable year for which he has filed a claim under this section or



whose spouse was either sixty-five (65) years of age or over during the taxable year.

(c) The credit provided under this section shall not apply to an individual who, for a period of at least one hundred eighty (180) days during the taxable year for which he has filed a claim under this section, was incarcerated in a local, state, or federal correctional institution.

(d) The right to file a claim under this section shall be personal to the claimant and shall not survive his death, except that a surviving spouse of a claimant is entitled to claim the credit provided by this section. For purposes of determining the amount of the credit a surviving spouse is entitled to claim under this section, the deceased spouse shall be treated as having been alive on the last day of the taxable year in which the deceased spouse died. When a claimant dies after having filed a timely claim, the amount thereof shall be disbursed to another member of the household as determined by the commissioner. If the claimant was the only member of his household, the claim may be paid to his executor or administrator, but if neither is appointed and qualified within two (2) years of the filing of the claim, the amount of the claim shall escheat to the state.

(e) For each taxable year, subject to the limitations provided in this section, one (1) claimant per household may claim, as a credit against Indiana adjusted gross income taxes otherwise due, the credit provided by this section. If the allowable amount of the claim exceeds the income taxes otherwise due on the claimant's household income or if there are no Indiana income taxes due on such income, the amount of the claim not used as an offset against income taxes after audit by the department, at the taxpayer's option, shall be refunded to the claimant or taken as a credit against such taxpayer's income tax liability subsequently due.

~~(f)~~ No claim filed pursuant to this section shall be allowed unless filed within six (6) months following the close of claimant's taxable year or within the extension period if an extension of time for filing the return has been granted under IC 6-8.1-6-1, whichever is later.

~~(g)~~ (f) The amount of any claim otherwise payable under this section may be applied by the department against any liability outstanding on the books of the department against the claimant, or against any other individual who was a member of his household in the taxable year to which the claim relates.

~~(h)~~ (g) The amount of a claim filed pursuant to this section by a claimant that either (i) does not reside with his spouse during the taxable year, or (ii) resides with his spouse during the taxable year and



only one (1) of them is sixty-five (65) years of age or older at the end of the taxable year, shall be determined in accordance with the following schedule:

HOUSEHOLD FEDERAL ADJUSTED GROSS INCOME FOR TAXABLE YEAR	CREDIT
less than \$1,000	\$100
at least \$1,000, but less than \$3,000	\$ 50
at least \$3,000, but less than \$10,000	\$ 40

(†) (h) The amount of a claim filed pursuant to this section by a claimant that resides with his spouse during his taxable year shall be determined in accordance with the following schedule if both the claimant and spouse are sixty-five (65) years of age or older at the end of the taxable year:

HOUSEHOLD FEDERAL ADJUSTED GROSS INCOME FOR TAXABLE YEAR	CREDIT
less than \$1,000	\$140
at least \$1,000, but less than \$3,000	\$ 90
at least \$3,000, but less than \$10,000	\$ 80

(†) (i) The department may promulgate reasonable rules under IC 4-22-2 for the administration of this section.

(†) (j) Every claimant under this section shall supply to the department on forms provided under IC 6-8.1-3-4, in support of his claim, reasonable proof of household income and age.

(†) (k) Whenever on the audit of any claim filed under this section the department finds that the amount of the claim has been incorrectly determined, the department shall redetermine the claim and notify the claimant of the redetermination and the reasons therefor. The redetermination shall be final.

(†) (l) In any case in which it is determined that a claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid or a credit has been allowed against income taxes otherwise payable, the credit shall be canceled and the amount paid shall be recovered by assessment as income taxes are assessed and such assessment shall bear interest from the date of payment or credit of the claim, until refunded or paid at the rate determined under IC 6-8.1-10-1. The claimant in such a case commits a Class A misdemeanor. In any case in which it is determined that a claim is or was excessive and was negligently prepared, ten percent (10%) of the corrected claim shall be disallowed and, if the claim has been paid or credited against income taxes otherwise



payable, the credit shall be reduced or canceled, and the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed, and such assessment shall bear interest at the rate determined under IC 6-8.1-10-1 from the date of payment until refunded or paid."

Page 37, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 12. IC 6-3.6-2-2, AS AMENDED BY P.L.239-2017, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. "Adjusted gross income" has the meaning set forth in IC 6-3-1-3.5. However:

(1) except as provided in subdivision (3), in the case of a local taxpayer who is not treated as a resident local taxpayer of a county **(or a municipality in the case of a local income tax imposed under IC 6-3.6-7-24)**, the term includes only adjusted gross income derived from the taxpayer's principal place of business or employment;

(2) in the case of a resident local taxpayer of Perry County, the term does not include adjusted gross income described in IC 6-3.6-8-7; and

(3) in the case of a local taxpayer described in section 13(3) of this chapter, the term includes only that part of the individual's total income that:

(A) is apportioned to Indiana under IC 6-3-2-2.7 or IC 6-3-2-3.2; and

(B) is paid to the individual as compensation for services rendered in the county **(and municipality in the case of a local income tax imposed under IC 6-3.6-7-24)** as a team member or race team member.

SECTION 13. IC 6-3.6-2-13, AS AMENDED BY P.L.239-2017, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. "Local taxpayer", as it relates to a particular county **(or municipality in the case of a local income tax imposed under IC 6-3.6-7-24)** means any of the following:

(1) An individual who resides in that county **(or municipality in the case of a local income tax imposed under IC 6-3.6-7-24)** on the date specified in IC 6-3.6-8-3.

(2) An individual who maintains the taxpayer's principal place of business or employment in that county **(or municipality in the case of a local income tax imposed under IC 6-3.6-7-24)** on the date specified in IC 6-3.6-8-3 and who does not reside on that same date in another county **(or municipality in the case of a local income tax imposed under IC 6-3.6-7-24)** in Indiana in



which a tax under this article is in effect.

(3) An individual who:

(A) has income apportioned to Indiana as:

(i) a team member under IC 6-3-2-2.7; or

(ii) a race team member under IC 6-3-2-3.2;

for services rendered in the county; and

(B) is not described in subdivision (1) or (2).

SECTION 14. IC 6-3.6-2-13.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2019]: **Sec. 13.1. "Municipality" means a qualified city (as defined in IC 36-7.6-1-12.5), third class city, or town that:**

(1) is a member of a regional development authority under IC 36-7.6 that is established after June 30, 2019; or

(2) imposed a local income tax under IC 6-3.6-7-24;

unless the context clearly indicates another or different meaning.

SECTION 15. IC 6-3.6-2-15, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 15. "Resident local taxpayer", as it relates to a particular county (or a municipality in the case of a local income tax imposed under IC 6-3.6-7-24), means any local taxpayer who resides in that county (or municipality in the case of a local income tax imposed under IC 6-3.6-7-24) on the date specified in IC 6-3.6-8-3.**

SECTION 16. IC 6-3.6-3-5, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 5. (a) The auditor of a county (or the fiscal officer of a municipality in the case of a local income tax imposed under IC 6-3.6-7-24) shall record all votes taken on ordinances presented for a vote under this article and not more than ten (10) days after the vote, send a certified copy of the results to:**

(1) the commissioner of the department of state revenue; and

(2) the commissioner of the department of local government finance;

in an electronic format approved by the commissioner of the department of local government finance.

(b) This subsection applies only to a county that has a local income tax council. The county auditor may cease sending certified copies after the county auditor sends a certified copy of results showing that members of the local income tax council have cast a majority of the votes on the local income tax council for or against the proposed ordinance.

SECTION 17. IC 6-3.6-4-1, AS ADDED BY P.L.243-2015,



SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) **Except as otherwise provided in IC 6-3.6-7-24**, a tax is imposed on the adjusted gross income of local taxpayers at a tax rate that is a sum of the tax rates imposed by the county's adopting body and in effect in the county.

(b) **Except as otherwise provided in IC 6-3.6-7-24**, the combined tax rates imposed under IC 6-3.6-5, IC 6-3.6-6, and IC 6-3.6-7 constitute the tax imposed on the adjusted gross income of local taxpayers in the county.

