



February 17, 2015

HOUSE BILL No. 1472

DIGEST OF HB 1472 (Updated February 16, 2015 3:35 pm - DI 58)

Citations Affected: IC 4-6; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-3.5; IC 6-7; IC 6-8.1.

Synopsis: Various tax matters. Specifies that an attorney employed by a state agency is subject to the attorney-client and work product privileges. Specifies that the definition of "storage" for purposes of the use tax does not include temporary storage of property for not more than 180 days for the purpose of the subsequent use of the property solely outside Indiana. Removes the 36 month rolling time limit on filing refund claims for exempt utility purchases exempt from sales and use tax. Amends the sales tax exemption for medical equipment, supplies, and devices to: (1) restate the application of the sales tax exemption for medical equipment, supplies, and devices; and (2) provide a sales tax exemption for food, food ingredients, and dietary supplements that are sold by a licensed practitioner or pharmacist. Amends the sales tax exemption for drugs, insulin, oxygen, blood, or blood plasma to restate the application of the sales tax exemption. Repeals the sales tax exemption for food and food ingredients prescribed as medically necessary by a physician. Amends the definition of "research and development activities" for purposes of the sales tax exemption for research and development equipment and property. Provides guidance on when a retail merchant's certificate may be revoked. Specifies that the calculation of the Indiana research expense income tax credit is partly based on the federal research and development credit allowed under the Internal Revenue Code. Updates references to the Internal Revenue Code. Removes outdated references to earned income tax advance payments. Provides that, when construction of jail facilities are complete and bonds and leases are
(Continued next page)

Effective: Upon passage; January 1, 2015 (retroactive); July 1, 2015; January 1, 2016.

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January 14, 2015, read first time and referred to Committee on Ways and Means.
February 17, 2015, amended, reported — Do Pass.

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Digest Continued

fully paid, the county adjusted gross income tax rate in Marshall County shall be established at a rate such that the revenue from the tax does not exceed the costs of operating and maintaining the jail facilities. Authorizes Tipton County to impose an additional county adjusted gross income tax rate of not more than 0.4%. Provides that revenue from the additional tax rate may be used only to: (1) pay the costs of financing, constructing, acquiring, improving, renovating, remodeling, equipping, operating, or maintaining the county jail and related buildings and parking facilities; and (2) pay bonds issued or leases entered into for those purposes. Specifies that the additional rate may be imposed only until the date on which the last of any bonds issued or leases entered into for those purposes are fully paid. Specifies ownership of cigarette tax stamps. Requires an employer to file annual withholding tax reports (Form WH-3) not later than 31 days after the end of the calendar year. Provides that, if a person is allowed an extension of time by the Internal Revenue Service to file a federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension. Provides that a tax judgment may be released and a tax warrant expunged if the commissioner of the department of state revenue determines that the release of the tax judgment and the expungement of the tax warrant are in the best interest of the state. (Under current law, the release of a tax judgment and expungement of a tax warrant are authorized only if the department determines that the filing of the tax warrant was in error.) Aligns the administrative procedures for protesting refund denials and proposed assessments. Permits the department of state revenue to deny an application for a motor carrier in certain situations.



February 17, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1472

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 4-6-5-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a)** No agency, except as
3 provided in this chapter, shall have any right to name, appoint, employ,
4 or hire any attorney or special or general counsel to represent it or
5 perform any legal service in behalf of ~~such the~~ agency and the state
6 without the written consent of the attorney general.
7 **(b) An attorney employed by an agency is subject to**
8 **IC 34-46-3-1 and Trial Rule 26(B) of the Indiana Rules of Trial**
9 **Procedure, commonly referred to as the attorney-client and work**
10 **product privileges, if the requirements to assert the protection and**
11 **privilege have been satisfied.**
12 SECTION 2. IC 6-2.5-1-21.5 IS ADDED TO THE INDIANA
13 CODE AS A NEW SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2015]: **Sec. 21.5. "Licensed practitioner"**

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1 **means an individual who is a doctor, dentist, veterinarian, or other**
 2 **practitioner licensed to prescribe, dispense, and administer drugs**
 3 **to human beings or animals in the course of the practitioner's**
 4 **professional practice of treating patients.**

5 SECTION 3. IC 6-2.5-3-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 1. For purposes
 7 of this chapter:

8 (a) "Use" means the exercise of any right or power of ownership
 9 over tangible personal property.

10 (b) "Storage" means the keeping or retention of tangible personal
 11 property in Indiana for any purpose except ~~the subsequent use of that~~
 12 ~~property solely outside Indiana.~~ **temporary storage.**

13 (c) "A retail merchant engaged in business in Indiana" includes any
 14 retail merchant who makes retail transactions in which a person
 15 acquires personal property or services for use, storage, or consumption
 16 in Indiana and who:

17 (1) maintains an office, place of distribution, sales location,
 18 sample location, warehouse, storage place, or other place of
 19 business which is located in Indiana and which the retail
 20 merchant maintains, occupies, or uses, either permanently or
 21 temporarily, either directly or indirectly, and either by the retail
 22 merchant or through a representative, agent, or subsidiary;

23 (2) maintains a representative, agent, salesman, canvasser, or
 24 solicitor who, while operating in Indiana under the authority of
 25 and on behalf of the retail merchant or a subsidiary of the retail
 26 merchant, sells, delivers, installs, repairs, assembles, sets up,
 27 accepts returns of, bills, invoices, or takes orders for sales of
 28 tangible personal property or services to be used, stored, or
 29 consumed in Indiana;

30 (3) is otherwise required to register as a retail merchant under
 31 IC 6-2.5-8-1; or

32 (4) may be required by the state to collect tax under this article to
 33 the extent allowed under the Constitution of the United States and
 34 federal law.

35 **(d) "Temporary storage" means the keeping or retention of**
 36 **tangible personal property in Indiana for a period of not more than**
 37 **one hundred eighty (180) days and only for the purpose of the**
 38 **subsequent use of that property solely outside Indiana.**

39 ~~(d)~~ (e) Notwithstanding any other provision of this section, tangible
 40 or intangible property that is:

41 (1) owned or leased by a person that has contracted with a
 42 commercial printer for printing; and



1 (2) located at the premises of the commercial printer;
 2 shall not be considered to be, or to create, an office, a place of
 3 distribution, a sales location, a sample location, a warehouse, a storage
 4 place, or other place of business maintained, occupied, or used in any
 5 way by the person. A commercial printer with which a person has
 6 contracted for printing shall not be considered to be in any way a
 7 representative, an agent, a salesman, a canvasser, or a solicitor for the
 8 person.

9 SECTION 4. IC 6-2.5-5-5.1, AS AMENDED BY P.L.137-2012,
 10 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2015]: Sec. 5.1. (a) As used in this section, "tangible personal
 12 property" includes electrical energy, natural or artificial gas, water,
 13 steam, and steam heat.

14 (b) Transactions involving tangible personal property are exempt
 15 from the state gross retail tax if the person acquiring the property
 16 acquires it for direct consumption as a material to be consumed in the
 17 direct production of other tangible personal property in the person's
 18 business of manufacturing, processing, refining, repairing, mining,
 19 agriculture, horticulture, floriculture, or arboriculture. This exemption
 20 includes transactions involving acquisitions of tangible personal
 21 property used in commercial printing.

22 (c) ~~A refund claim based on the exemption provided by this section~~
 23 ~~for electrical energy, natural or artificial gas, water, steam, and steam~~
 24 ~~heat may not cover transactions that occur more than thirty-six (36)~~
 25 ~~months before the date of the refund claim.~~

26 SECTION 5. IC 6-2.5-5-18, AS AMENDED BY P.L.265-2013,
 27 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2015]: Sec. 18. (a) **As used in this section, "legend drug"**
 29 **means a drug (as defined in IC 6-2.5-1-17) that is also a legend**
 30 **drug for purposes of IC 16-18-2-199.**

31 (b) **As used in this section, "nonlegend drug" means a drug (as**
 32 **defined in IC 6-2.5-1-17) that is not a legend drug.**

33 (c) **Transactions involving the following are exempt from the**
 34 **state gross retail tax if the end user acquires the property upon a**
 35 **prescription or drug order (as defined in IC 16-42-19-3) that is**
 36 **required by law for the transaction from a licensed practitioner:**

37 (a) **(1) ~~Sales or rentals of Durable medical equipment (including~~**
 38 **a repair or a replacement part) that:**

39 (A) **can withstand repeated use;**

40 (B) **is exclusively used to serve a medical purpose;**

41 (C) **is not useful to a person in the absence of an illness or**
 42 **injury;**



- 1 **(D) is not worn in or on the body; and**
 2 **(E) is required to correct or alleviate injury to,**
 3 **malfunction of, or removal of a part of the human body.**
 4 **(2) Mobility enhancing equipment (including a repair or**
 5 **replacement part) that:**
 6 **(A) is exclusively used to provide or increase the ability to**
 7 **move from one (1) place to another and that is appropriate**
 8 **for use either in a home or a motor vehicle;**
 9 **(B) is not used by persons with normal mobility; and**
 10 **(C) does not include any motor vehicle or equipment on a**
 11 **motor vehicle normally provided by a motor vehicle**
 12 **manufacturer.**
 13 **(3) Prosthetic devices, including artificial limbs, orthopedic**
 14 **devices, dental prosthetic devices, eyeglasses, and contact lenses**
 15 **(and including a repair or a replacement part) that:**
 16 **(A) are worn in or on the body; and**
 17 **(B) function:**
 18 **(i) as a replacement for a missing body part;**
 19 **(ii) to correct or prevent a medically diagnosed**
 20 **condition; or**
 21 **(iii) to support normal function of an otherwise**
 22 **weakened body part.**
 23 and other medical supplies and devices are exempt from the state gross
 24 retail tax, if the sales or rentals are prescribed by a person licensed to
 25 issue the prescription.
 26 **(4) Other medical supplies or devices that are used exclusively**
 27 **for medical treatment of a medically diagnosed condition,**
 28 **including a medically diagnosed condition due to:**
 29 **(A) injury;**
 30 **(B) bodily dysfunction; or**
 31 **(C) surgery.**
 32 **(b) (5) Sales of Hearing aid devices are exempt from the state**
 33 **gross retail tax if the hearing aids are fitted or dispensed by a**
 34 **person licensed or registered for that purpose. In addition, sales**
 35 **of hearing aid parts, attachments, or accessories are exempt from**
 36 **the state gross retail tax. For purposes of this subsection, a**
 37 **hearing aid is a device which is that are worn on the body and**
 38 **which is designed to aid, improve, or correct defective human**
 39 **hearing, including:**
 40 **(A) parts;**
 41 **(B) attachments;**
 42 **(C) batteries; or**



