

HOUSE BILL No. 1472

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-5-3; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-3.5-5-17.5; IC 6-7-1-17; IC 6-8.1; IC 9-29-5-46; IC 34-16-2-33.

Synopsis: Various tax matters. Codifies the attorney-client and deliberative process privileges. Specifies that the definition of "storage" for purposes of the use tax does not include temporary storage of property for not more than 60 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 federal research and development credit used for purposes of calculation of the Indiana research expense income tax credit is the same as the federal research and development credit allowed under the Internal Revenue Code. Provides that "base amount" and "qualified research expense", for purposes of the state research expense income tax credit, have the same meaning as those terms are defined under the Internal Revenue Code. Updates references to the Internal Revenue Code. Removes outdated references to earned
(Continued next page)

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

Negele

January 14, 2015, read first time and referred to Committee on Ways and Means.



Digest Continued

income tax advance payments. 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. Changes the tax court's standard of review of department of state revenue decisions. Permits the department of state revenue to deny an application for a motor carrier in certain situations. Provides that the department of state revenue may charge a fee to a vehicle owner for collecting the wheel tax. Specifies that the fees collected must be deposited in the motor carrier regulation fund. Eliminates the ability to purchase cigarette tax stamps using a letter of credit. Removes the exception from posting a bond or letter of credit for a distributor that has at least five consecutive years of good credit standing with the state.



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. **If an agency hires**
7 **an attorney for the purpose of providing in-house legal advice and**
8 **services, the written consent of the attorney general is not required.**
9 **(b) An attorney employed by an agency is subject to**
10 **IC 34-46-3-1 and Indiana Rules of Trial Procedure 26(B),**
11 **commonly referred to as the attorney-client and work product**
12 **privileges, if the requirements to assert the protection and privilege**
13 **have been satisfied.**
14 SECTION 2. IC 6-2.5-1-21.5 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2015]: **Sec. 21.5. "Licensed practitioner"**
 3 **means an individual who is a doctor, dentist, veterinarian, or other**
 4 **practitioner licensed to prescribe, dispense, and administer drugs**
 5 **to human beings or animals in the course of the practitioner's**
 6 **professional practice of treating patients.**

7 SECTION 3. IC 6-2.5-3-1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. For purposes of this
 9 chapter:

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

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

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

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

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

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

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

37 (d) **"Temporary storage" means the keeping or retention of**
 38 **tangible personal property in Indiana for a period of not more than**
 39 **sixty (60) days and only for the purpose of the subsequent use of**
 40 **that property solely outside Indiana.**

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



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

3 (2) located at the premises of the commercial printer;

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

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

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

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

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

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

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

39 (1) **Sales or rentals of Durable medical equipment (including a**
40 **repair or a replacement part) that:**

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

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



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



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



1 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 19. (a) As used in this
 2 section, "legend drug" means a drug as defined in IC 6-2.5-1-17 that is
 3 also a legend drug for purposes of IC 16-18-2-199.

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

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

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

12 (2) the licensed practitioner makes the sales:

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

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

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

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

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

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

26 (2) the purchaser buys the items for:

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

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

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

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

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

41 or

42 (2) the licensed practitioner makes the sale of the food and food



- 1 ingredients described in this section.
- 2 SECTION 8. IC 6-2.5-5-40, AS AMENDED BY P.L.288-2013,
 3 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2015]: Sec. 40. (a) As used in this section, "research and
 5 development activities" **includes design, refinement, and testing of**
 6 **prototypes of new or improved commercial products before sales**
 7 **have begun for the purpose of determining facts, theories, or**
 8 **principles, or for the purpose of increasing scientific knowledge**
 9 **that may lead to new or enhanced products. The term does not**
 10 **include any of the following:**
- 11 (1) Efficiency surveys.
 - 12 (2) Management studies.
 - 13 (3) Consumer surveys.
 - 14 (4) Economic surveys.
 - 15 (5) Advertising or promotions.
 - 16 (6) Research in connection with **nontechnical activities,**
 17 **including literary, historical, social sciences, economics,**
 18 **humanities, psychology,** or similar projects.
 - 19 (7) Testing for purposes of quality control.
 - 20 **(8) Market and sales research.**
 - 21 **(9) Product market testing, including product testing by**
 22 **product consumers or through consumer surveys for**
 23 **evaluation of consumer product performance or consumer**
 24 **product usability.**
 - 25 **(10) The acquisition, investigation, or evaluation of another's**
 26 **patent, model, production, or process, including investigation**
 27 **or evaluation of investment potential.**
 - 28 **(11) The providing of sales services or any other service,**
 29 **whether technical or nontechnical in nature.**
 - 30 **(12) The design, refinement, or testing of manufacturing**
 31 **processes.**
- 32 (b) As used in this section, "research and development equipment"
 33 means tangible personal property that:
- 34 (1) consists of or is a combination of:
 - 35 (A) laboratory equipment;
 - 36 (B) computers;
 - 37 (C) computer software;
 - 38 (D) telecommunications equipment; or
 - 39 (E) testing equipment;
 - 40 (2) has not previously been used in Indiana for any purpose; and
 - 41 (3) is acquired by the purchaser for the purpose of research and
 42 development activities devoted directly to experimental or