(c) **In addition to the tax imposed in a county under subsection (a), a tax is imposed on the adjusted gross income of local taxpayers in a municipality at a tax rate that is imposed by the municipality under IC 6-3.6-7-24 and in effect in the municipality.**

SECTION 18. IC 6-3.6-4-2, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) Subject to section 3 of this chapter, a tax rate authorized under IC 6-3.6-5, IC 6-3.6-6, or IC 6-3.6-7 may be adopted, increased, decreased, or rescinded without adopting, increasing, decreasing, or rescinding a tax rate authorized by either of the two (2) other chapters. However, an adopting body may:

- (1) adopt, increase, decrease, or rescind a tax authorized under a particular chapter of this article; and
- (2) adopt, increase, decrease, or rescind a tax authorized under another chapter of this article;

in the same ordinance.

(b) This section does not apply to a municipality.

SECTION 19. IC 6-3.6-7-24, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2019 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 24. (a) This section applies only to a county that is a member of a regional development authority under IC 36-7.6.

(b) **After June 30, 2021**, the adopting fiscal body for the county of a member may impose a tax rate on the adjusted gross income tax of local taxpayers that is not **less than five-tenths percent (0.5%)** and not greater than

- (1) in the case of a county described in ~~IC 36-7.6-4-2(c)(2)~~, twenty-five thousandths of one percent (0.025%); or
- (2) in the case of any other county to which this section applies, five-hundredths of one percent (0.05%);

one percent (1%).

(c) **This subsection applies to both counties and municipalities that impose a local income tax rate under this section. If:**

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- (1) a member elects to impose a tax rate under this section; and
- (2) the member has adopted a development authority plan (as defined in IC 36-7.6-1-8.1);

the member must impose the tax rate authorized by this section at the local income tax rate specified in the development authority plan.

(d) The following apply if a county imposes a local income tax rate under this section:

- (1) A local income tax rate imposed by a county under this section applies only to local taxpayers within the unincorporated territory of the county.
- (2) For local taxpayers in the unincorporated territory of the county, a local income tax rate imposed under this section is in addition to any other tax rates imposed under this article.

(e) The following apply if a municipality imposes a local income tax rate under this section:

- (1) A local income tax rate imposed by a municipality under this section applies only to local taxpayers within territory of the municipality.
- (2) The local income tax is imposed in addition to a tax imposed by the county in which the municipality is located in accordance with IC 6-3.6-4-1(c).

(3) The following provisions of this article apply to a local income tax rate imposed by a municipality under subsection (b):

- (A) IC 6-3.6-3 (adoption of the tax).
- (B) IC 6-3.6-4 (imposition of the tax), except that IC 6-3.6-4-2 and IC 6-3.6-4-3 do not apply.
- (C) IC 6-3.6-8 (administration of the tax).

(4) The following provisions of this article do not apply to a local income tax rate imposed by a municipality under subsection (b):

- (A) IC 6-3.6-5 (property tax relief credits).
- (B) IC 6-3.6-6 (expenditure rate).
- (C) IC 6-3.6-10 (permitted expenditures).
- (D) IC 6-3.6-11 (supplemental allocation and distribution requirements).

(f) The amount of the tax revenue that is from the local income tax rate imposed under subsection (b) and that is collected for a calendar year shall be distributed to the fiscal officer of the member that imposed the tax before July 1 of the next calendar



year.

(e) (g) The revenue from a tax under this section ~~may~~ **must** be used only for the ~~purpose of transferring~~ **following purposes:**

(1) **Fifty percent (50%) of the revenue in shall be transferred to the regional development authority under IC 36-7.6.**

(2) **Fifty percent (50%) of the revenue shall be transferred to the member that imposed the tax rate for deposit in the member's general fund and may be used for any lawful purpose.**

(h) **If a member of a regional development authority imposes a tax rate under this section, the regional development authority, in cooperation with the department and the Indiana office of technology, shall develop geographic information system (GIS) codes for the properties in the applicable geographic territory of the member, in accordance with guidelines issued by the department. The regional development authority shall provide the department with any information necessary for the department to use GIS codes and data to collect the local income tax imposed by the member under this section in the applicable geographic territory of the member. The regional development authority shall update the information provided to the department and the Indiana office of technology before July 1 of each year.**

SECTION 20. IC 6-3.6-8-3, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) For purposes of this article, an individual shall be treated as a resident of the county **(or the municipality in the case of a local income tax imposed under IC 6-3.6-7-24)** in which the individual:

(1) maintains a home, if the individual maintains only one (1) home in Indiana;

(2) if subdivision (1) does not apply, is registered to vote;

(3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or

(4) spent the majority of the individual's time in Indiana during the taxable year in question, if subdivision (1), (2), or (3) does not apply.

(b) The residence or principal place of business or employment of an individual is to be determined on January 1 of the calendar year in which the individual's taxable year commences. If an individual changes the location of the individual's residence or principal place of employment or business to another county **(or municipality in the case of a local income tax imposed under IC 6-3.6-7-24)** in Indiana



during a calendar year, the individual's liability for tax is not affected.

(c) Notwithstanding subsection (b), if an individual becomes a local taxpayer for purposes of IC 36-7-27 during a calendar year because the individual:

- (1) changes the location of the individual's residence to a county **or municipality** in which the individual begins employment or business at a qualified economic development tax project (as defined in IC 36-7-27-9); or
- (2) changes the location of the individual's principal place of employment or business to a qualified economic development tax project and does not reside in another county **or municipality** in which a tax is in effect;

the individual's adjusted gross income attributable to employment or business at the qualified economic development tax project is taxable only by the county **or municipality** containing the qualified economic development tax project.

SECTION 21. IC 6-3.6-8-4, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Using procedures provided under this chapter, the adopting body of any adopting county **or municipality** may pass an ordinance to enter into reciprocity agreements with the taxing authority of any city, town, municipality, county, or other similar local governmental entity of any other state. The reciprocity agreements must provide that the income of resident local taxpayers is exempt from income taxation by the other local governmental entity to the extent income of the residents of the other local governmental entity is exempt from the tax in the adopting county.

(b) A reciprocity agreement adopted under this section may not become effective until it is also made effective in the other local governmental entity that is a party to the agreement.

(c) The form and effective date of any reciprocity agreement described in this section must be approved by the department.

SECTION 22. IC 6-3.6-8-5, AS AMENDED BY P.L.197-2016, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) Except as otherwise provided in subsection (b) and the other provisions of this article, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

- (1) definitions;
- (2) declarations of estimated tax;
- (3) filing of returns;
- (4) deductions or exemptions from adjusted gross income;
- (5) remittances;



(6) incorporation of the provisions of the Internal Revenue Code;
 (7) penalties and interest; and
 (8) exclusion of military pay credits for withholding;
 apply to the imposition, collection, and administration of the tax imposed by this article.

(b) IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax imposed by this article.

(c) Notwithstanding subsections (a) and (b), each employer shall report to the department of state revenue the amount of withholdings attributable to each county **(or each municipality in the case of a local income tax imposed under IC 6-3.6-7-24)**. This report shall be submitted to the department of state revenue:

- (1) each time the employer remits to the department the tax that is withheld; and
- (2) annually along with the employer's annual withholding report."

Page 38, line 42, strike "twenty-five thousand dollars (\$25,000)." and insert "**the sum of:**

- (i) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue Code were not elected as provided in item (ii); and**
- (ii) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017, the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code, and the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service. The amount of deductions allowable for an item of property under this item may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017."**

Page 40, line 5, strike "twenty-five".

Page 40, line 6, strike "thousand dollars (\$25,000)." and insert "**the sum of:**

- (i) twenty-five thousand dollars (\$25,000) to the extent deductions under Section 179 of the Internal Revenue**



Code were not elected as provided in item (ii); and (ii) for taxable years beginning after December 31, 2017, the deductions elected under Section 179 of the Internal Revenue Code on property acquired in an exchange if the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017, the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code, and the taxpayer made an election to take deductions under Section 179 of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service. The amount of deductions allowable for an item of property under this item may not exceed the amount of adjusted gross income realized on the property that would have been deferred under the Internal Revenue Code in effect on January 1, 2017."