- 1 **(D) accessories;**
 2 **reasonably necessary for use of a hearing aid device.**
 3 (c) Sales of colostomy bags, ileostomy bags, and the medical
 4 equipment, supplies, and devices used in conjunction with those bags
 5 are exempt from the state gross retail tax.
 6 (d) Sales of equipment and devices used to administer insulin are
 7 exempt from the state gross retail tax.
 8 **(6) Legend drugs and nonlegend drugs, if:**
 9 **(A) a registered pharmacist makes the sale to a patient**
 10 **upon the prescription of a practitioner; or**
 11 **(B) a licensed practitioner makes the sale to a patient.**
 12 **(7) A nonlegend drug, if:**
 13 **(A) the nonlegend drug is dispensed upon an original**
 14 **prescription or a drug order (as defined in IC 16-42-19-3);**
 15 **and**
 16 **(B) the ultimate user of the drug is a person confined to a**
 17 **hospital or health care facility.**
 18 **(8) Food, food ingredients, and dietary supplements that are**
 19 **sold by a licensed practitioner or pharmacist.**
 20 **(d) Transactions involving the following are exempt from the**
 21 **state gross retail tax if the patient acquires the property for the**
 22 **patient's own use without a prescription or drug order:**
 23 **(1) Hearing aid devices that are:**
 24 **(A) worn on the body and designed to aid, improve, or**
 25 **correct defective human hearing, including:**
 26 **(i) parts;**
 27 **(ii) attachments;**
 28 **(iii) batteries; or**
 29 **(iv) accessories;**
 30 **reasonably necessary for the use of a hearing aid device;**
 31 **and**
 32 **(B) fitted or dispensed by a person licensed or registered**
 33 **for that purpose.**
 34 **(2) Colostomy bags, ileostomy bags, and the medical**
 35 **equipment, supplies, and devices used in conjunction with**
 36 **those bags.**
 37 **(3) Devices and equipment used to administer insulin.**
 38 **(4) Insulin, oxygen, blood, and blood plasma, if purchased for**
 39 **medical purposes.**
 40 SECTION 6. IC 6-2.5-5-19 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 19. (a) As used in this
 42 section, "legend drug" means a drug as defined in IC 6-2.5-1-17 that is



1 also a legend drug for purposes of IC 16-18-2-199.

2 (b) As used in this section, "nonlegend drug" means a drug (as
3 defined in IC 6-2.5-1-17) that is not a legend drug.

4 (c) Sales of legend drugs and sales of nonlegend drugs are exempt
5 from the state gross retail tax if:

6 (1) a registered pharmacist makes the sale upon the prescription
7 of a practitioner who is licensed to prescribe, dispense, and
8 administer those drugs to human beings or animals in the course
9 of his professional practice; or

10 (2) the licensed practitioner makes the sales.

11 (d) Sales of a nonlegend drug are exempt from the state gross retail
12 tax, if:

13 (1) the nonlegend drug is dispensed upon an original prescription
14 or a drug order (as defined in IC 16-42-19-3); and

15 (2) the ultimate user of the drug is a person confined to a hospital
16 or health care facility.

17 (e) Sales of insulin, oxygen, blood, or blood plasma are exempt from
18 the state gross retail tax, if the purchaser purchases the insulin, oxygen,
19 blood, or plasma for medical purposes.

20 (f) Sales of drugs, insulin, oxygen, blood, and blood plasma are
21 exempt from the state gross retail tax if:

22 (1) the purchaser is a practitioner licensed to prescribe, dispense,
23 and administer drugs to human beings or animals; and

24 (2) the purchaser buys the items for:

25 (c) **Transactions involving drugs, insulin, oxygen, blood, and**
26 **blood plasma are exempt from the state gross retail tax if**
27 **purchased by a licensed practitioner (as defined in IC 6-2.5-1-21.5)**
28 **or a health care facility (as defined in IC 16-18-2-161(a)) for the**
29 **purpose of:**

30 (A) (1) direct consumption in his practice; **treating patients;** or

31 (B) (2) resale to a patient that the practitioner is treating, in the
32 case of sales of legend or nonlegend drugs.

33 SECTION 7. IC 6-2.5-5-21.5 IS REPEALED [EFFECTIVE JULY
34 1, 2015]. Sec. 21.5. Sales of food and food ingredients prescribed as
35 medically necessary by a physician licensed to practice medicine in
36 Indiana are exempt from the state gross retail tax if:

37 (1) a registered pharmacist makes the sale upon the prescription
38 of a practitioner who is licensed to practice medicine in Indiana;
39 or

40 (2) the licensed practitioner makes the sale of the food and food
41 ingredients described in this section.

42 SECTION 8. IC 6-2.5-5-40, AS AMENDED BY P.L.288-2013,



1 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JANUARY 1, 2016]: Sec. 40. (a) As used in this section, "research and
 3 development activities" **includes design, refinement, and testing of**
 4 **prototypes of new or improved commercial products before sales**
 5 **have begun for the purpose of determining facts, theories, or**
 6 **principles, or for the purpose of increasing scientific knowledge**
 7 **that may lead to new or enhanced products. The term does not**
 8 include any of the following:

- 9 (1) Efficiency surveys.
 10 (2) Management studies.
 11 (3) Consumer surveys.
 12 (4) Economic surveys.
 13 (5) Advertising or promotions.
 14 (6) Research in connection with **nontechnical activities,**
 15 **including** literary, historical, **social sciences, economics,**
 16 **humanities, psychology,** or similar projects.
 17 (7) Testing for purposes of quality control.
 18 **(8) Market and sales research.**
 19 **(9) Product market testing, including product testing by**
 20 **product consumers or through consumer surveys for**
 21 **evaluation of consumer product performance or consumer**
 22 **product usability.**
 23 **(10) The acquisition, investigation, or evaluation of another's**
 24 **patent, model, process, or product for the purpose of**
 25 **investigating or evaluating the value of a potential investment.**
 26 **(11) The providing of sales services or any other service,**
 27 **whether technical or nontechnical in nature.**

28 (b) As used in this section, "research and development equipment"
 29 means tangible personal property that:

- 30 (1) consists of or is a combination of:
 31 (A) laboratory equipment;
 32 (B) computers;
 33 (C) computer software;
 34 (D) telecommunications equipment; or
 35 (E) testing equipment;
 36 (2) has not previously been used in Indiana for any purpose; and
 37 (3) is acquired by the purchaser for the purpose of research and
 38 development activities devoted directly to experimental or
 39 laboratory research and development for:
 40 (A) new products;
 41 (B) new uses of existing products; or
 42 (C) improving or testing existing products.



1 (c) As used in this section, "research and development property"
2 means tangible personal property that:

- 3 (1) has not previously been used in Indiana for any purpose; and
4 (2) is acquired by the purchaser for the purpose of research and
5 development activities devoted to experimental or laboratory
6 research and development for:
7 (A) new products;
8 (B) new uses of existing products; or
9 (C) improving or testing existing products.

10 **(d) For purposes of subsection (c)(2), a research and**
11 **development activity is devoted to experimental or laboratory**
12 **research and development if the activity is considered essential and**
13 **integral to experimental or laboratory research and development.**
14 **The term does not include activities incidental to experimental or**
15 **laboratory research and development.**

16 **(e) For purposes of subsection (c)(2), an activity is not**
17 **considered to be devoted to experimental or laboratory research**
18 **and development if the activity involves:**

- 19 **(1) heating, cooling, or illumination of office buildings;**
20 **(2) capital improvements to real property;**
21 **(3) janitorial services;**
22 **(4) personnel services or accommodations;**
23 **(5) inventory control functions;**
24 **(6) management or supervisory functions;**
25 **(7) marketing;**
26 **(8) training;**
27 **(9) accounting or similar administrative functions; or**
28 **(10) any other function that is incidental to experimental or**
29 **laboratory research and development.**

30 ~~(f)~~ **(f)** A retail transaction:

- 31 (1) involving research and development equipment; and
32 (2) occurring after June 30, 2007, and before July 1, 2013;

33 is exempt from the state gross retail tax.

34 ~~(g)~~ **(g)** A retail transaction:

- 35 (1) involving research and development property; and
36 (2) occurring after June 30, 2013;

37 is exempt from the state gross retail tax.

38 ~~(h)~~ **(h)** The exemption provided by subsection ~~(e)~~ **(g)** applies
39 regardless of whether the person that acquires the research and
40 development property is a manufacturer or seller of the new or existing
41 products specified in subsection (c)(2).

42 ~~(g)~~ **(i)** For purposes of this section, a retail transaction shall be



1 considered as having occurred after June 30, 2013, to the extent that
 2 delivery of the property constituting selling at retail is made after that
 3 date to the purchaser or to the place of delivery designated by the
 4 purchaser. However, a transaction shall be considered as having
 5 occurred before July 1, 2013, to the extent that the agreement of the
 6 parties to the transaction is entered into before July 1, 2013, and
 7 payment for the property furnished in the transaction is made before
 8 July 1, 2013, notwithstanding the delivery of the property after June 30,
 9 2013. This subsection expires January 1, 2017.

10 SECTION 9. IC 6-2.5-8-7, AS AMENDED BY P.L.196-2013,
 11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2015]: Sec. 7. (a) The department may, for good cause, revoke
 13 a certificate issued under section 1, 3, or 4 of this chapter. However,
 14 the department must give the certificate holder at least five (5) days
 15 notice before it revokes the certificate under this subsection. Good
 16 cause for revocation may include the following:

17 ~~(1) Sale or solicitation of a sale involving a synthetic drug (as~~
 18 ~~defined in IC 35-31.5-2-321) or a synthetic drug lookalike~~
 19 ~~substance (as defined in IC 35-31.5-2-321.5):~~

20 ~~(2) Failure to collect sales tax on a sale involving a synthetic drug~~
 21 ~~or a synthetic drug lookalike substance:~~

22 **(1) Failure to file a return required under this chapter or for**
 23 **any tax collected for the state in trust.**

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

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

28 **The department may revoke a certificate before a criminal**
 29 **adjudication or without a criminal prosecution being filed.** If the
 30 department gives notice of an intent to revoke based on an alleged
 31 violation of ~~subdivision~~ **subdivisions (1) or (2) through (3)**, the
 32 department shall hold a public hearing to determine whether good
 33 cause exists. If the department finds in a public hearing by a
 34 preponderance of the evidence that a person has committed a violation
 35 described in ~~subdivision~~ **subdivisions (1) or (2) through (3)**, the
 36 department shall proceed in accordance with subsection (i) (if the
 37 violation resulted in a criminal conviction) or subsection (j) (if the
 38 violation resulted in a judgment for an infraction).