- 1 laboratory research and development for:
 2 (A) new products;
 3 (B) new uses of existing products; or
 4 (C) improving or testing existing products.
 5 (c) As used in this section, "research and development property"
 6 means tangible personal property that:
 7 (1) has not previously been used in Indiana for any purpose; and
 8 (2) is acquired by the purchaser for the purpose of research and
 9 development activities devoted to experimental or laboratory
 10 research and development for:
 11 (A) new products;
 12 (B) new uses of existing products; or
 13 (C) improving or testing existing products.
 14 **(d) For purposes of subsection (c)(2), an activity is devoted to**
 15 **experimental or laboratory research and development if the**
 16 **activity is considered essential and integral to research and**
 17 **development activities, and involves:**
 18 **(1) a method or process that:**
 19 **(A) physically incorporates property into other tangible**
 20 **personal property;**
 21 **(B) causes a direct physical, chemical, or similar change to**
 22 **property;**
 23 **(C) transports or stores property;**
 24 **(D) measures or verifies a change in property;**
 25 **(E) physically controls or directs the physical movement or**
 26 **operation of property;**
 27 **(F) physically records the flow of property;**
 28 **(G) produces energy for property; or**
 29 **(H) performs maintenance or repair of property;**
 30 **that is the subject of, or directly used in, research and**
 31 **development activities;**
 32 **(2) control of atmospheric or other environmental conditions**
 33 **required for research and development activities;**
 34 **(3) performance of maintenance or repair of property**
 35 **(including maintenance equipment) that is directly used in**
 36 **research and development activities;**
 37 **(4) storage, removal, or transport of waste resulting from**
 38 **research and development activities;**
 39 **(5) control of pollution or environmental quality, or**
 40 **performance of environmental protection activities that are**
 41 **directly related to research and development activities; or**
 42 **(6) performance of safety or security measures that are**



1 **directly related to research and development activities.**

2 **The term does not include incidental activities.**

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

6 **(1) heating, cooling, or illumination of office buildings;**

7 **(2) capital improvements to real property;**

8 **(3) janitorial services;**

9 **(4) personnel services or accommodations;**

10 **(5) inventory control functions;**

11 **(6) management or supervisory functions;**

12 **(7) marketing;**

13 **(8) training;**

14 **(9) accounting or similar administrative functions; or**

15 **(10) any other function that is incidental to the research and**
 16 **development activity.**

17 ~~(d)~~ **(f)** A retail transaction:

18 (1) involving research and development equipment; and

19 (2) occurring after June 30, 2007, and before July 1, 2013;

20 is exempt from the state gross retail tax.

21 ~~(e)~~ **(g)** A retail transaction:

22 (1) involving research and development property; and

23 (2) occurring after June 30, 2013;

24 is exempt from the state gross retail tax.

25 ~~(f)~~ **(h)** The exemption provided by subsection ~~(e)~~ **(g)** applies
 26 regardless of whether the person that acquires the research and
 27 development property is a manufacturer or seller of the new or existing
 28 products specified in subsection ~~(e)(2)~~: **(c)(2)**.