Page 42, between lines 4 and 5, begin a new paragraph and insert:
"SECTION 14. IC 6-5.5-1-20, AS AMENDED BY P.L.246-2005, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: Sec. 20. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, including the special depreciation allowance for 50-percent bonus depreciation property. For taxable years beginning after December 31, 2017, the term does not include any amount of additional first-year special depreciation allowance under Section 168(k) of the Internal Revenue Code in the amount of adjusted gross income realized on the exchange of property that otherwise would have been deferred under Section 1031 of the Internal Revenue Code in effect on January 1, 2017, if:

- (1) the exchange would have been eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;**
- (2) the exchange is not eligible for nonrecognition of gain or loss under Section 1031 of the Internal Revenue Code; and**
- (3) the taxpayer claimed a deduction for the additional first-year special depreciation allowance under Section 168(k) of the Internal Revenue Code with regard to the acquired**



property.

For purposes of this section, if the taxpayer elected to claim a deduction under Section 179 of the Internal Revenue Code with regard to an item of acquired property, the adjusted gross income realized on the exchange must be reduced (but not below zero dollars (\$0)) by the amount of the deduction under Section 179 of the Internal Revenue Code elected to be claimed on the acquired property."

Page 48, between lines 6 and 7, begin a new paragraph and insert:

"(c) For a taxable period beginning after December 31, 2019, whenever a taxpayer makes a partial payment on the taxpayer's tax liability, the department shall apply the partial payment in the following order:

- (1) To any registration or transfer fee owed by the taxpayer.**
- (2) To any excise tax owed by the taxpayer.**
- (3) To any late penalty first and then toward interest on the excise tax owed by the taxpayer.**
- (4) To any gross retail or use tax owed by the taxpayer.**
- (5) To any late penalty first and then toward interest on gross retail or use tax owed by the taxpayer."**

Page 48, line 7, strike "(c)".

Page 48, line 7, delete "When" and insert **"(d) For a taxable period beginning before January 1, 2020, when"**.

Page 48, reset in roman lines 11 through 12.

Page 48, line 13, reset in roman "(3)".

Page 48, line 13, delete "(2)".

Page 48, line 14, reset in roman "(4)".

Page 48, line 14, delete "(3)".

Page 48, line 14, delete "first".

Page 48, line 14, delete "then toward".

Page 48, line 14, reset in roman "gross".

Page 48, line 15, reset in roman "retail or use".

Page 48, line 15, delete "the excise".

Page 48, line 16, reset in roman "(5)".

Page 48, line 16, delete "(4)".

Page 48, delete lines 17 through 18.

Page 57, line 11, after "1.5." delete "Whenever" and insert **"(a) For a taxable period beginning after December 31, 2019, whenever a taxpayer makes a partial payment on the taxpayer's tax liability, the department shall apply the partial payment in the following order:**

- (1) To the tax liability of the taxpayer.**



(2) To any penalty owed by the taxpayer.

(3) To any interest owed by the taxpayer.

(b) For a taxable period beginning before January 1, 2020, whenever".

Page 57, line 14, reset in roman "any penalty owed by".

Page 57, line 14, delete "tax liability of the".

Page 57, line 15, reset in roman "interest".

Page 57, line 15, delete "penalty".

Page 57, line 16, reset in roman "the tax liability of".

Page 57, line 16, delete "any interest owed by".

Page 68, between lines 4 and 5, begin a new paragraph and insert:
"SECTION 41. IC 6-9-54 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]:

Chapter 54. Regional Development Food and Beverage Tax

Sec. 1. This chapter applies to a member of a development authority that has adopted a development authority plan.

Sec. 2. The following definitions apply throughout this chapter:

(1) The definitions in IC 6-9-12-1.

(2) "Development authority" has the meaning set forth in IC 36-7.6-1-8.

(3) "Development authority plan" has the meaning set forth in IC 36-7.6-1-8.1.

(4) "Fiscal body" has the meaning set forth in IC 36-1-2-6.

(5) "Fiscal officer" has the meaning set forth in IC 36-1-2-7.

(6) "Food and beverage tax territory" of a member means:
(A) for a member that is a county, the unincorporated territory of the county; or
(B) for a member that is a city or town, the territory of the city or town.

(7) "Member" means a county, city, or town that is a member of a development authority.

Sec. 3. (a) After June 30, 2021, the fiscal body of a member may adopt an ordinance to impose an excise tax, known as the regional development food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the member may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the regional development food and beverage tax is the only substantive issue on the agenda for the public hearing.

(b) If the fiscal body of a member elects to impose the regional



development food and beverage tax, the regional development food and beverage tax must be imposed at the food and beverage tax rate that is specified in the development authority plan adopted by the member on the gross retail income received by the merchant from a food or beverage transaction described in section 4 of this chapter. If a member adopts a revised development plan, the food and beverage tax rate specified in the development is changed, and the member continues to impose the regional development food and beverage tax, the fiscal body of the member shall adopt an ordinance in the manner described in subsection (a) to increase or decrease the tax rate at which the regional development food and beverage tax is imposed to match the food and beverage tax rate specified in the revised development plan.

(c) Except as otherwise provided in subsection (f), if an ordinance imposing the regional development food and beverage tax is in effect in the food and beverage tax territory of the member, the fiscal body of the member may rescind the ordinance imposing the regional development food and beverage tax. However, except as otherwise provided in subsection (f), if the fiscal body of a member has imposed the regional development food and beverage tax and the member terminates the member's participation in a development authority, the fiscal body of the member shall rescind the ordinance imposing the regional development food and beverage tax.

(d) If the fiscal body of a member adopts an ordinance under this section, the fiscal body of the member shall immediately send a certified copy of the ordinance to the department of state revenue and the applicable regional development authority.

(e) If the fiscal body of a member adopts an ordinance under this section, the regional development food and beverage tax applies to transactions that occur after the later of the following:

- (1) The day specified in the ordinance.
- (2) The last day of the month that succeeds the month in which the ordinance is adopted.

(f) If the member's regional development food and beverage tax revenue was pledged for the payment of principal and interest on bonds issued or leases entered into under IC 36-7.6, the fiscal body of the member may not rescind an ordinance imposing the regional development food and beverage tax until the obligations are paid in full.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter by a member applies to a



transaction in which a food or beverage is furnished, prepared, or served:

- (1) by a retail merchant for consideration;
- (2) for consumption at a location or on equipment provided by the retail merchant; and
- (3) in the food and beverage tax territory of the member.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) made of two (2) or more food ingredients, mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or package used to transport the food).

(c) The regional development food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. (a) A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

(b) If a member of a regional development authority imposes the regional development food and beverage tax, the regional development authority, in cooperation with the department and the Indiana office of technology, shall develop geographic information system (GIS) codes for the properties in the food and beverage tax



territory of the member, in accordance with guidelines issued by the department. The regional development authority shall provide the department with any information necessary for the department to use GIS codes and data to collect the regional development food and beverage tax in the food and beverage tax territory of the member. The regional development authority shall update the information provided to the department and the Indiana office of technology before July 1 of each year.

Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the member upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter by a member, the fiscal officer of the member shall establish a regional development food and beverage tax receipts fund.

(b) The fiscal officer of the member shall deposit in the fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. Money in the regional development food and beverage tax receipts fund must be used by the member only for the following purposes:

(1) Fifty percent (50%) shall be transferred to the regional development authority and must be used to satisfy a member's required contribution to the development authority under IC 36-7.6-4-2.

(2) Fifty percent (50%) shall be transferred to the member that imposed the tax for deposit in the member's general fund and may be used by the member for any lawful purpose.

Revenue derived from the imposition of a tax under this chapter may be treated by the member as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the city.

Sec. 10. With respect to obligations for which a pledge has been made under section 9 of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding."