39 (b) The department shall revoke a certificate issued under section
 40 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
 41 holder fails to:

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



- 1 (2) report the collection of any state gross retail or use tax on the
 2 returns filed under IC 6-2.5-6-1.
- 3 However, the department must give the certificate holder at least five
 4 (5) days notice before it revokes the certificate.
- 5 (c) The department may, for good cause, revoke a certificate issued
 6 under section 1 of this chapter after at least five (5) days notice to the
 7 certificate holder if:
- 8 (1) the certificate holder is subject to an innkeeper's tax under
 9 IC 6-9; and
- 10 (2) a board, bureau, or commission established under IC 6-9 files
 11 a written statement with the department.
- 12 (d) The statement filed under subsection (c) must state that:
- 13 (1) information obtained by the board, bureau, or commission
 14 under IC 6-8.1-7-1 indicates that the certificate holder has not
 15 complied with IC 6-9; and
- 16 (2) the board, bureau, or commission has determined that
 17 significant harm will result to the county from the certificate
 18 holder's failure to comply with IC 6-9.
- 19 (e) The department shall revoke or suspend a certificate issued
 20 under section 1 of this chapter after at least five (5) days notice to the
 21 certificate holder if:
- 22 (1) the certificate holder owes taxes, penalties, fines, interest, or
 23 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
 24 days after the due date under IC 6-1.1; and
- 25 (2) the treasurer of the county to which the taxes are due requests
 26 the department to revoke or suspend the certificate.
- 27 (f) The department shall reinstate a certificate suspended under
 28 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
 29 or the county treasurer requests the department to reinstate the
 30 certificate because an agreement for the payment of taxes and any
 31 penalties due under IC 6-1.1 has been reached to the satisfaction of the
 32 county treasurer.
- 33 (g) The department shall revoke a certificate issued under section
 34 1 of this chapter after at least five (5) days notice to the certificate
 35 holder if the department finds in a public hearing by a preponderance
 36 of the evidence that the certificate holder has violated IC 35-45-5-3,
 37 IC 35-45-5-3.5, or IC 35-45-5-4.
- 38 (h) If a person makes a payment for the certificate under section 1
 39 or 3 of this chapter with a check, credit card, debit card, or electronic
 40 funds transfer, and the department is unable to obtain payment of the
 41 check, credit card, debit card, or electronic funds transfer for its full
 42 face amount when the check, credit card, debit card, or electronic funds



1 transfer is presented for payment through normal banking channels, the
 2 department shall notify the person by mail that the check, credit card,
 3 debit card, or electronic funds transfer was not honored and that the
 4 person has five (5) days after the notice is mailed to pay the fee in cash,
 5 by certified check, or other guaranteed payment. If the person fails to
 6 make the payment within the five (5) day period, the department shall
 7 revoke the certificate.

8 (i) If the department finds in a public hearing by a preponderance of
 9 the evidence that a person has a conviction for a violation of
 10 IC 35-48-4-10.5 and the conviction involved the sale of or the offer to
 11 sell, in the normal course of business, a synthetic drug or a synthetic
 12 drug lookalike substance by a retail merchant in a place of business for
 13 which the retail merchant has been issued a registered retail merchant
 14 certificate under section 1 of this chapter, the department:

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

17 (2) may not issue another retail merchant certificate under section
 18 1 of this chapter for one (1) year to any person:

19 (A) that:

20 (i) applied for; or

21 (ii) made a retail transaction under;

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

24 (B) that:

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

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

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

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

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

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

41 (A) that:

42 (i) applied for; or



- 1 (ii) made a retail transaction under;
 2 the retail merchant certificate suspended under subdivision
 3 (1); or
 4 (B) that:
 5 (i) owned or co-owned, directly or indirectly; or
 6 (ii) was an officer, a director, a manager, or a partner of;
 7 the retail merchant that was issued the retail merchant
 8 certificate suspended under subdivision (1).

9 SECTION 10. IC 6-3-1-11, AS AMENDED BY P.L.205-2013,
 10 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JANUARY 1, 2015 (RETROACTIVE)]: Sec. 11. (a) The term "Internal
 12 Revenue Code" means the Internal Revenue Code of 1986 of the
 13 United States as amended and in effect on January 1, ~~2013~~, **2015**.

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 January
 17 1, ~~2011~~, **2015**, that pertain to the provisions specifically mentioned,
 18 shall be regarded as incorporated in this article by reference and have
 19 the same force and effect as though fully set forth in this article. To the
 20 extent the provisions apply to this article, regulations adopted under
 21 Section 7805(a) of the Internal Revenue Code and in effect on January
 22 1, ~~2011~~, **2015**, shall be regarded as rules adopted by the department
 23 under this article, unless the department adopts specific rules that
 24 supersede the regulation.

25 (c) An amendment to the Internal Revenue Code made by an act
 26 passed by Congress before January 1, ~~2013~~, **2015**, that is effective for
 27 any taxable year that began before January 1, ~~2013~~, **2015**, and that
 28 affects:

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

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



1 (d) This subsection applies to a taxable year ending before January
 2 1, 2013. The following provisions of the Internal Revenue Code that
 3 were amended by the Tax Relief Act, Unemployment Insurance
 4 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are
 5 treated as though they were not amended by the Tax Relief Act,
 6 Unemployment Insurance Reauthorization, and Job Creation Act of
 7 2010 (P.L. 111-312):

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

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

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

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

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

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

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

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

32 SECTION 11. IC 6-3-4-8, AS AMENDED BY P.L.158-2013,
 33 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2015]: Sec. 8. (a) Except as provided in subsection (d), every
 35 employer making payments of wages subject to tax under this article,
 36 regardless of the place where such payment is made, who is required
 37 under the provisions of the Internal Revenue Code to withhold, collect,
 38 and pay over income tax on wages paid by such employer to such
 39 employee, shall, at the time of payment of such wages, deduct and
 40 retain therefrom the amount prescribed in withholding instructions
 41 issued by the department. The department shall base its withholding
 42 instructions on the adjusted gross income tax rate for persons, on the



1 total rates of any income taxes that the taxpayer is subject to under
 2 IC 6-3.5, and on the total amount of exclusions the taxpayer is entitled
 3 to under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4). However, the
 4 withholding instructions on the adjusted gross income of a nonresident
 5 alien (as defined in Section 7701 of the Internal Revenue Code) are to
 6 be based on applying not more than one (1) withholding exclusion,
 7 regardless of the total number of exclusions that IC 6-3-1-3.5(a)(3) and
 8 IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final
 9 return for the taxable year. Such employer making payments of any
 10 wages:

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

16 (2) shall make return of and payment to the department monthly
 17 of the amount of tax which under this article and IC 6-3.5 the
 18 employer is required to withhold.

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

30 (c) For purposes of determining whether an employee is subject to
 31 taxation under IC 6-3.5, an employer is entitled to rely on the statement
 32 of an employee as to the employee's county of residence as represented
 33 by the statement of address in forms claiming exemptions for purposes
 34 of withholding, regardless of when the employee supplied the forms.
 35 Every employee shall notify the employee's employer within five (5)
 36 days after any change in the employee's county of residence.

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

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

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

42 is not required, at the time of payment of the wages, to deduct and



1 retain from the wages the amount prescribed in withholding
2 instructions issued by the department.

3 (e) Every employer shall, at the time of each payment made by the
4 employer to the department, deliver to the department a return upon the
5 form prescribed by the department showing:

- 6 (1) the total amount of wages paid to the employer's employees;
7 (2) the amount deducted therefrom in accordance with the
8 provisions of the Internal Revenue Code;
9 (3) the amount of adjusted gross income tax deducted therefrom
10 in accordance with the provisions of this section;
11 (4) the amount of income tax, if any, imposed under IC 6-3.5 and
12 deducted therefrom in accordance with this section; and
13 (5) any other information the department may require.

14 Every employer making a declaration of withholding as provided in this
15 section shall furnish the employer's employees annually, but not later
16 than thirty (30) days after the end of the calendar year, a record of the
17 total amount of adjusted gross income tax and the amount of each
18 income tax, if any, imposed under IC 6-3.5, withheld from the
19 employees, on the forms prescribed by the department. **In addition, the
20 employer shall file Form WH-3 annual withholding tax reports
21 with the department not later than thirty-one (31) days after the
22 end of the calendar year.**

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

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

42 (h) Amounts deducted from wages of an employee during any



1 calendar year in accordance with the provisions of this section shall be
 2 considered to be in part payment of the tax imposed on such employee
 3 for the employee's taxable year which begins in such calendar year, and
 4 a return made by the employer under subsection (b) shall be accepted
 5 by the department as evidence in favor of the employee of the amount
 6 so deducted from the employee's wages. Where the total amount so
 7 deducted exceeds the amount of tax on the employee as computed
 8 under this article and IC 6-3.5, the department shall, after examining
 9 the return or returns filed by the employee in accordance with this
 10 article and IC 6-3.5, refund the amount of the excess deduction.
 11 However, under rules promulgated by the department, the excess or any
 12 part thereof may be applied to any taxes or other claim due from the
 13 taxpayer to the state of Indiana or any subdivision thereof. ~~No refund~~
 14 ~~shall be made to an employee who fails to file the employee's return or~~
 15 ~~returns as required under this article and IC 6-3.5 within two (2) years~~
 16 ~~from the due date of the return or returns.~~ In the event that the excess
 17 tax deducted is less than one dollar (\$1), no refund shall be made.

18 (i) This section shall in no way relieve any taxpayer from the
 19 taxpayer's obligation of filing a return or returns at the time required
 20 under this article and IC 6-3.5, and, should the amount withheld under
 21 the provisions of this section be insufficient to pay the total tax of such
 22 taxpayer, such unpaid tax shall be paid at the time prescribed by
 23 section 5 of this chapter.

24 (j) Notwithstanding subsection (b), an employer of a domestic
 25 service employee that enters into an agreement with the domestic
 26 service employee to withhold federal income tax under Section 3402
 27 of the Internal Revenue Code may withhold Indiana income tax on the
 28 domestic service employee's wages on the employer's Indiana
 29 individual income tax return in the same manner as allowed by Section
 30 3510 of the Internal Revenue Code.

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

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

38 SECTION 12. IC 6-3.1-4-1, AS AMENDED BY P.L.193-2005,
 39 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2015]: Sec. 1. As used in this chapter:

41 "Base amount" means base amount (as defined in Section 41(c) of
 42 the Internal Revenue Code) ~~as in effect on January 1, 2001~~; modified



1 by considering only Indiana qualified research expenses and gross
2 receipts attributable to Indiana in the calculation of the taxpayer's:

- 3 (1) fixed base percentage; and
- 4 (2) average annual gross receipts.