29 ~~(g)~~ **(i)** For purposes of this section, a retail transaction shall be
 30 considered as having occurred after June 30, 2013, to the extent that
 31 delivery of the property constituting selling at retail is made after that
 32 date to the purchaser or to the place of delivery designated by the
 33 purchaser. However, a transaction shall be considered as having
 34 occurred before July 1, 2013, to the extent that the agreement of the
 35 parties to the transaction is entered into before July 1, 2013, and
 36 payment for the property furnished in the transaction is made before
 37 July 1, 2013, notwithstanding the delivery of the property after June 30,
 38 2013. This subsection expires January 1, 2017.

39 SECTION 9. IC 6-2.5-8-7, AS AMENDED BY P.L.196-2013,
 40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2015]: Sec. 7. (a) The department may, for good cause, revoke
 42 a certificate issued under section 1, 3, or 4 of this chapter. However,



1 the department must give the certificate holder at least five (5) days
 2 notice before it revokes the certificate under this subsection. Good
 3 cause for revocation may include the following:

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

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

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

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

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

15 **The department may revoke a certificate before a criminal**
 16 **adjudication or without a criminal prosecution being filed.** If the
 17 department gives notice of an intent to revoke based on an alleged
 18 violation of ~~subdivision~~ **subdivisions (1) or (2) through (3)**, the
 19 department shall hold a public hearing to determine whether good
 20 cause exists. If the department finds in a public hearing by a
 21 preponderance of the evidence that a person has committed a violation
 22 described in ~~subdivision~~ **subdivisions (1) or (2) through (3)**, the
 23 department shall proceed in accordance with subsection (i) (if the
 24 violation resulted in a criminal conviction) or subsection (j) (if the
 25 violation resulted in a judgment for an infraction).

26 (b) The department shall revoke a certificate issued under section
 27 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
 28 holder fails to:

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

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

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

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

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

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

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

42 (1) information obtained by the board, bureau, or commission



1 under IC 6-8.1-7-1 indicates that the certificate holder has not
2 complied with IC 6-9; and

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

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

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

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

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

20 (g) The department shall revoke a certificate issued under section
21 1 of this chapter after at least five (5) days notice to the certificate
22 holder if the department finds in a public hearing by a preponderance
23 of the evidence that the certificate holder has violated IC 35-45-5-3,
24 IC 35-45-5-3.5, or IC 35-45-5-4.

25 (h) If a person makes a payment for the certificate under section 1
26 or 3 of this chapter with a check, credit card, debit card, or electronic
27 funds transfer, and the department is unable to obtain payment of the
28 check, credit card, debit card, or electronic funds transfer for its full
29 face amount when the check, credit card, debit card, or electronic funds
30 transfer is presented for payment through normal banking channels, the
31 department shall notify the person by mail that the check, credit card,
32 debit card, or electronic funds transfer was not honored and that the
33 person has five (5) days after the notice is mailed to pay the fee in cash,
34 by certified check, or other guaranteed payment. If the person fails to
35 make the payment within the five (5) day period, the department shall
36 revoke the certificate.

37 (i) If the department finds in a public hearing by a preponderance of
38 the evidence that a person has a conviction for a violation of
39 IC 35-48-4-10.5 and the conviction involved the sale of or the offer to
40 sell, in the normal course of business, a synthetic drug or a synthetic
41 drug lookalike substance by a retail merchant in a place of business for
42 which the retail merchant has been issued a registered retail merchant



1 certificate under section 1 of this chapter, the department:

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

4 (2) may not issue another retail merchant certificate under section
5 1 of this chapter for one (1) year to any person:

6 (A) that:

7 (i) applied for; or

8 (ii) made a retail transaction under;

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

11 (B) that:

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

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

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

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

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

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

28 (A) that:

29 (i) applied for; or

30 (ii) made a retail transaction under;

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

33 (B) that:

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

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

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

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



1 (b) Whenever the Internal Revenue Code is mentioned in this
 2 article, the particular provisions that are referred to, together with all
 3 the other provisions of the Internal Revenue Code in effect on January
 4 1, ~~2011~~, **2015**, that pertain to the provisions specifically mentioned,
 5 shall be regarded as incorporated in this article by reference and have
 6 the same force and effect as though fully set forth in this article. To the
 7 extent the provisions apply to this article, regulations adopted under
 8 Section 7805(a) of the Internal Revenue Code and in effect on January
 9 1, ~~2011~~, **2015**, shall be regarded as rules adopted by the department
 10 under this article, unless the department adopts specific rules that
 11 supersede the regulation.