Page 69, between lines 12 and 13, begin a new paragraph and insert:
"SECTION 43. IC 36-7.6-1-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 8.1.** "Development authority



plan" refers to the plan adopted by the fiscal body of each member of a development authority under IC 36-7.6-2-11.5.

SECTION 44. IC 36-7.6-1-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 11.1. "Food and beverage tax" refers to the regional development food and beverage tax under IC 6-9-54.**

SECTION 45. IC 36-7.6-2-3, AS AMENDED BY P.L.178-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 3. (a) A development authority may be established by any of the following:**

(1) One (1) or more counties and one (1) or more adjacent counties:

(2) One (1) or more counties and one (1) or more qualified cities in adjacent counties:

(3) One (1) or more qualified cities and one (1) or more qualified cities in adjacent counties:

(1) Any combination of two (2) or more:

- (A) counties;**
- (B) qualified cities;**
- (C) third class cities; or**
- (D) towns;**

if the total combined population equals or exceeds one hundred thousand (100,000).

(2) Any combination of five (5) or more:

- (A) counties;**
- (B) qualified cities;**
- (C) third class cities; or**
- (D) towns;**

if the total combined population does not exceed one hundred thousand (100,000).

For the purposes of determining the population of a county under this subsection, the population of the county does not include the populations of any qualified cities, third class cities, or towns in the county that are seeking to establish a development authority with the county. A development authority established under this section before July 1, 2019, continues in existence after June 30, 2019, unless otherwise terminated under this article.

(b) A county, or qualified city, third class city, or town may participate in the establishment of a development authority under this section and become a member of the development authority only if the fiscal body of the county, or qualified city, third class city, or town



adopts an ordinance authorizing the county, ~~or~~ qualified city, **third class city, or town** to participate in the establishment of the development authority.

(c) **This subsection does not apply to the members of a development authority that is formed after June 30, 2019.** When a county establishes a development authority with another unit as provided in this chapter, each qualified city and third class city in the county also becomes a member of the development authority, without further action by the qualified city, ~~the~~ third class city, or the development authority.

(d) Notwithstanding any other provision of this article, a county or municipality may be a member of only one (1) development authority.

(e) Notwithstanding any other provision of this article, a county or municipality that is a member of the northwest Indiana regional development authority under IC 36-7.5 may not be a member of a development authority under this article.

(f) A development authority shall notify the Indiana economic development corporation in writing promptly after the development authority is established.

SECTION 46. IC 36-7.6-2-4, AS AMENDED BY P.L.178-2015, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) A county that:

- (1) is not a member of a development authority; and
- (2) is adjacent to a county that:
 - (A) is a member of a development authority; or
 - (B) contains a member of a development authority;

may join that development authority under this article.

(b) A qualified city or a third class city that:

- (1) is not a member of a development authority; and
- (2) is located in a county that:
 - (A) is adjacent to a county that is a member of a development authority; or
 - (B) is adjacent to a county containing a member of a development authority;

may join that development authority under this article.

(c) A town that:

- (1) is not a member of a development authority; and
- (2) is located in a county that:
 - (A) is a member of a development authority;
 - (B) is adjacent to a county that is a member of a development authority; or
 - (C) is adjacent to a county containing a member of a



development authority;
may join that development authority under this article.

(d) A county or qualified city described in subsection (a), (b), or (c) may join a development authority under this article only if:

(1) the fiscal body of the county, qualified city, third class city, or town adopts an ordinance authorizing the county, qualified city, third class city, or town to become a member of the development authority; and

(2) the development board of the development authority adopts a resolution authorizing the county, qualified city, third class city, or town to become a member of the development authority.

(e) A county, qualified city, third class city, or town becomes a member of a development authority upon passage of a resolution under subsection (d)(2) authorizing the county, qualified city, third class city, or town to become a member of the development authority.

(f) **This subsection does not apply to the members of a development authority that is formed after June 30, 2019.** Notwithstanding subsection (e), if a county joins a development authority under this section, each qualified city and third class city in the county also becomes a member of the development authority, without further action by the qualified city, ~~the~~ third class city, or the development authority.

(g) A development authority shall notify the Indiana economic development corporation promptly in writing when a new member joins the development authority.

SECTION 47. IC 36-7.6-2-5, AS AMENDED BY P.L.178-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) This section applies to a county, qualified city, third class city, or town authorized to establish or join a development authority under this article.

(b) A county, qualified city, third class city, or town described in subsection (a) shall be a member of the development authority for at least ~~eight (8)~~ **twelve (12) years and not more than twenty-two (22) years** after the date the county, qualified city, third class city, or town becomes a member of the development authority.

(c) At least twelve (12) months and not more than eighteen (18) months before the end of a county's, qualified city's, third class city's, or town's membership period under subsection (b) or this subsection, the county, qualified city, third class city, or town described in subsection (a) must adopt an ordinance that:

(1) commits the county, qualified city, third class city, or town to **at least an additional ~~eight (8)~~ twelve (12) years and not more**



than twenty-two (22) years as a member of the development authority, beginning at the end of the current membership period;
or

(2) withdraws the county, qualified city, third class city, or town from membership in the development authority not earlier than the end of the current membership period.

(d) A county, qualified city, third class city, or town described in subsection (a) may withdraw from a development authority as provided in this section without the approval of the development board. However, the withdrawal of a county does not affect the membership of a qualified city or third class city that became a member of the development authority as a result of the county's membership.

(e) If at the end of a county's membership period a county described in subsection (a) does not withdraw from the development authority under this section and remains a member of the development authority, the qualified cities and third class cities in the county may not withdraw from the development authority and remain members of the development authority.

(f) A development authority shall notify the Indiana economic development corporation promptly in writing when a member withdraws from the development authority.

SECTION 48. IC 36-7.6-2-7, AS AMENDED BY P.L.178-2015, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) A development authority is governed by a development board appointed under this section.

(b) A development board is composed of five (5) members appointed by written agreement of the executives of the members of the development authority. **However, for a development authority:**

(1) established after June 30, 2019; or

(2) whose members have adopted a resolution to be covered by section 11.5 of this chapter;

the development board is composed of the executives of the members of the development authority.

(c) **This subsection applies to a development authority established before July 1, 2019, and that is not covered by subsection (b)(2).** A member appointed to the development board:

(1) may not be an elected official or an employee of a member county or municipality; and

(2) must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:

(A) Transportation.

(B) Regional economic development.



(C) Business or finance.

(D) Private, nonprofit sector, or academia.

SECTION 49. IC 36-7.6-2-9, AS AMENDED BY P.L.178-2015, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) **This subsection applies to a development authority established before July 1, 2019, and that is not covered by section 7(b)(2) of this chapter.** A member appointed to a development board serves a four (4) year term. A member may be reappointed to subsequent terms.

(b) **This subsection applies to a development authority established before July 1, 2019, and that is not covered by section 7(b)(2) of this chapter.** A member of a development board may only be removed from the development board before the expiration of the four (4) year term by written agreement of at least three-fourths (3/4) of the executives of the members of the development authority.

(c) **This subsection applies to a development authority established before July 1, 2019, and that is not covered by section 7(b)(2) of this chapter.** If a vacancy occurs on a development board, the executives of the members of the development authority at the time of the vacancy shall fill the vacancy by appointing a new member for the remainder of the vacated term and as otherwise provided in subsection (a).

(d) **This subsection applies to a development authority established after June 30, 2019, or that is covered by section 7(b)(2) of this chapter. A member of a development board who ceases to be an executive of a member of the development authority simultaneously ceases to be a member of the development board. The vacancy shall be filled by the next executive of the member of the development authority.**

~~(d)~~ (e) Each member appointed to of a development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

~~(e)~~ (f) A member appointed to of a development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

SECTION 50. IC 36-7.6-2-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 11.5. (a) This section applies to**



the members of a development authority that is:

- (1) established after June 30, 2019; or
- (2) established before July 1, 2019, if the fiscal body of each member adopts a substantially similar resolution to be covered by this section.