5 "Indiana qualified research expense" means qualified research
6 expense that is incurred for research conducted in Indiana.

7 "Qualified research expense" means qualified research expense (as
8 defined in Section 41(b) of the Internal Revenue Code). ~~as in effect on~~
9 ~~January 1, 2001~~).

10 "Pass through entity" means:

- 11 (1) a corporation that is exempt from the adjusted gross income
12 tax under IC 6-3-2-2.8(2);
- 13 (2) a partnership;
- 14 (3) a limited liability company; or
- 15 (4) a limited liability partnership.

16 "Research expense tax credit" means a credit provided under this
17 chapter against any tax otherwise due and payable under IC 6-3.

18 "Taxpayer" means an individual, a corporation, a limited liability
19 company, a limited liability partnership, a trust, or a partnership that
20 has any tax liability under IC 6-3 (adjusted gross income tax).

21 SECTION 13. IC 6-3.1-4-4 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The provisions of
23 Section 41 of the Internal Revenue Code ~~as in effect on January 1,~~
24 ~~2001~~; and the regulations promulgated in respect to those provisions
25 ~~and in effect on January 1, 2001~~; are applicable to the interpretation
26 and administration by the department of the credit provided by this
27 chapter, including the allocation and pass through of the credit to
28 various taxpayers and the transitional rules for determination of the
29 base period.

30 SECTION 14. IC 6-3.1-21-6, AS AMENDED BY P.L.229-2011,
31 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2015]: Sec. 6. (a) Except as provided by subsection (b), an
33 individual who is eligible for an earned income tax credit under Section
34 32 of the Internal Revenue Code as it existed before being amended by
35 the Tax Relief, Unemployment Insurance Reauthorization, and Job
36 Creation Act of 2010 (P.L. 111-312), is eligible for a credit under this
37 chapter equal to nine percent (9%) of the amount of the federal earned
38 income tax credit that the individual:

- 39 (1) is eligible to receive in the taxable year; and
- 40 (2) claimed for the taxable year;

41 under Section 32 of the Internal Revenue Code as it existed before
42 being amended by the Tax Relief. Unemployment Insurance



1 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

2 (b) In the case of a nonresident taxpayer or a resident taxpayer
3 residing in Indiana for a period of less than the taxpayer's entire taxable
4 year, the amount of the credit is equal to the product of:

5 (1) the amount determined under subsection (a); multiplied by

6 (2) the quotient of the taxpayer's income taxable in Indiana
7 divided by the taxpayer's total income.

8 (c) If the credit amount exceeds the taxpayer's adjusted gross
9 income tax liability for the taxable year, the excess ~~less any advance~~
10 ~~payments of the credit made by the taxpayer's employer under~~
11 ~~IC 6-3-4-8 that reduce the excess~~, shall be refunded to the taxpayer.

12 SECTION 15. IC 6-3.1-21-8, AS AMENDED BY P.L.172-2011,
13 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2015]: Sec. 8. To obtain a credit under this chapter, a taxpayer
15 must claim the ~~advance payment~~ or credit in the manner prescribed by
16 the department of state revenue. The taxpayer shall submit to the
17 department of state revenue all information that the department of state
18 revenue determines is necessary for the calculation of the credit
19 provided by this chapter.

20 SECTION 16. IC 6-3.5-1.1-2, AS AMENDED BY P.L.261-2013,
21 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 2. (a) The county council of any county in
23 which the county option income tax will not be in effect on December
24 1 of a year under an ordinance adopted during a previous calendar year
25 may impose the county adjusted gross income tax on the adjusted gross
26 income of county taxpayers of its county.

27 (b) Except as provided in section 2.3, 2.5, 2.7, 2.8, 2.9, 3.3, **3.4**, 3.5,
28 3.6, 24, 25, or 26 of this chapter, the county adjusted gross income tax
29 may be imposed at a rate of one-half of one percent (0.5%),
30 three-fourths of one percent (0.75%), or one percent (1%) on the
31 adjusted gross income of resident county taxpayers of the county. Any
32 county imposing the county adjusted gross income tax must impose the
33 tax on the nonresident county taxpayers at a rate of one-fourth of one
34 percent (0.25%) on their adjusted gross income. If the county council
35 elects to decrease the county adjusted gross income tax, the county
36 council may decrease the county adjusted gross income tax rate in
37 increments of one-tenth of one percent (0.1%).

38 (c) To impose the county adjusted gross income tax, the county
39 council must adopt an ordinance. The ordinance must substantially
40 state the following:

41 "The _____ County Council imposes the county adjusted
42 gross income tax on the county taxpayers of _____ County.



- 1 The county adjusted gross income tax is imposed at a rate of
2 _____ percent (_____%) on the resident county taxpayers of the
3 county and one-fourth of one percent (0.25%) on the nonresident
4 county taxpayers of the county."
- 5 (d) The auditor of a county shall record all votes taken on
6 ordinances presented for a vote under the authority of this section and,
7 not more than ten (10) days after the vote, send a certified copy of the
8 results to the commissioner of the department, the director of the
9 budget agency, and the commissioner of the department of local
10 government finance in an electronic format approved by the director of
11 the budget agency.
- 12 (e) If the county adjusted gross income tax had previously been
13 adopted by a county under IC 6-3.5-1 (before its repeal on March 15,
14 1983) and that tax was in effect at the time of the enactment of this
15 chapter, then the county adjusted gross income tax continues in that
16 county at the rates in effect at the time of enactment until the rates are
17 modified or the tax is rescinded in the manner prescribed by this
18 chapter. If a county's adjusted gross income tax is continued under this
19 subsection, then the tax shall be treated as if it had been imposed under
20 this chapter and is subject to rescission or reduction as authorized in
21 this chapter.
- 22 SECTION 17. IC 6-3.5-1.1-2.8, AS AMENDED BY P.L.119-2012,
23 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 UPON PASSAGE]: Sec. 2.8. (a) This section applies to the following
25 counties:
- 26 (1) Elkhart County.
27 (2) Marshall County.
- 28 (b) The county council may, by ordinance, determine that additional
29 county adjusted gross income tax revenue is needed in the county to:
- 30 (1) finance, construct, acquire, improve, renovate, or equip:
- 31 (A) jail facilities;
32 (B) juvenile court, detention, and probation facilities;
33 (C) other criminal justice facilities; and
34 (D) related buildings and parking facilities;
35 located in the county, including costs related to the demolition of
36 existing buildings and the acquisition of land; and
- 37 (2) repay bonds issued or leases entered into for the purposes
38 described in subdivision (1).
- 39 (c) The county council may, by ordinance, determine that additional
40 county adjusted gross income tax revenue is needed in the county to
41 operate or maintain:
- 42 (1) jail facilities;



1 (2) juvenile court, detention, and probation facilities;
 2 (3) other criminal justice facilities; and
 3 (4) related buildings and parking facilities;
 4 located in the county. A county council of a county named in
 5 subsection (a)(1) or (a)(2) may make a determination under both this
 6 subsection and subsection (b).

7 (d) In addition to the rates permitted by section 2 of this chapter, the
 8 county council may impose the county adjusted gross income tax at a
 9 rate of:

- 10 (1) fifteen-hundredths percent (0.15%);
 11 (2) two-tenths percent (0.2%); or
 12 (3) twenty-five hundredths percent (0.25%);

13 on the adjusted gross income of county taxpayers if the county council
 14 makes a finding and determination set forth in subsection (b) or (c).
 15 The tax rate may not be imposed at a rate greater than is necessary to
 16 carry out the purposes described in subsections (b) and (c), as
 17 applicable.

18 (e) ~~This subsection applies only to Elkhart County.~~ If the county
 19 council imposes the tax under this section to pay for the purposes
 20 described in both subsections (b) and (c), when:

- 21 (1) the financing, construction, acquisition, improvement,
 22 renovation, and equipping described in subsection (b) are
 23 completed; and
 24 (2) all bonds issued (including any refunding bonds) or leases
 25 entered into to finance the construction, acquisition,
 26 improvement, renovation, and equipping described in subsection
 27 (b) are fully paid;

28 the county council shall, subject to subsection (d), establish a tax rate
 29 under this section by ordinance such that the revenue from the tax does
 30 not exceed the costs of operating and maintaining the jail facilities
 31 referred to in subsection (b)(1)(A).

32 (f) The tax imposed under this section may be imposed only until
 33 the last of the following dates:

- 34 (1) The date on which the financing, construction, acquisition,
 35 improvement, renovation, and equipping described in subsection
 36 (b) are completed.
 37 (2) The date on which the last of any bonds issued (including any
 38 refunding bonds) or leases entered into to finance the
 39 construction, acquisition, improvement, renovation, and
 40 equipping described in subsection (b) are fully paid.
 41 (3) ~~If the county imposing the tax under this section is Elkhart~~
 42 ~~County~~; The date on which an ordinance adopted under



- 1 subsection (c) is rescinded.
- 2 (g) The term of the bonds issued (including any refunding bonds) or
3 a lease entered into under subsection (b)(2) may not exceed twenty (20)
4 years.
- 5 (h) The county treasurer shall establish a criminal justice facilities
6 revenue fund to be used only for purposes described in this section.
7 County adjusted gross income tax revenues derived from the tax rate
8 imposed under this section shall be deposited in the criminal justice
9 facilities revenue fund before making a certified distribution under
10 section 11 of this chapter.
- 11 (i) County adjusted gross income tax revenues derived from the tax
12 rate imposed under this section:
- 13 (1) may be used only for the purposes described in this section;
14 (2) may not be considered by the department of local government
15 finance in determining the county's maximum permissible
16 property tax levy limit under IC 6-1.1-18.5; and
17 (3) may be pledged to the repayment of bonds issued or leases
18 entered into for any or all the purposes described in subsection
19 (b).
- 20 (j) Notwithstanding any other law, money remaining in the criminal
21 justice facilities revenue fund established under subsection (h) after the
22 tax imposed by this section is terminated under subsection (f) shall be
23 transferred to the county highway fund to be used for construction,
24 resurfacing, restoration, and rehabilitation of county highways, roads,
25 and bridges.
- 26 SECTION 18. IC 6-3.5-1.1-3.4 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE UPON PASSAGE]: **Sec. 3.4. (a) This section applies
29 only to Tipton County.**
- 30 **(b) The county council may, by ordinance, determine that
31 additional county adjusted gross income tax revenue is needed in
32 the county to:**
- 33 **(1) finance, construct, acquire, improve, renovate, remodel,
34 equip, operate, or maintain the county jail and related
35 buildings and parking facilities, including costs related to the
36 demolition of existing buildings, the acquisition of land, and
37 any other reasonably related costs; and**
- 38 **(2) repay bonds issued or leases entered into for constructing,
39 acquiring, improving, renovating, remodeling, equipping,
40 operating, and maintaining the county jail and related
41 buildings and parking facilities, including costs related to the
42 demolition of existing buildings, the acquisition of land, and**