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

- 16 (1) individual adjusted gross income (as defined in Section 62 of
 17 the Internal Revenue Code);
- 18 (2) corporate taxable income (as defined in Section 63 of the
 19 Internal Revenue Code);
- 20 (3) trust and estate taxable income (as defined in Section 641(b)
 21 of the Internal Revenue Code);
- 22 (4) life insurance company taxable income (as defined in Section
 23 801(b) of the Internal Revenue Code);
- 24 (5) mutual insurance company taxable income (as defined in
 25 Section 821(b) of the Internal Revenue Code); or
- 26 (6) taxable income (as defined in Section 832 of the Internal
 27 Revenue Code);

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

30 (d) This subsection applies to a taxable year ending before January
 31 1, 2013. The following provisions of the Internal Revenue Code that
 32 were amended by the Tax Relief Act, Unemployment Insurance
 33 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are
 34 treated as though they were not amended by the Tax Relief Act,
 35 Unemployment Insurance Reauthorization, and Job Creation Act of
 36 2010 (P.L. 111-312):

- 37 (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to
 38 an adjustment of basis of the stock of shareholders.
- 39 (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal
 40 Revenue Code pertaining the treatment of certain dividends of
 41 regulated investment companies.
- 42 (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code



- 1 pertaining to regulated investment companies qualified entity
2 treatment.
- 3 (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code
4 pertaining to the modification of tax treatment of certain
5 payments to controlling exempt organizations.
- 6 (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code
7 pertaining to the limitations on percentage depletion in the case
8 of oil and gas wells.
- 9 (6) Section 451(i)(3) of the Internal Revenue Code pertaining to
10 special rule for sales or dispositions to implement Federal Energy
11 Regulatory Commission or state electric restructuring policy for
12 qualified electric utilities.
- 13 (7) Section 954(c)(6) of the Internal Revenue Code pertaining to
14 the look-through treatment of payments between related
15 controlled foreign corporation under foreign personal holding
16 company rules.

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

19 SECTION 11. IC 6-3-4-8, AS AMENDED BY P.L.158-2013,
20 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2015]: Sec. 8. (a) Except as provided in subsection (d), every
22 employer making payments of wages subject to tax under this article,
23 regardless of the place where such payment is made, who is required
24 under the provisions of the Internal Revenue Code to withhold, collect,
25 and pay over income tax on wages paid by such employer to such
26 employee, shall, at the time of payment of such wages, deduct and
27 retain therefrom the amount prescribed in withholding instructions
28 issued by the department. The department shall base its withholding
29 instructions on the adjusted gross income tax rate for persons, on the
30 total rates of any income taxes that the taxpayer is subject to under
31 IC 6-3-5, and on the total amount of exclusions the taxpayer is entitled
32 to under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4). However, the
33 withholding instructions on the adjusted gross income of a nonresident
34 alien (as defined in Section 7701 of the Internal Revenue Code) are to
35 be based on applying not more than one (1) withholding exclusion,
36 regardless of the total number of exclusions that IC 6-3-1-3.5(a)(3) and
37 IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final
38 return for the taxable year. Such employer making payments of any
39 wages:

- 40 (1) shall be liable to the state of Indiana for the payment of the tax
41 required to be deducted and withheld under this section and shall
42 not be liable to any individual for the amount deducted from the



1 individual's wages and paid over in compliance or intended
2 compliance with this section; and

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

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

17 (c) For purposes of determining whether an employee is subject to
18 taxation under IC 6-3.5, an employer is entitled to rely on the statement
19 of an employee as to the employee's county of residence as represented
20 by the statement of address in forms claiming exemptions for purposes
21 of withholding, regardless of when the employee supplied the forms.
22 Every employee shall notify the employee's employer within five (5)
23 days after any change in the employee's county of residence.

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

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

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

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

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

35 (1) the total amount of wages paid to the employer's employees;

36 (2) the amount deducted therefrom in accordance with the
37 provisions of the Internal Revenue Code;

38 (3) the amount of adjusted gross income tax deducted therefrom
39 in accordance with the provisions of this section;

40 (4) the amount of income tax, if any, imposed under IC 6-3.5 and
41 deducted therefrom in accordance with this section; and

42 (5) any other information the department may require.