(b) The fiscal bodies of counties or municipalities that are members of a development authority shall each adopt by substantially similar resolutions a development authority plan for the development authority.

(c) A development authority plan must include the following:

- (1) The tax rates that each member must adopt under:
 - (A) IC 6-3.6-7-24; or
 - (B) IC 6-9-54.

(2) A description of the method to be used in determining the weight of each member's vote in the development authority, which may include factors such as population, anticipated annual revenue contribution to the development authority, or other factors that the development authority considers relevant for establishing the weight of each member's vote for purposes of conducting development authority business.

(d) The following apply to the revenue sources described in subsection (c)(1) that are to be pledged to the development authority:

- (1) After June 30, 2021, each member shall impose either:
 - (A) the local income tax rate under IC 6-3.6-7-24; or
 - (B) the regional development food and beverage tax under IC 6-9-54;

while the member continues its membership in the regional development authority.

- (2) Each member may independently elect whether to impose:
 - (A) the local income tax rate under IC 6-3.6-7-24; or
 - (B) the regional development food and beverage tax under IC 6-9-54.

(3) If a member elects to impose the local income tax rate under IC 6-3.6-7-24, the member must impose the local income tax under IC 6-3.6-7-24 at the local income tax rate specified in the development authority plan.

(4) If a member elects to impose the regional development food and beverage tax under IC 6-9-54, the member must impose the regional development food and beverage tax at the food and beverage tax rate specified in the development authority plan.



SECTION 51. IC 36-7.6-2-14, AS AMENDED BY P.L.237-2017, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. (a) The office of management and budget shall contract with a certified public accountant for an annual financial audit of each development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to any development authority.

(b) The certified public accountant shall present an audit report not later than four (4) months after the end of each calendar year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period.

(c) A development authority shall pay the cost of the annual financial audit under subsection (a). In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of a development authority. ~~A development authority shall pay the cost of any audit by the state board of accounts.~~

(d) The office of management and budget may waive the requirement that a certified public accountant perform an annual financial audit of a development authority for a particular year if the development authority certifies to the office of management and budget that the development authority had no financial activity during that year.

SECTION 52. IC 36-7.6-3-2, AS AMENDED BY P.L.86-2018, SECTION 351, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A development authority may do any of the following:

- (1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects that are of regional importance.
- (2) Lease land or a project to an eligible political subdivision.
- (3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.
- (4) Construct or reconstruct highways, roads, and bridges.
- (5) Acquire land or all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.



- (6) Acquire all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.
- (7) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:
 - (A) A commuter transportation district.
 - (B) An airport authority.
 - (C) A regional transportation authority. A loan, a loan guarantee, a grant, or other financial assistance under this clause may be used by a regional transportation authority for acquiring, improving, operating, maintaining, financing, and supporting the following:
 - (i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.
 - (ii) Bus terminals, stations, or facilities or other regional bus authority projects.
 - (D) A county.
 - (E) A municipality.
- (8) Provide funding to assist a railroad that is providing commuter transportation services in a county containing territory included in the development authority.
- (9) Provide funding to assist an airport authority located in a county containing territory included in the development authority in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.
- (10) Provide funding for intermodal transportation projects and facilities.
- (11) Provide funding for regional trails and greenways.
- (12) Provide funding for economic development projects.
- (13) Provide funding for regional transportation infrastructure projects under IC 36-9-43.
- (14) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation (subject to subsection (d)), lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property.
- (15) After giving notice, enter upon any lots or lands for the



purpose of surveying or examining them to determine the location of a project.

(16) Make or enter into all contracts and agreements necessary or incidental to the performance of the development authority's duties and the execution of the development authority's powers under this article.

(17) Sue, be sued, plead, and be impleaded.

(18) Design, order, contract for, construct, reconstruct, and renovate a project or improvements to a project.

(19) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(20) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(21) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(22) Issue bonds under IC 36-7.6-4-3.

~~(22)~~ **(23)** Except as prohibited by law, take any action necessary to carry out this article.

(b) Projects funded by a development authority must be of regional importance.

(c) If a development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may (subject to subsection (d)) proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

(d) A development authority may exercise the power of eminent



domain as provided in subsections (a)(14) and (c) concerning a particular property only if that exercise of the power of eminent domain is approved by:

- (1) the legislative body of the municipality in which the property is located; or
- (2) the legislative body of the county in which the property is located, if the property is not located within a municipality.

SECTION 53. IC 36-7.6-3-5, AS AMENDED BY P.L.237-2017, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. ~~(a)~~ A development authority **that applies for a grant or loan under IC 5-28-38** shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

- (1) The proposed projects ~~to be undertaken or financed for which the grant or loan is sought~~ by the development authority.
- (2) The following information for each project included under subdivision (1):
 - (A) Timeline and budget.
 - (B) The return on investment.
 - (C) The projected or expected need for an ongoing subsidy.
 - (D) Any projected or expected federal matching funds.

~~(b) The development authority shall, not later than January 1 of the second year following the year in which the development authority is established, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget and the Indiana economic development corporation. However, a development authority that has already submitted its comprehensive strategic development plan as part of an application for a grant or a loan under IC 5-28-37 (before its repeal) or IC 5-28-38 is not required to resubmit its comprehensive strategic development plan under this subsection.~~

SECTION 54. IC 36-7.6-4-1, AS AMENDED BY P.L.178-2015, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A development board shall establish and administer a development authority fund.

- (b) A development authority fund consists of the following:
 - (1) Amounts transferred under section 2 of this chapter by each county and municipality that is a member of the development authority.
 - (2) Amounts transferred to the fund by each county or municipality that is a member of the development authority, including any payments required under an interlocal agreement



entered into under section 3(h) of this chapter: for a project that specifically states:

- (A) the amount for which each member is responsible; and
- (B) the term of the agreement.

The transfers allowed by this subdivision may be made from any local revenue of the county or municipality, including property tax revenue, **food and beverage tax revenue**, distributions, incentive payments, money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16, money received by the county or municipality under a development agreement (as defined by IC 36-1-8-9.5), or any other local revenue that is not otherwise restricted by law or committed for the payment of other obligations.

- (3) Appropriations, grants, or other distributions made to the fund by the state.
- (4) Money received from the federal government.
- (5) Gifts, contributions, donations, and private grants made to the fund.
- (6) **Money transferred to the redevelopment authority under an interlocal agreement entered into under section 6(b)(3) of this chapter.**

(c) On the date a development authority issues bonds for any purpose under this article, which are secured in whole or in part by the development authority fund, the development board shall, **in addition to the general account**, establish and administer ~~two (2)~~ accounts within the development authority fund: The accounts must be the ~~general account and the lease rental~~ **a debt service** account. After the ~~accounts are~~ **debt service account is** established, ~~an amount of~~ **money that is sufficient to meet the requirements specified in the agreements governing the development authority's outstanding debt obligations shall be** transferred to the development authority fund under subsection (b)(1) **and** shall be deposited in the ~~lease rental~~ **debt service** account and used only for the payment of or to secure the payment of **outstanding debt** obligations of an eligible political subdivision under a lease entered into by the eligible political subdivision and the development authority. ~~under this chapter.~~ However, any money deposited in the ~~lease rental~~ account and not used for the purposes of this subsection shall be returned by the secretary-treasurer of the development authority to the unit that contributed the money to the development authority.

(d) Notwithstanding subsection (c); if the amount of all money transferred to a development authority fund under subsection (b)(1) for



deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to the product of:

- (1) one and twenty-five hundredths (1.25); multiplied by
- (2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease; plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

then all or a part of the excess may instead be deposited in the general account:

~~(e)~~ (d) All other money and revenue of a development authority may be deposited in the general account or the ~~lease rental debt service~~ account at the discretion of the development board. Money on deposit in the ~~lease rental debt service~~ account may be used only to make **payments of principal and interest on debt obligations issued or** rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

~~(f)~~ (e) A development authority fund shall be administered by the development authority that established the development authority fund.