- 1 any other reasonably related costs.
- 2 (c) In addition to the rates permitted by section 2 of this
3 chapter, the county council may impose the county adjusted gross
4 income tax at a rate of:
- 5 (1) fifteen-hundredths percent (0.15%);
6 (2) two-tenths percent (0.2%);
7 (3) twenty-five hundredths percent (0.25%);
8 (4) three-tenths percent (0.3%);
9 (5) thirty-five hundredths percent (0.35%); or
10 (6) four-tenths percent (0.4%);
- 11 on the adjusted gross income of county taxpayers if the county
12 council makes the determination set forth in subsection (b). The tax
13 imposed under this section may be imposed only until the later of
14 the date on which the financing, constructing, acquisition,
15 improvement, renovation, remodeling, and equipping described in
16 subsection (b) are completed or the date on which the last of any
17 bonds issued or leases entered into to finance the construction,
18 acquisition, improvement, renovation, remodeling, equipping,
19 operating, and maintaining described in subsection (b) are fully
20 paid. The term of the bonds issued (including any refunding bonds)
21 or a lease entered into under subsection (b)(2) may not exceed
22 twenty (20) years.
- 23 (d) If the county council makes a determination under
24 subsection (b), the county council may adopt a tax rate under
25 subsection (c). The tax rate may not be imposed at a rate greater
26 than is necessary to pay the costs of financing, constructing,
27 acquiring, improving, renovating, remodeling, equipping,
28 operating, and maintaining the county jail and related buildings
29 and parking facilities, including costs related to the demolition of
30 existing buildings, the acquisition of land, and any other
31 reasonably related costs.
- 32 (e) The county treasurer shall establish a county jail revenue
33 fund to be used only for the purposes described in this section.
34 County adjusted gross income tax revenues derived from the tax
35 rate imposed under this section shall be deposited in the county jail
36 revenue fund before making a certified distribution under section
37 11 of this chapter.
- 38 (f) County adjusted gross income tax revenues derived from the
39 tax rate imposed under this section:
- 40 (1) may be used only for the purposes described in this
41 section;
- 42 (2) may not be considered by the department of local



1 government finance in determining the county's maximum
 2 permissible ad valorem property tax levy limit under
 3 IC 6-1.1-18.5; and

4 (3) may be pledged to the repayment of bonds issued or leases
 5 entered into for the purposes described in subsection (b).

6 (g) Tipton County possesses unique governmental and economic
 7 development challenges due to:

8 (1) the county's heavy agricultural base;

9 (2) deficiencies in the current county jail, including:

10 (A) overcrowding;

11 (B) lack of program and support space for efficient jail
 12 operations;

13 (C) inadequate line of sight supervision of inmates, due to
 14 current jail configuration;

15 (D) lack of adequate housing for an increasing female
 16 inmate population and inmates with special needs;

17 (E) lack of adequate administrative space; and

18 (F) increasing maintenance demands and costs resulting
 19 from the age of facilities;

20 (3) the presence of a large industrial employer that offers the
 21 opportunity to expand the income tax base; and

22 (4) the presence of the historic Tipton County jail and
 23 sheriff's home, listed on the National Register of Historic
 24 Places.

25 The use of county adjusted gross income tax revenue as provided
 26 in this section is necessary for the county to provide adequate jail
 27 facilities in the county and to maintain low property tax rates
 28 essential to economic development. The use of county adjusted
 29 gross income tax revenues as provided in this section to pay any
 30 bonds issued or leases entered into to finance the construction,
 31 acquisition, improvement, renovation, remodeling, equipping,
 32 operating, and maintaining described in subsection (b), rather than
 33 the use of property taxes, promotes those purposes.

34 (h) Notwithstanding any other law, funds accumulated from the
 35 county adjusted gross income tax imposed under this section after:

36 (1) the redemption of bonds issued; or

37 (2) the final payment of lease rentals due under a lease
 38 entered into under this section;

39 shall be transferred to the county rainy day fund under
 40 IC 36-1-8-5.1.

41 SECTION 19, IC 6-3.5-1.1-10, AS AMENDED BY P.L.137-2012,
 42 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 UPON PASSAGE]: Sec. 10. (a) One-twelfth (1/12) of each adopting
 2 county's certified distribution for a calendar year shall be distributed
 3 from its account established under section 8 of this chapter to the
 4 appropriate county treasurer on the first regular business day of each
 5 month of that calendar year.

6 (b) Except for:

7 (1) revenue that must be used to pay the costs of:

8 (A) financing, constructing, acquiring, improving, renovating,
 9 equipping, operating, or maintaining facilities and buildings;

10 (B) debt service on bonds; or

11 (C) lease rentals;

12 under section 2.3 of this chapter;

13 (2) revenue that must be used to pay the costs of operating a jail
 14 and juvenile detention center under section 2.5 of this chapter;

15 (3) revenue that must be used to pay the costs of:

16 (A) financing, constructing, acquiring, improving, renovating,
 17 equipping, operating, or maintaining facilities and buildings;

18 (B) debt service on bonds; or

19 (C) lease rentals;

20 under section 2.8 of this chapter;

21 (4) revenue that must be used to pay the costs of construction,
 22 improvement, renovation, or remodeling of a jail and related
 23 buildings and parking structures under section 2.7, 2.9, or 3.3 of
 24 this chapter;

25 (5) revenue that must be used to pay the costs of operating and
 26 maintaining a jail and justice center under section 3.5(d) of this
 27 chapter;

28 (6) revenue that must be used to pay the costs of constructing,
 29 acquiring, improving, renovating, or equipping a county
 30 courthouse under section 3.6 of this chapter; or

31 **(7) revenue that must be used to pay the costs of:**

32 **(A) financing, constructing, acquiring, improving,**
 33 **renovating, remodeling, equipping, operating, or**
 34 **maintaining a county jail and related buildings and**
 35 **facilities;**

36 **(B) debt service; or**

37 **(C) lease rentals;**

38 **under section 3.4 of this chapter; or**

39 ~~(7)~~ **(8) revenue attributable to a tax rate under section 24, 25, or**
 40 **26 of this chapter;**

41 distributions made to a county treasurer under subsection (a) shall be
 42 treated as though they were property taxes that were due and payable



1 during that same calendar year. Except as provided by sections 24, 25,
 2 and 26 of this chapter, the certified distribution shall be distributed and
 3 used by the taxing units and school corporations as provided in sections
 4 11 through 15 of this chapter.

5 (c) All distributions from an account established under section 8 of
 6 this chapter shall be made by warrants issued by the auditor of the state
 7 to the treasurer of the state ordering the appropriate payments.

8 SECTION 20. IC 6-3.5-1.1-11, AS AMENDED BY P.L.77-2011,
 9 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]: Sec. 11. (a) Except for:

11 (1) revenue that must be used to pay the costs of:

12 (A) financing, constructing, acquiring, improving, renovating,
 13 equipping, operating, or maintaining facilities and buildings;

14 (B) debt service on bonds; or

15 (C) lease rentals;

16 under section 2.3 of this chapter;

17 (2) revenue that must be used to pay the costs of operating a jail
 18 and juvenile detention center under section 2.5 of this chapter;

19 (3) revenue that must be used to pay the costs of:

20 (A) financing, constructing, acquiring, improving, renovating,
 21 equipping, operating, or maintaining facilities and buildings;

22 (B) debt service on bonds; or

23 (C) lease rentals;

24 under section 2.8 of this chapter;

25 (4) revenue that must be used to pay the costs of construction,
 26 improvement, renovation, or remodeling of a jail and related
 27 buildings and parking structures under section 2.7, 2.9, or 3.3 of
 28 this chapter;

29 (5) revenue that must be used to pay the costs of operating and
 30 maintaining a jail and justice center under section 3.5(d) of this
 31 chapter;

32 (6) revenue that must be used to pay the costs of constructing,
 33 acquiring, improving, renovating, or equipping a county
 34 courthouse under section 3.6 of this chapter; or

35 **(7) revenue that must be used to pay the costs of:**

36 **(A) financing, constructing, acquiring, improving,**
 37 **renovating, remodeling, equipping, operating, or**
 38 **maintaining a county jail and related buildings and**
 39 **facilities;**

40 **(B) debt service; or**

41 **(C) lease rentals;**

42 **under section 3.4 of this chapter; or**



1 (7) (8) revenue attributable to a tax rate under section 24, 25, or
 2 26 of this chapter;
 3 the certified distribution received by a county treasurer shall, in the
 4 manner prescribed in this section, be allocated, distributed, and used
 5 by the civil taxing units and school corporations of the county as
 6 certified shares and property tax replacement credits.
 7 (b) Before August 10 of each calendar year, each county auditor
 8 shall determine the part of the certified distribution for the next
 9 succeeding calendar year that will be allocated as property tax
 10 replacement credits and the part that will be allocated as certified
 11 shares. The percentage of a certified distribution that will be allocated
 12 as property tax replacement credits or as certified shares depends upon
 13 the county adjusted gross income tax rate for resident county taxpayers
 14 in effect on December 1 of the calendar year that precedes the year in
 15 which the certified distribution will be received by two (2) years. The
 16 percentages are set forth in the following table:

	PROPERTY		
COUNTY	TAX		
ADJUSTED GROSS	REPLACEMENT	CERTIFIED	
INCOME TAX RATE	CREDITS	SHARES	
0.5%	50%	50%	
0.75%	33 1/3%	66 2/3%	
1%	25%	75%	

24 (c) The part of a certified distribution that constitutes property tax
 25 replacement credits shall be distributed as provided under sections 12,
 26 13, and 14 of this chapter.

27 (d) The part of a certified distribution that constitutes certified
 28 shares shall be distributed as provided by section 15 of this chapter.

29 SECTION 21. IC 6-3.5-7-5, AS AMENDED BY P.L.153-2014,
 30 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c),
 32 the county economic development income tax may be imposed on the
 33 adjusted gross income of county taxpayers. Except as provided in
 34 section 26(m) of this chapter, the entity that may impose the tax is:

- 35 (1) the county income tax council (as defined in IC 6-3.5-6-1) if
- 36 the county option income tax is in effect on October 1 of the year
- 37 the county economic development income tax is imposed;
- 38 (2) the county council if the county adjusted gross income tax is
- 39 in effect on October 1 of the year the county economic
- 40 development tax is imposed; or
- 41 (3) the county income tax council or the county council,
- 42 whichever acts first, for a county not covered by subdivision (1)



1 or (2).