~~(g)~~ (f) Money in a development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

SECTION 55. IC 36-7.6-4-2, AS AMENDED BY P.L.197-2016, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. ~~(a) This section applies only to a development authority and its member counties and municipalities to the extent necessary to make required payments and maintain a required reserve for debt obligations or leases that were issued or entered into by the development authority before May 1, 2015.~~

~~(b)~~ (a) Beginning January 1 of the year following the year in which a development authority is established, the fiscal officer of each county and each municipality that is a member of the development authority shall transfer the amount determined under subsection ~~(e)~~ (b) to the development authority for deposit in the development authority fund.

~~(c)~~ (b) The amount of the transfer required each year by subsection ~~(b)~~ (a) from each county and each municipality is equal to the following:

- (1) Except as provided in subdivision (2), **(3), or (4)**, the amount that would be distributed to the county or the municipality as certified distributions of local income tax revenue raised from a local income tax rate of five-hundredths of one percent (0.05%)



in the county that is dedicated to economic development purposes under IC 6-3.6-6.

(2) In the case of a county or municipality that becomes a member of a development authority after June 30, 2011, and before July 1, 2013, the amount that would be distributed to the county or municipality as certified distributions of local income tax revenue raised from a local income tax rate of twenty-five thousandths of one percent (0.025%) in the county that is dedicated to economic development purposes under IC 6-3.6-6.

(3) In the case of a county or municipality that becomes a member of a development authority after June 30, 2019, fifty percent (50%) of the revenue that would be distributed to the county or municipality from the imposition of either of the following, as applicable:

(A) The local income tax revenue raised under IC 6-3.6-7-24.

(B) The regional development food and beverage tax revenue raised under IC 6-9-54.

(4) In the case of a development authority formed before July 1, 2019, that elects to be governed under this subdivision, fifty percent (50%) of the amount that would be distributed to the county or municipality from the imposition of either of the following, as applicable:

(A) The local income tax revenue raised under IC 6-3.6-7-24.

(B) The regional development food and beverage tax revenue raised under IC 6-9-54.

(c) A development authority is not eligible to operate under subsection (b)(4) until the fiscal body of each county and each municipality that is a member of the development authority adopts an ordinance:

(1) imposing a local income tax under IC 6-3.6-7-24 at the local income tax rate specified in the development authority plan; or

(2) imposing the regional development food and beverage tax under IC 6-9-54 at the food and beverage tax rate specified in the development authority plan.

(d) Notwithstanding subsection (c); (b), if the additional local income tax rate permitted under IC 6-3.6-7-24 or the regional development food and beverage tax permitted under IC 6-9-54 is in effect in a county, the obligations of the county and each municipality in the county under this section are satisfied by the



transfer to the development fund of all local income tax revenue derived from the additional tax and deposited in the county regional development authority fund: **fifty percent (50%) of revenue derived from:**

(1) the additional local income tax imposed under IC 6-3.6-7-24; or

(2) the regional development food and beverage tax imposed under IC 6-9-54;

and deposited in the county regional development authority fund.

(e) The following apply to the transfers required by this section:

(1) The transfers shall be made without appropriation by the fiscal body of the county or the fiscal body of the municipality.

(2) Except as provided in subdivision (3), the fiscal officer of each county and each municipality that is a member of the development authority shall transfer twenty-five percent (25%) of the total transfers due for the year before the last business day of January, April, July, and October of each year.

(3) Local income tax revenue derived from the additional local income tax rate permitted under IC 6-3.6-7-24 **or the regional development food and beverage tax under IC 6-9-54** must be transferred to the development fund not more than thirty (30) days after being deposited in the county regional development fund.

(4) This subdivision does not apply to a county in which the additional local income tax rate permitted under IC 6-3.6-7-24 has been imposed or to any municipality in the county. The transfers required by this section may be made from any local revenue (other than property tax revenue) of the county or municipality, including excise tax revenue, local income tax revenue, **food and beverage tax revenue**, riverboat tax revenue, distributions, incentive payments, or money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16.

SECTION 56. IC 36-7.6-4-3, AS AMENDED BY P.L.178-2015, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) A development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or

(3) funding or refunding bonds issued under this chapter, IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law.

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- (b) The bonds are payable solely from:
- (1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and
 - (2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.
- (c) The bonds must be authorized by a resolution of the development board of the development authority that issues the bonds.
- (d) The terms and form of the bonds must either be set out in the resolution or in a form of trust indenture approved by the resolution.
- (e) The bonds must mature within forty (40) years.
- ~~(f) A development board shall sell the bonds only to the Indiana bond bank established by IC 5-1.5-2-1 upon the terms determined by the development board and the Indiana bond bank.~~
- ~~(g)~~ **(f)** All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:
- (1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;
 - (2) acquisition of a site and clearing and preparing the site for construction;
 - (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;
 - (4) architectural, engineering, consultant, and attorney's fees;
 - (5) incidental expenses in connection with the issuance and sale of bonds;
 - (6) reserves for principal and interest;
 - (7) interest during construction;
 - (8) financial advisory fees;
 - (9) insurance during construction;
 - (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
 - (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.
- ~~(h) A development authority may not issue bonds under this article or otherwise finance debt unless:~~



- (1) the development authority enters into an interlocal agreement with each member that is committing funds to a project to be supported by the bonds; and
- (2) the fiscal body of each member that is committing funds to the project to be supported by the bonds approves the agreement described in subdivision (1) by ordinance.

SECTION 57. IC 36-7.6-4-5, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) A development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank in Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund **and the debt service fund**, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;
- (3) set forth the rights and remedies of bondholders and trustees; and
- (4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

SECTION 58. IC 36-7.6-4-6, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) Bonds issued under IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may **do any of the following**:

- (1) Lease all or a part of land or a project or projects to a development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law and issuing its bonds



to refund those bonds. ~~and~~

(2) Sell all or a part of land or a project or projects to a development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

(3) Enter into an interlocal agreement with the redevelopment authority.

SECTION 59. IC 36-7.6-4-7, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from a development authority to an eligible political subdivision:

- (1) may not have a term exceeding forty (40) years;
- (2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;
- (3) may contain provisions:
 - (A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and
 - (B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;
- (4) may contain an option to renew the lease for the same or a shorter term on the conditions provided in the lease;
- (5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;
- (6) may be entered into before acquisition or construction of a project;
- (7) may provide that the eligible political subdivision shall agree to:
 - (A) pay any taxes and assessments on the project;
 - (B) maintain insurance on the project for the benefit of the development authority;



(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the development authority from any funds available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and

(8) ~~must~~ **may** provide that the lease rental payments by the eligible political subdivision shall be made from **any combination of:**

(A) the development authority fund established under section 1 of this chapter; ~~and may provide that the lease rental payments by the eligible political subdivision shall be made from:~~

~~(A)~~ **(B)** the net revenues of the project; **or**

~~(B)~~ **(C)** any other funds available to the eligible political subdivision. ~~or~~

~~(C)~~ **both sources described in clauses (A) and (B):**

SECTION 60. IC 36-7.6-4-16, AS AMENDED BY P.L.178-2015, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 16. (a) This section applies if the county or municipality fails to make a transfer or part of a transfer required by:

(1) section 2 of this chapter; or

(2) an interlocal agreement executed under section ~~3(h)~~ **1(b)(2) or 6(b)(3)** of this chapter that is required to satisfy the county's or municipality's obligation to contribute to the satisfaction of outstanding bonds or other debt of the development authority.

(b) The treasurer of state shall do the following:

(1) Withhold an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the county or municipality failed to make from money in the possession of the state that would otherwise be available for distribution to the county or municipality under any other law.

(2) Pay the amount withheld under subdivision (1) to the development authority to satisfy the county's or municipality's obligations to the development authority.

SECTION 61. IC 36-7.6-4-17, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. (a) If there are bonds outstanding that have been issued under this article by a development authority, ~~and are not secured by a lease~~; or if there are leases in effect under this article, the general assembly covenants that it will not reduce the amount required



to be transferred under section 2 of this chapter from a county or municipality that is a member of a development authority to the development authority below an amount that would produce one and twenty-five hundredths (1.25) multiplied by the total of the highest annual debt service on the bonds to their final maturity plus the highest annual lease payments on the leases to their final termination date.