2 To impose the county economic development income tax, a county
3 income tax council shall use the procedures set forth in IC 6-3.5-6
4 concerning the imposition of the county option income tax.

5 (b) Except as provided in this section and section 28 of this chapter,
6 the county economic development income tax may be imposed at a rate
7 of:

- 8 (1) one-tenth percent (0.1%);
9 (2) two-tenths percent (0.2%);
10 (3) twenty-five hundredths percent (0.25%);
11 (4) three-tenths percent (0.3%);
12 (5) thirty-five hundredths percent (0.35%);
13 (6) four-tenths percent (0.4%);
14 (7) forty-five hundredths percent (0.45%); or
15 (8) five-tenths percent (0.5%);

16 on the adjusted gross income of county taxpayers.

17 (c) Except as provided in this section, the county economic
18 development income tax rate plus the county adjusted gross income tax
19 rate, if any, that are in effect on January 1 of a year may not exceed one
20 and twenty-five hundredths percent (1.25%). Except as provided in this
21 section, the county economic development tax rate plus the county
22 option income tax rate, if any, that are in effect on January 1 of a year
23 may not exceed one percent (1%).

24 (d) To impose, increase, decrease, or rescind the county economic
25 development income tax, the appropriate body must adopt an
26 ordinance.

27 (e) The ordinance to impose the tax must substantially state the
28 following:

29 "The _____ County _____ imposes the county economic
30 development income tax on the county taxpayers of _____
31 County. The county economic development income tax is imposed at
32 a rate of _____ percent (____%) on the county taxpayers of the
33 county."

34 (f) The auditor of a county shall record all votes taken on ordinances
35 presented for a vote under the authority of this chapter and shall, not
36 more than ten (10) days after the vote, send a certified copy of the
37 results to the commissioner of the department, the director of the
38 budget agency, and the commissioner of the department of local
39 government finance in an electronic format approved by the director of
40 the budget agency.

41 (g) For Jackson County, except as provided in subsection (o), the
42 county economic development income tax rate plus the county adjusted



1 gross income tax rate that are in effect on January 1 of a year may not
 2 exceed one and thirty-five hundredths percent (1.35%) if the county has
 3 imposed the county adjusted gross income tax at a rate of one and
 4 one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

5 (h) For Pulaski County, except as provided in subsection (o), the
 6 county economic development income tax rate plus the county adjusted
 7 gross income tax rate that are in effect on January 1 of a year may not
 8 exceed one and fifty-five hundredths percent (1.55%).

9 (i) For Wayne County, except as provided in subsection (o), the
 10 county economic development income tax rate plus the county adjusted
 11 gross income tax rate that are in effect on January 1 of a year may not
 12 exceed one and five-tenths percent (1.5%).

13 (j) This subsection applies to Randolph County. Except as provided
 14 in subsection (o), in addition to the rates permitted under subsection
 15 (b):

16 (1) the county economic development income tax may be imposed
 17 at a rate of twenty-five hundredths percent (0.25%); and

18 (2) the sum of the county economic development income tax rate
 19 and the county adjusted gross income tax rate that are in effect on
 20 January 1 of a year may not exceed one and five-tenths percent
 21 (1.5%);

22 if the county council makes a determination to impose rates under this
 23 subsection and section 22.5 of this chapter.

24 (k) For Daviess County, except as provided in subsection (o), the
 25 county economic development income tax rate plus the county adjusted
 26 gross income tax rate that are in effect on January 1 of a year may not
 27 exceed one and five-tenths percent (1.5%).

28 (l) For:

29 (1) Elkhart County; or

30 (2) Marshall County;

31 except as provided in subsection (o), the county economic development
 32 income tax rate plus the county adjusted gross income tax rate that are
 33 in effect on January 1 of a year may not exceed one and five-tenths
 34 percent (1.5%).

35 (m) For Union County, except as provided in subsection (o), the
 36 county economic development income tax rate plus the county adjusted
 37 gross income tax rate that are in effect on January 1 of a year may not
 38 exceed one and five-tenths percent (1.5%).

39 (n) This subsection applies to Knox County. Except as provided in
 40 subsection (o), in addition to the rates permitted under subsection (b):

41 (1) the county economic development income tax may be imposed
 42 at a rate of twenty-five hundredths percent (0.25%); and



- 1 (2) the sum of the county economic development income tax rate
 2 and:
 3 (A) the county adjusted gross income tax rate that are in effect
 4 on January 1 of a year may not exceed one and five-tenths
 5 percent (1.5%); or
 6 (B) the county option income tax rate that are in effect on
 7 January 1 of a year may not exceed one and twenty-five
 8 hundredths percent (1.25%);
 9 if the county council makes a determination to impose rates under this
 10 subsection and section 24 of this chapter.
 11 (o) This subsection applies to a county in which an adopting entity
 12 approves the use of the certified distribution for property tax relief
 13 under section 26(c) and 26(e) of this chapter or to a county in which the
 14 county fiscal body approves the use of the certified distribution to fund
 15 a public transportation project under section 26(m) of this chapter. In
 16 addition:
 17 (1) the county economic development income tax may be imposed
 18 at a rate that exceeds by not more than twenty-five hundredths
 19 percent (0.25%) the maximum rate that would otherwise apply
 20 under this section; and
 21 (2) the:
 22 (A) county economic development income tax; and
 23 (B) county option income tax or county adjusted gross income
 24 tax;
 25 may be imposed at combined rates that exceed by not more than
 26 twenty-five hundredths percent (0.25%) the maximum combined
 27 rates that would otherwise apply under this section.
 28 Except as provided in section 5.5 of this chapter, the additional rate
 29 imposed under this subsection may not exceed the amount necessary
 30 to mitigate the increased ad valorem property taxes on homesteads (as
 31 defined in IC 6-1.1-20.9-1 (repealed) before January 1, 2009, or
 32 IC 6-1.1-12-37 after December 31, 2008) or residential property (as
 33 defined in section 26 of this chapter), as appropriate under the
 34 ordinance adopted by the adopting body in the county, resulting from
 35 the deduction of the assessed value of inventory in the county under
 36 IC 6-1.1-12-41 or IC 6-1.1-12-42 or from the exclusion in 2008 of
 37 inventory from the definition of personal property in IC 6-1.1-1-11.
 38 (p) If the county economic development income tax is imposed as
 39 authorized under subsection (o) at a rate that exceeds the maximum
 40 rate that would otherwise apply under this section, the certified
 41 distribution must be used for a purpose provided in section 26 of this
 42 chapter to the extent that the certified distribution results from the



- 1 difference between:
- 2 (1) the actual county economic development tax rate; and
- 3 (2) the maximum rate that would otherwise apply under this
- 4 section.
- 5 (q) This subsection applies only to a county described in section 27
- 6 of this chapter. Except as provided in subsection (o), in addition to the
- 7 rates permitted by subsection (b), the:
- 8 (1) county economic development income tax may be imposed at
- 9 a rate of twenty-five hundredths percent (0.25%); and
- 10 (2) county economic development income tax rate plus the county
- 11 option income tax rate that are in effect on January 1 of a year
- 12 may equal up to one and twenty-five hundredths percent (1.25%);
- 13 if the county council makes a determination to impose rates under this
- 14 subsection and section 27 of this chapter.
- 15 (r) Except as provided in subsection (o), the county economic
- 16 development income tax rate plus the county adjusted gross income tax
- 17 rate that are in effect on January 1 of a year may not exceed one and
- 18 five-tenths percent (1.5%) if the county has imposed the county
- 19 adjusted gross income tax under IC 6-3.5-1.1-3.3.
- 20 (s) This subsection applies to Howard County. Except as provided
- 21 in subsection (o), the sum of the county economic development income
- 22 tax rate and the county option income tax rate that are in effect on
- 23 January 1 of a year may not exceed one and twenty-five hundredths
- 24 percent (1.25%).
- 25 (t) This subsection applies to Scott County. Except as provided in
- 26 subsection (o), the sum of the county economic development income
- 27 tax rate and the county option income tax rate that are in effect on
- 28 January 1 of a year may not exceed one and twenty-five hundredths
- 29 percent (1.25%).
- 30 (u) This subsection applies to Jasper County. Except as provided in
- 31 subsection (o), the sum of the county economic development income
- 32 tax rate and the county adjusted gross income tax rate that are in effect
- 33 on January 1 of a year may not exceed one and five-tenths percent
- 34 (1.5%).
- 35 (v) An additional county economic development income tax rate
- 36 imposed under section 28 of this chapter may not be considered in
- 37 calculating any limit under this section on the sum of:
- 38 (1) the county economic development income tax rate plus the
- 39 county adjusted gross income tax rate; or
- 40 (2) the county economic development tax rate plus the county
- 41 option income tax rate.
- 42 (w) The income tax rate limits imposed by subsection (c) or (x) or



1 any other provision of this chapter do not apply to:

2 (1) a county adjusted gross income tax rate imposed under
3 IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26; or

4 (2) a county option income tax rate imposed under IC 6-3.5-6-30,
5 IC 6-3.5-6-31, or IC 6-3.5-6-32.

6 For purposes of computing the maximum combined income tax rate
7 under subsection (c) or (x) or any other provision of this chapter that
8 may be imposed in a county under IC 6-3.5-1.1, IC 6-3.5-6, and this
9 chapter, a county's county adjusted gross income tax rate or county
10 option income tax rate for a particular year does not include the county
11 adjusted gross income tax rate imposed under IC 6-3.5-1.1-24,
12 IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 or the county option income tax rate
13 imposed under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32.

14 (x) This subsection applies to Monroe County. Except as provided
15 in subsection (o), if an ordinance is adopted under IC 6-3.5-6-33, the
16 sum of the county economic development income tax rate and the
17 county option income tax rate that are in effect on January 1 of a year
18 may not exceed one and twenty-five hundredths percent (1.25%).

19 (y) This subsection applies to Perry County. Except as provided in
20 subsection (o), if an ordinance is adopted under section 27.5 of this
21 chapter, the county economic development income tax rate plus the
22 county option income tax rate that is in effect on January 1 of a year
23 may not exceed one and seventy-five hundredths percent (1.75%).