(b) The general assembly also covenants that it will not:

(1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or

(2) in any way impair the rights of owners of bonds of a development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter;

except as otherwise set forth in subsection (a)."

Page 69, delete lines 13 through 16, begin a new paragraph and insert:

"SECTION 62. [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)] (a) **IC 6-3-1-3.5, IC 6-3-1-33, IC 6-3-2-2, IC 6-3-3-9, IC 6-5.5-1-2, and IC 6-5.5-1-20, all as amended by this act, apply to taxable years beginning after December 31, 2018.**

(b) **IC 6-3-2-2.5 and IC 6-3-2-2.6, both as amended by this act apply to taxable years beginning after December 31, 2017.**

(c) **However, if a different taxable year is specified for the application of any of the provisions referred to in subsection (a) or (b), the specified taxable year applies.**

(d) **This SECTION expires June 30, 2022."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 565 as reprinted February 26, 2019.)

HUSTON

Committee Vote: yeas 9, nays 6.



HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 565 be amended to read as follows:

Page 83, delete lines 19 through 42, begin a new paragraph and insert:

"Sec. 3. (a) After June 30, 2021, the fiscal body of a member may adopt an ordinance to impose an excise tax, known as the regional development food and beverage tax, on transactions described in section 4 of this chapter. The fiscal body of the member may adopt an ordinance under this subsection only after the fiscal body has previously held at least one (1) separate public hearing in which a discussion of the proposed ordinance to impose the regional development food and beverage tax is the only substantive issue on the agenda for the public hearing.

(b) If the fiscal body of a member elects to impose the regional development food and beverage tax, the regional development food and beverage tax must be imposed at the lesser of:

- (1) the food and beverage tax rate that is specified in the development authority plan adopted by the member; or**
- (2) one percent (1%);**

on the gross retail income received by the merchant from a food or beverage transaction described in section 4 of this chapter.

(c) Subject to subsection (b), if a member adopts a revised development plan, the food and beverage tax rate specified in the development plan is changed, and the member continues to impose the regional development food and beverage tax, the fiscal body of the member shall adopt an ordinance in the manner described in subsection (a) to increase or decrease the tax rate at which the regional development food and beverage tax is imposed to match the food and beverage tax rate specified in the revised development plan.

(d) Except as otherwise provided in subsection (g), if an ordinance imposing the regional development food and beverage tax is in effect in the food and beverage tax territory of the member, the fiscal body of the member may rescind the ordinance imposing the regional development food and beverage tax. However, except as otherwise provided in subsection (g), if the fiscal body of a member has imposed the regional development food and beverage tax and the member terminates the member's participation in a development authority, the fiscal body of the member shall rescind the ordinance imposing the regional development food and beverage tax.

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(e) If the fiscal body of a member adopts an ordinance under this section, the fiscal body of the member shall immediately send a certified copy of the ordinance to the department of state revenue and the applicable regional development authority.

(f) If the fiscal body of a member adopts an ordinance under this section, the regional development food and beverage tax applies to transactions that occur after the later of the following:

(1) The day specified in the ordinance.

(2) The last day of the month that succeeds the month in which the ordinance is adopted.

(g) If the member's regional development food and beverage tax revenue was pledged for the payment of principal and interest on bonds issued or leases entered into under IC 36-7.6, the fiscal body of the member may not rescind an ordinance imposing the regional development food and beverage tax until the obligations are paid in full."

Page 84, delete line 1 through 26.

(Reference is to ESB 565 as printed April 5, 2019.)

HUSTON

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 565 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-2-7, AS AMENDED BY P.L.188-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 7. (a) As used in this section, "nonbusiness personal property" means personal property that is not:

- (1) held for sale in the ordinary course of a trade or business;
- (2) held, used, or consumed in connection with the production of income; or
- (3) held as an investment.

(b) The following property is not subject to assessment and taxation under this article:

- (1) A commercial vessel that is subject to the net tonnage tax imposed under IC 6-6-6.
- (2) A vehicle that is subject to the vehicle excise tax imposed

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under IC 6-6-5.

(3) A motorized boat or sailboat that is subject to the boat excise tax imposed under IC 6-6-11.

(4) Property used by a cemetery (as defined in IC 23-14-33-7) if the cemetery:

(A) does not have a board of directors, board of trustees, or other governing authority other than the state or a political subdivision; and

(B) has had no business transaction during the preceding calendar year.

(5) A commercial vehicle that is subject to the annual excise tax imposed under IC 6-6-5.5.

(6) Inventory.

(7) A recreational vehicle or truck camper that is subject to the annual excise tax imposed under IC 6-6-5.1.

(8) The following types of nonbusiness personal property:

(A) All-terrain vehicles.

(B) Snowmobiles.

(C) Rowboats, canoes, kayaks, and other human powered boats.

(D) Invalid chairs.

(E) Yard and garden tractors.

(F) Trailers that are not subject to an excise tax under:

(i) IC 6-6-5;

(ii) IC 6-6-5.1; or

(iii) IC 6-6-5.5.

~~(9) For an assessment date after December 31, 2018, heavy rental equipment (as defined in IC 6-6-15-2) that is rented or held in inventory for rental or sale, the rental of which is or would be subject to the heavy equipment rental excise tax under IC 6-6-15:~~

SECTION 2. IC 6-1.1-12-47 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: **Sec. 47. (a) The following definitions apply throughout this section:**

(1) "Rental equipment" has the meaning set forth in IC 6-6-15-2.

(2) "Retail merchant" has the meaning set forth in IC 6-2.5-1-8.

(b) An owner of rental equipment who:

(1) is a retail merchant engaged in the business of renting rental equipment to other persons; and

(2) properly makes an election under IC 6-6-15-8 for a calendar year;



is entitled to a deduction from the assessed value of the retail merchant's property for the calendar year equal to one hundred percent (100%) of the assessed value of the retail merchant's rental equipment.

(c) A taxpayer is not required to file an application to qualify for the deduction established by this section.

(d) The department of local government finance shall incorporate the deduction established by this section in the personal property return form to be used each year for filing under IC 6-1.1-3-7 or IC 6-1.1-3-7.5 to permit the taxpayer to enter the deduction on the form."

Page 63, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 37. IC 6-6-15-1 IS REPEALED [EFFECTIVE JANUARY 1, 2020]. ~~Sec. 1. This chapter applies only after December 31, 2018; to the rental of taxable heavy rental equipment.~~

SECTION 38. IC 6-6-15-2, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2019 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 2. The following definitions apply throughout this chapter:

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

(2) "Electing retail merchant" means a retail merchant who properly makes an election under section 8 of this chapter to have this chapter apply to the retail merchant's rental of rental equipment for a calendar year specified in the election.

(3) "Excise taxable year" means a calendar year for which a retail merchant has properly made an election under section 8 of this chapter to have this chapter apply to the retail merchant's rental of rental equipment during the calendar year.

(2) (4) "Gross retail income" has the meaning set forth in IC 6-2.5-1-5, except that the term does not include taxes imposed under IC 6-2.5 or the excise tax imposed under this chapter.

(3) "Heavy rental equipment" means personal property (including attachments used in conjunction with the personal property):

(A) that is owned by a person or business that:

(i) is classified under 532412 of the North American Industry Classification System Manual in effect on January 1, 2018; and

(ii) is a retail merchant in the business of renting heavy equipment, including any attachments;

(B) that is not intended to be permanently affixed to any real property; and



~~(C)~~ that is not subject to registration under IC 9-18.1 for use on a public highway (as defined in IC 9-25-2-4).

However, the term does not include heavy rental equipment that is rented for mining purposes or heavy rental equipment that is eligible for a property tax abatement deduction under IC 6-1.1-12.1 during the calendar year.