24 (z) This subsection applies to Starke County. Except as provided in
25 subsection (o), if an ordinance is adopted under section 27.6 of this
26 chapter, the county economic development income tax rate plus the
27 county adjusted gross income tax rate that is in effect on January 1 of
28 a year may not exceed two percent (2%).

29 **(aa) This subsection applies to Tipton County. Except as**
30 **provided in subsection (o), the sum of the county economic**
31 **development income tax rate and the county adjusted gross income**
32 **tax rate that are in effect on January 1 of a year may not exceed**
33 **one and sixty-five hundredths percent (1.65%).**

34 SECTION 22. IC 6-7-1-17, AS AMENDED BY P.L.131-2008,
35 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2015]: Sec. 17. (a) Distributors who hold certificates and
37 retailers shall be agents of the state in the collection of the taxes
38 imposed by this chapter and the amount of the tax levied, assessed, and
39 imposed by this chapter on cigarettes sold, exchanged, bartered,
40 furnished, given away, or otherwise disposed of by distributors or to
41 retailers. Distributors who hold certificates shall be agents of the
42 department to affix the required stamps and shall be entitled to



1 purchase the stamps from the department at a discount of one and
 2 two-tenths cents (\$0.012) per individual package of cigarettes as
 3 compensation for their labor and expense.

4 (b) The department may permit distributors who hold certificates
 5 and who are admitted to do business in Indiana to pay for revenue
 6 stamps within thirty (30) days after the date of purchase. However, the
 7 privilege is extended upon the express condition that:

8 (1) except as provided in subsection (c), a bond or letter of credit
 9 satisfactory to the department, in an amount not less than the sales
 10 price of the stamps, is filed with the department;

11 (2) proof of payment is made of all property taxes, excise taxes,
 12 and listed taxes (as defined in IC 6-8.1-1-1) for which any such
 13 distributor may be liable; and

14 (3) payment for the revenue stamps must be made by electronic
 15 funds transfer (as defined in IC 4-8.1-2-7).

16 The bond, or letter of credit, conditioned to secure payment for the
 17 stamps, shall be executed by the distributor as principal and by a
 18 corporation duly authorized to engage in business as a surety company
 19 or financial institution in Indiana.

20 (c) If a distributor has at least five (5) consecutive years of good
 21 credit standing with the state, the distributor shall not be required to
 22 post a bond or letter of credit under subsection (b).

23 **(d) A revenue stamp purchased by a distributor under this**
 24 **section remains the property of the state of Indiana with a value**
 25 **equivalent to the stamp's face value, until payment has been made**
 26 **in full, regardless of whether the stamp is affixed to a package of**
 27 **cigarettes.**

28 SECTION 23. IC 6-8.1-4-5 IS ADDED TO THE INDIANA CODE
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 30 1, 2015]: **Sec. 5. (a) The department may deny an application**
 31 **described in section 4(c) of this chapter if the applicant has had a**
 32 **registration revoked under section 4(f) of this chapter or any other**
 33 **applicable statute.**

34 **(b) The department may deny an application described in**
 35 **section 4(c) of this chapter if the applicant's business is operated,**
 36 **managed, or otherwise controlled by or affiliated with a person,**
 37 **including the applicant, a relative, a family member, a responsible**
 38 **officer, or a shareholder, whom the department has determined is**
 39 **covered by any of the following:**

40 **(1) Has failed to file all tax returns or information reports**
 41 **with the department required under this title, IC 8, or IC 9.**

42 **(2) Has failed to pay all taxes, penalties, and interest required**



1 to the department under this title, IC 8, or IC 9.

2 **(3) Has failed to pay any registration or license plate fees for**
 3 **vehicles that were at any point owned or operated by the**
 4 **person or for which the person was responsible for payment.**

5 **(4) Has failed to return a license plate for which a fee was not**
 6 **paid as described in subdivision (3) to the department.**

7 **(5) Has an unsatisfactory safety rating under 49 CFR Part**
 8 **385.**

9 **(6) Has multiple violations of IC 9 or a rule adopted under**
 10 **IC 9.**

11 **(c) The department may deny any application described in**
 12 **section 4(c) of this chapter if the applicant is a motor carrier whose**
 13 **business is operated, managed, or otherwise controlled by or**
 14 **affiliated with a person, including an owner, a relative, a family**
 15 **member, a responsible officer, or a shareholder, whom the**
 16 **department has determined is covered by any item listed in**
 17 **subsection (b).**

18 **(d) If the applicant has altered a cab card or permit, the**
 19 **department shall bill the carrier automatically for the violation.**

20 SECTION 24. IC 6-8.1-5-1, AS AMENDED BY P.L.172-2011,
 21 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2015]: Sec. 1. (a) As used in this section, "letter of findings"
 23 includes a supplemental letter of findings.

24 (b) If the department reasonably believes that a person has not
 25 reported the proper amount of tax due, the department shall make a
 26 proposed assessment of the amount of the unpaid tax on the basis of the
 27 best information available to the department. The amount of the
 28 assessment is considered a tax payment not made by the due date and
 29 is subject to IC 6-8.1-10 concerning the imposition of penalties and
 30 interest. The department shall send the person a notice of the proposed
 31 assessment through the United States mail.

32 (c) ~~If the person has a surety bond guaranteeing payment of the tax~~
 33 ~~for which the proposed assessment is made, the department shall~~
 34 ~~furnish a copy of the proposed assessment to the surety:~~ The notice of
 35 proposed assessment is prima facie evidence that the department's
 36 claim for the unpaid tax is valid. The burden of proving that the
 37 proposed assessment is wrong rests with the person against whom the
 38 proposed assessment is made.

39 (d) The notice shall state that the person has forty-five (45) days
 40 from the date the notice is mailed, if the notice was mailed before
 41 January 1, 2011, and sixty (60) days from the date the notice is mailed,
 42 if the notice was mailed after December 31, 2010, to pay the



1 assessment or to file a written protest. If the person files a protest and
 2 requires a hearing on the protest, the department shall:

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

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

9 (f) ~~No later than sixty (60) days~~ After conducting a hearing on a
 10 protest, or after making a decision on a protest when no hearing is
 11 requested, the department shall issue a letter of findings and shall send
 12 a copy of the letter through the United States mail to the person who
 13 filed the protest and to the person's surety, if the surety was notified of
 14 the proposed assessment under subsection (b). The department may
 15 continue the hearing until a later date if the taxpayer presents
 16 additional information at the hearing or the taxpayer requests an
 17 opportunity to present additional information after the hearing.

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

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

- 28 (1) the letter of findings is issued by the department, if the person
 29 does not make a timely request for a rehearing under subsection
 30 (g) on the letter of findings; or
 31 (2) the department issues a denial of the person's timely request
 32 for a rehearing under subsection (g) on the letter of findings.

33 **However, the ninety (90) day period may be extended by written**
 34 **agreement between the person and the department. The extension**
 35 **may not be longer than ninety (90) days. The extension agreement**
 36 **must specify the new termination date and the agreement of the**
 37 **person to preserve all records through the new termination date.**

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

- 40 (1) Uphold or deny any part of the assessment that is appealed.
 41 (2) Assess the court costs in a manner that the court believes to be
 42 equitable.



- 1 (3) Enjoin the collection of a listed tax under IC 33-26-6-2.
- 2 (j) The department shall demand payment, as provided in
- 3 IC 6-8.1-8-2(a), of any part of the proposed tax assessment, interest,
- 4 and penalties that it finds owing because:
- 5 (1) the person failed to properly respond within the forty-five (45)
- 6 day period;
- 7 (2) the person requested a hearing but failed to appear at that
- 8 hearing; or
- 9 (3) after consideration of the evidence presented in the protest or
- 10 hearing, the department finds that the person still owes tax.
- 11 (k) The department shall make the demand for payment in the
- 12 manner provided in IC 6-8.1-8-2.
- 13 (l) Subsection (b) does not apply to a motor carrier fuel tax return.
- 14 SECTION 25. IC 6-8.1-6-1, AS AMENDED BY P.L.190-2014,
- 15 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 16 JULY 1, 2015]: Sec. 1. (a) This subsection does not apply to a person's
- 17 Indiana adjusted gross income tax return or a person's financial
- 18 institutions tax return. If a person responsible for filing a tax return is
- 19 unable to file the return by the appropriate due date, the person may
- 20 petition the department, before that due date, for a filing extension.
- 21 When the department receives the petition, the department shall grant
- 22 the person a sixty (60) day extension.
- 23 (b) If a person responsible for filing a tax return has received an
- 24 extension of the due date and is still unable to file the return by the
- 25 extended due date, the person may petition the department for another
- 26 extension. The person must include in the petition a statement of the
- 27 reasons for the person's inability to file the return by the due date. If the
- 28 department finds that the person's petition is proper and that the person
- 29 has good cause for requesting the extension, the department may
- 30 extend the person's due date for any period that the department deems
- 31 reasonable under the circumstances. The department may allow
- 32 additional, successive extensions if the person properly petitions for the
- 33 extension before the end of the person's current extension period.
- 34 (c) The following apply only to a person's Indiana adjusted gross
- 35 income tax return or a person's financial institutions tax return:
- 36 (1) If the Internal Revenue Service allows a person an extension
- 37 on the person's federal income tax return, the corresponding due
- 38 dates for the person's Indiana income tax returns are automatically
- 39 extended for the same period as the federal extension. ~~plus thirty~~
- 40 ~~(30) days.~~
- 41 (2) If a person petitions the department for a filing extension for
- 42 the person's Indiana adjusted gross income tax return or financial



1 institutions tax return without obtaining an extension for filing the
 2 person's federal income tax return, the department shall extend
 3 the person's due date for the person's Indiana adjusted gross
 4 income tax return or financial institutions tax return for the same
 5 period that the person would have been allowed under subdivision
 6 (1) if the person had been granted an extension by the Internal
 7 Revenue Service.

8 (d) A person submitting a petition for an extension under this
 9 section is not required to include any payment of tax with the petition.
 10 However, a person obtaining an extension under this section must pay
 11 at least ninety percent (90%) of the tax that is reasonably expected to
 12 be due on the original due date by that due date, or the person may be
 13 subject to the penalties imposed for failure to pay the tax.

14 (e) Any tax that remains unpaid during an extension period accrues
 15 interest at a rate established under IC 6-8.1-10-1 from the original due
 16 date, but that tax will not accrue any late payment penalties until the
 17 extension period has ended. Any penalties must be determined based
 18 on the amount of tax not paid on or before the end of the extension
 19 period after application of payments provided under IC 6-8.1-8-1.5 and
 20 determined as of the deadline of the extension period.

21 SECTION 26. IC 6-8.1-8-2, AS AMENDED BY P.L.293-2013(ts),
 22 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2015]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3 and
 24 sections 16 and 17 of this chapter, the department must issue a demand
 25 notice for the payment of a tax and any interest or penalties accrued on
 26 the tax, if a person files a tax return without including full payment of
 27 the tax or if the department, after ruling on a protest, finds that a person
 28 owes the tax before the department issues a tax warrant. The demand
 29 notice must state the following:

- 30 (1) That the person has ten (10) days from the date the department
 31 mails the notice to either pay the amount demanded or show
 32 reasonable cause for not paying the amount demanded.
 33 (2) The statutory authority of the department for the issuance of
 34 a tax warrant.
 35 (3) The earliest date on which a tax warrant may be filed and
 36 recorded.
 37 (4) The statutory authority for the department to levy against a
 38 person's property that is held by a financial institution.
 39 (5) The remedies available to the taxpayer to prevent the filing
 40 and recording of the judgment.

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



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

8 (c) When the department issues a tax warrant, it may not file the
 9 warrant with the circuit court clerk of any county in which the person
 10 owns property until at least twenty (20) days after the date the demand
 11 notice was mailed to the taxpayer. The department may also send the
 12 warrant to the sheriff of any county in which the person owns property
 13 and direct the sheriff to file the warrant with the circuit court clerk:

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

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

- 22 (1) The name of the person owing the tax.
 23 (2) The amount of the tax, interest, penalties, collection fee,
 24 sheriff's costs, clerk's costs, and fees established under section
 25 4(b) of this chapter when applicable.
 26 (3) The date the warrant was filed with the clerk.

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

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

33 excepting only negotiable instruments not yet due.

34 (f) A judgment obtained under this section is valid for ten (10) years
 35 from the date the judgment is filed. The department may renew the
 36 judgment for additional ten (10) year periods by filing an alias tax
 37 warrant with the circuit court clerk of the county in which the judgment
 38 previously existed.

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

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



- 1 (2) if the department determines that the tax assessment or the
 2 issuance of the tax warrant was in error.
- 3 (h) If the department determines that the filing of a tax warrant was
 4 in error **or if the commissioner determines that the release of the**
 5 **judgment and expungement of the tax warrant are in the best**
 6 **interest of the state**, the department shall mail a release of the
 7 judgment to the taxpayer and the circuit court clerk of each county
 8 where the warrant was filed. The circuit court clerk of each county
 9 where the warrant was filed shall expunge the warrant from the
 10 judgment debtor's column of the judgment record. The department shall
 11 mail the release and the order for the warrant to be expunged as soon
 12 as possible but no later than seven (7) days after:
- 13 (1) the determination by the department that the filing of the
 14 warrant was in error; and
- 15 (2) the receipt of information by the department that the judgment
 16 has been recorded under subsection (d).
- 17 (i) If the department determines that a judgment described in
 18 subsection (h) is obstructing a lawful transaction, the department shall
 19 immediately upon making the determination mail:
- 20 (1) a release of the judgment to the taxpayer; and
 21 (2) an order requiring the circuit court clerk of each county where
 22 the judgment was filed to expunge the warrant.
- 23 (j) A release issued under subsection (h) or (i) must state that the
 24 filing of the tax warrant was in error. Upon the request of the taxpayer,
 25 the department shall mail a copy of a release and the order for the
 26 warrant to be expunged issued under subsection (h) or (i) to each major
 27 credit reporting company located in each county where the judgment
 28 was filed.
- 29 (k) The commissioner shall notify each state agency or officer
 30 supplied with a tax warrant list of the issuance of a release under
 31 subsection (h) or (i).
- 32 (l) If the sheriff collects the full amount of a tax warrant, the sheriff
 33 shall disburse the money collected in the manner provided in section
 34 3(c) of this chapter. If a judgment has been partially or fully satisfied
 35 by a person's surety, the surety becomes subrogated to the department's
 36 rights under the judgment. If a sheriff releases a judgment:
- 37 (1) before the judgment is fully satisfied;
 38 (2) before the sheriff has properly disbursed the amount collected;
 39 or
 40 (3) after the sheriff has returned the tax warrant to the department;
 41 the sheriff commits a Class B misdemeanor and is personally liable for
 42 the part of the judgment not remitted to the department.



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

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

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

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

13 (1) The facts of the notice.

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

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

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

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

21 SECTION 27. IC 6-8.1-9-1, AS AMENDED BY P.L.137-2012,
22 SECTION 109, IS AMENDED TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) If a person has paid more tax
24 than the person determines is legally due for a particular taxable
25 period, the person may file a claim for a refund with the department.
26 Except as provided in subsections ~~(f)~~ (j) and ~~(g)~~ (k), in order to obtain
27 the refund, the person must file the claim with the department within
28 three (3) years after the latter of the following:

29 (1) The due date of the return.

30 (2) The date of payment.

31 For purposes of this section, the due date for a return filed for the state
32 gross retail or use tax, the gasoline tax, the special fuel tax, the motor
33 carrier fuel tax, the oil inspection fee, or the petroleum severance tax
34 is the end of the calendar year which contains the taxable period for
35 which the return is filed. The claim must set forth the amount of the
36 refund to which the person is entitled and the reasons that the person
37 is entitled to the refund.

38 (b) After considering the claim and all evidence relevant to the
39 claim, the department shall issue a decision on the claim, stating the
40 part, if any, of the refund allowed and containing a statement of the
41 reasons for any part of the refund that is denied. The department shall
42 mail a copy of the decision to the person who filed the claim. If the



1 person disagrees with a part of the decision **on the claim**, the person
 2 may file a protest and request a hearing with the department. The
 3 department shall mail a copy of the decision to the person who filed the
 4 protest. If the department allows the full amount of the refund claim,
 5 a warrant for the payment of the claim is sufficient notice of the
 6 decision.

7 (c) If the person disagrees with any part of the department's
 8 decision, the person may appeal the decision, regardless of whether or
 9 not the person protested the tax payment or whether or not the person
 10 has accepted a refund. The person must file the appeal with the tax
 11 court. The tax court does not have jurisdiction to hear a refund appeal
 12 suit, if:

13 (1) the appeal is filed more than ninety (90) days after the later of
 14 the date the department mails:

15 (A) the decision of denial of the claim to the person; or

16 (B) the decision made on the protest filed under subsection
 17 (b); or

18 (2) the appeal is filed both before the decision is issued and
 19 before the one hundred eighty-first day after the date the person
 20 files the claim for refund with the department.

21 (d) (c) The tax court shall hear the appeal de novo and without a
 22 jury, and after the hearing may order or deny any part of the appealed
 23 refund. The court may assess the court costs in any manner that it feels
 24 is equitable. The court may enjoin the collection of any of the listed
 25 taxes under IC 33-26-6-2. The court may also allow a refund of taxes,
 26 interest, and penalties that have been paid to and collected by the
 27 department.

28 (d) **The decision on the claim must state that the person has**
 29 **sixty (60) days after the date the decision is mailed to file a written**
 30 **protest. If the person files a protest and requires a hearing on the**
 31 **protest, the department shall:**

32 (1) **set the hearing at the department's earliest convenient**
 33 **time; and**

34 (2) **notify the person by United States mail of the time, date,**
 35 **and location of the hearing.**

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

38 (f) **After conducting a hearing on a protest, or after making a**
 39 **decision on a protest when no hearing is requested, the department**
 40 **shall issue a memorandum of decision or order denying a refund**
 41 **and shall send a copy of the decision through the United States mail**
 42 **to the person who filed the protest. If the department allows the**



1 full amount of the refund claim, a warrant for the payment of the
 2 claim is sufficient notice of the decision. The department may
 3 continue the hearing until a later date if the taxpayer presents
 4 additional information at the hearing or the taxpayer requests an
 5 opportunity to present additional information after the hearing.

6 (g) A person that disagrees with a decision in a memorandum of
 7 decision or order denying a refund may request a rehearing not
 8 more than thirty (30) days after the date on which the
 9 memorandum of decision or order denying a refund is issued by
 10 the department. The department shall consider the request and
 11 may grant the rehearing if the department reasonably believes that
 12 a rehearing would be in the best interests of the taxpayer and the
 13 state.

14 (h) If a person disagrees with a decision in a memorandum of
 15 decision or order denying a refund, the person may appeal the
 16 decision to the tax court. However, the tax court does not have
 17 jurisdiction to hear an appeal that is filed more than ninety (90)
 18 days after the date on which:

19 (1) the memorandum of decision or order denying a refund is
 20 issued by the department if the person does not make a timely
 21 request for a rehearing under subsection (g) on the letter of
 22 findings; or

23 (2) the department issues a denial of the person's timely
 24 request for a rehearing under subsection (g) on the
 25 memorandum of decision or order denying a refund.

26 However, the ninety (90) day period may be extended by written
 27 agreement between the person and the department. The extension
 28 may not be longer than ninety (90) days. The extension agreement
 29 must specify the new termination date and the agreement of the
 30 person to preserve all records through the new termination date.

31 (e) (i) With respect to the motor vehicle excise tax, this section
 32 applies only to penalties and interest paid on assessments of the motor
 33 vehicle excise tax. Any other overpayment of the motor vehicle excise
 34 tax is subject to IC 6-6-5.

35 (f) (j) If a taxpayer's **federal taxable income, federal adjusted**
 36 **gross income, or** federal income tax liability for a taxable year is
 37 modified by the Internal Revenue Service, and the modification would
 38 result in a reduction of the tax legally due, the due date by which the
 39 taxpayer must file a claim for refund with the department is the later of:

40 (1) the date determined under subsection (a); or

41 (2) the date that is one hundred eighty (180) days after the date ~~on~~
 42 ~~which the taxpayer is notified~~ of the modification by the Internal



1 Revenue Service **as provided under:**
2 **(A) IC 6-3-4-6(c) for the adjusted gross income tax; or**
3 **(B) IC 6-5.5-6-6(c) for the financial institutions tax.**
4 ~~(g)~~ **(k)** If an agreement to extend the assessment time period is
5 entered into under IC 6-8.1-5-2(h), the period during which a person
6 may file a claim for a refund under subsection (a) is extended to the
7 same date to which the assessment time period is extended.
8 SECTION 28. IC 6-8.1-9-1.2 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.2. Notwithstanding
10 section ~~1(d)~~ **1(c)** of this chapter, if a taxpayer prevails in a complaint
11 that is placed on the small claims docket under IC 33-26-5, the tax
12 court shall order the refund of the taxpayer's filing fee under
13 IC 33-26-9-1 from the state general fund.
14 SECTION 29. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1472, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1472 as introduced.)

BROWN T

Committee Vote: yeas 15, nays 5.