~~(4)~~ (5) "Person" has the meaning set forth in IC 6-2.5-1-3.

~~(5)~~ (6) "Rental" means any transfer of possession or control of heavy rental equipment for consideration:

(A) for a period not to exceed three hundred sixty-five (365) days; or

(B) for a period that is open ended under the terms of the rental contract with no specified end date.

(7) **"Rental equipment" means tangible personal property (including attachments used with the tangible personal property):**

(A) that is held by a retail merchant for rent or lease to another person;

(B) that is not intended to be permanently affixed to any real property; and

(C) that is not subject to registration under IC 9-18.1 for use on a public highway (as defined in IC 9-25-2-4).

The term does not include personal property that is rented for mining purposes or personal property that is eligible for a property tax abatement deduction under IC 6-1.1-12.1 during the calendar year.

~~(6)~~ (8) "Retail merchant" has the meaning set forth in IC 6-2.5-1-8.

SECTION 39. IC 6-6-15-3, AS ADDED BY P.L.188-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 3. (a) An excise tax, known as the heavy equipment rental excise tax, is imposed upon the rental of heavy rental equipment from ~~a~~ **an electing** retail merchant ~~and~~ from a location in Indiana **during an excise taxable year of the electing retail merchant.**

(b) The heavy equipment rental excise tax imposed under this chapter is two and twenty-five hundredths percent (2.25%) of the gross retail income received by the **electing** retail merchant for the rental.

SECTION 40. IC 6-6-15-4, AS ADDED BY P.L.188-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 4. A transaction involving the rental of heavy rental equipment is exempt from the tax imposed by this chapter



if any of the following apply:

- (1) The rentee is:
 - (A) the United States government;
 - (B) the state;
 - (C) a political subdivision (as defined in IC 36-1-2-13); or
 - (D) an agency or instrumentality of an entity described in clauses (A) through (C).
- (2) The transaction is a subrent of the **heavy** rental equipment from a rentee to another person, and the rentee was liable for the tax imposed under this chapter.
- (3) **The retail merchant who rents the rental equipment to a rentee is not an electing retail merchant for the calendar year in which the transaction occurred.**

SECTION 41. IC 6-6-15-5, AS ADDED BY P.L.188-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 5. A person that rents **heavy** rental equipment **from an electing retail merchant during an excise taxable year of the retail merchant** is liable for the **heavy** equipment rental excise tax on the transaction. The person shall pay the tax to the **electing** retail merchant as a separate amount added to the consideration for the transaction. The **electing** retail merchant shall collect the tax as an agent for the state.

SECTION 42. IC 6-6-15-6, AS ADDED BY P.L.188-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 6. (a) Subject to subsection (b), **a an electing** retail merchant shall remit the **heavy** equipment rental excise tax that the **electing** retail merchant collects under this chapter in the same manner as the state gross retail tax is remitted under IC 6-2.5.

(b) The **heavy** equipment rental excise tax imposed under this chapter shall be sourced to the business location of the **electing** retail merchant from which the **heavy** rental equipment is rented.

(c) The return to be filed for the payment of the **heavy** equipment rental excise tax may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department.

SECTION 43. IC 6-6-15-7, AS ADDED BY P.L.188-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 7. (a) All revenues collected from the **heavy** equipment rental excise tax must be deposited in a special account of the state general fund called the **heavy** equipment rental excise tax account.

(b) On or before April 30 and October 30 of each year, all amounts



held in the heavy equipment rental excise tax account must be distributed to counties as provided by this section.

(c) The amount to be distributed to a county treasurer under this section equals the part of the total heavy equipment rental excise taxes being distributed that were initially imposed and collected from within that county treasurer's county. The department shall notify each county auditor of the amount of taxes to be distributed to the county treasurer. At the same time each distribution is made to a county treasurer, the department shall certify to the county auditor the taxing districts within the county where heavy equipment rental excise taxes were collected and the amount of the county distribution that was collected with respect to each taxing district.

(d) A county treasurer shall deposit heavy equipment rental excise tax distributions in a separate account for settlement at the same time as property taxes are accounted for and settled in June and December of each year.

(e) The county auditor shall apportion and the county treasurer shall distribute the heavy equipment rental excise taxes among the taxing units of the county in the same manner that property taxes are apportioned and distributed with respect to property located in the taxing district where the heavy equipment rental excise tax is sourced by the department under section 6(b) of this chapter.

(f) Before January 1, 2020, the heavy equipment rental excise taxes distributed to a taxing unit must be deposited in the taxing unit's levy excess fund under IC 6-1.1-18.5-17, or in the case of a school corporation, the school corporation's levy excess fund under IC 20-44-3.

(g) After December 31, 2019, the heavy equipment rental excise taxes distributed to a taxing unit must be allocated among the taxing unit's funds in the same proportion that the taxing unit's property tax collections are allocated among those funds.

(h) After December 31, 2019, taxing units of a county may request and receive advances of heavy equipment rental excise tax revenues in the manner provided under IC 5-13-6-3.

(i) All distributions from the heavy equipment rental excise tax account must be made by warrants issued by the auditor of state to the treasurer of state ordering those distributions to the appropriate county treasurer.

SECTION 44. IC 6-6-15-8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: **Sec. 8. (a) A retail merchant engaged in the business of renting rental equipment may elect to have this chapter**



apply to the retail merchant's transactions involving the rental of rental equipment for a calendar year by making the election in the manner prescribed by the department before October 1 of the immediately preceding calendar year.

(b) A retail merchant's election under subsection (a) for a calendar year applies:

- (1) to all of the retail merchant's rental equipment in Indiana; and
- (2) to all of the retail merchant's locations in Indiana, including any locations that open after the date of the election and before January 1 of the calendar year immediately following the calendar year for which the election is made.

(c) Except as otherwise provided in section 4 of this chapter, if a retail merchant properly makes the election under subsection (a) for a calendar year, this chapter applies to each transaction during the calendar year in which the retail merchant rents rental equipment to another person.

SECTION 45. IC 6-6-15-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: **Sec. 9.** Notwithstanding IC 6-8.1-7-1, not later than March 1 of each calendar year, for each county, the department shall provide a list of the electing retail merchants located in the county for the calendar year and, for each electing retail merchant located in the county, the addresses of the electing retail merchant's locations in the county to:

- (1) the county assessor of the county; and
- (2) the department of local government finance.

The department shall provide an updated list if any electing retail merchant opens a new location after the date on which the department provides the list required under this section."

Page 106, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 77. [EFFECTIVE JULY 1, 2019] (a) **The following definitions apply throughout this SECTION:**

- (1) "Rental equipment" means tangible personal property (including attachments used with the tangible personal property):
 - (A) that is held by a retail merchant for rent or lease to another person;
 - (B) that is not intended to be permanently affixed to any real property; and
 - (C) that is not subject to registration under IC 9-18.1 for use on a public highway (as defined in IC 9-25-2-4).



The term does not include personal property that is rented for mining purposes or personal property that is eligible for a property tax abatement deduction under IC 6-1.1-12.1 during the calendar year.

(2) "Retail merchant" has the meaning set forth in IC 6-2.5-1-8.

(b) A retail merchant engaged in the business of renting rental equipment may elect to have IC 6-6-15, as amended by this act, apply to the retail merchant's transactions involving the rental of rental equipment for 2020 by making the election in the manner prescribed by the department before October 1, 2019.

(c) A retail merchant's election under subsection (b) for 2020 applies:

(1) to all of the retail merchant's rental equipment in Indiana; and

(2) to all of the retail merchant's locations in Indiana, including any locations that open after the date of the election and before January 1, 2021.

(d) Except as otherwise provided in IC 6-6-15-4, as amended by this act, if a retail merchant properly makes the election under subsection (a) for 2020, IC 6-6-15, as amended by this act, applies to each transaction during 2020 in which the retail merchant rents rental equipment to another person.

(e) This SECTION expires January 1, 2020."

Renumber all SECTIONS consecutively.

(Reference is to ESB 565 as printed April 5, 2019.)

HUSTON