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

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

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

29 (h) Amounts deducted from wages of an employee during any
 30 calendar year in accordance with the provisions of this section shall be
 31 considered to be in part payment of the tax imposed on such employee
 32 for the employee's taxable year which begins in such calendar year, and
 33 a return made by the employer under subsection (b) shall be accepted
 34 by the department as evidence in favor of the employee of the amount
 35 so deducted from the employee's wages. Where the total amount so
 36 deducted exceeds the amount of tax on the employee as computed
 37 under this article and IC 6-3.5, the department shall, after examining
 38 the return or returns filed by the employee in accordance with this
 39 article and IC 6-3.5, refund the amount of the excess deduction.
 40 However, under rules promulgated by the department, the excess or any
 41 part thereof may be applied to any taxes or other claim due from the
 42 taxpayer to the state of Indiana or any subdivision thereof. ~~No refund~~



1 shall be made to an employee who fails to file the employee's return or
 2 returns as required under this article and IC 6-3.5 within two (2) years
 3 from the due date of the return or returns. In the event that the excess
 4 tax deducted is less than one dollar (\$1), no refund shall be made.

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

11 (j) Notwithstanding subsection (b), an employer of a domestic
 12 service employee that enters into an agreement with the domestic
 13 service employee to withhold federal income tax under Section 3402
 14 of the Internal Revenue Code may withhold Indiana income tax on the
 15 domestic service employee's wages on the employer's Indiana
 16 individual income tax return in the same manner as allowed by Section
 17 3510 of the Internal Revenue Code.

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

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

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

28 "Base amount" means base amount (as defined in Section 41(c) of
 29 the Internal Revenue Code) ~~as in effect on January 1, 2001~~; modified
 30 by considering only Indiana qualified research expenses and gross
 31 receipts attributable to Indiana in the calculation of the taxpayer's:

- 32 (1) fixed base percentage; and
- 33 (2) average annual gross receipts.

34 "Indiana qualified research expense" means qualified research
 35 expense that is incurred for research conducted in Indiana.

36 "Qualified research expense" means qualified research expense (as
 37 defined in Section 41(b) of the Internal Revenue Code). ~~as in effect on~~
 38 ~~January 1, 2001~~;

39 "Pass through entity" means:

- 40 (1) a corporation that is exempt from the adjusted gross income
 41 tax under IC 6-3-2-2.8(2);
- 42 (2) a partnership;



1 (3) a limited liability company; or

2 (4) a limited liability partnership.

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

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

8 SECTION 13. IC 6-3.1-4-4 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The provisions of
10 Section 41 of the Internal Revenue Code ~~as in effect on January 1,~~
11 ~~2001,~~ and the regulations promulgated in respect to those provisions
12 ~~and in effect on January 1, 2001,~~ are applicable to the interpretation
13 and administration by the department of the credit provided by this
14 chapter, including the allocation and pass through of the credit to
15 various taxpayers and the transitional rules for determination of the
16 base period.

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

26 (1) is eligible to receive in the taxable year; and

27 (2) claimed for the taxable year;

28 under Section 32 of the Internal Revenue Code as it existed before
29 being amended by the Tax Relief, Unemployment Insurance
30 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

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

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

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

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

41 SECTION 15. IC 6-3.1-21-8, AS AMENDED BY P.L.172-2011,
42 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2015]: Sec. 8. To obtain a credit under this chapter, a taxpayer
 2 must claim the ~~advance payment or~~ credit in the manner prescribed by
 3 the department of state revenue. The taxpayer shall submit to the
 4 department of state revenue all information that the department of state
 5 revenue determines is necessary for the calculation of the credit
 6 provided by this chapter.

7 SECTION 16. IC 6-3.5-5-17.5 IS ADDED TO THE INDIANA
 8 CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 17.5. The department of state**
 9 **revenue may charge a fee permitted under IC 9-29 for collecting**
 10 **the wheel tax. The fees collected shall be deposited in the motor**
 11 **carrier regulation fund.**

12 SECTION 17. IC 6-7-1-17, AS AMENDED BY P.L.131-2008,
 13 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2015]: Sec. 17. (a) Distributors who hold certificates and
 15 retailers shall be agents of the state in the collection of the taxes
 16 imposed by this chapter and the amount of the tax levied, assessed, and
 17 imposed by this chapter on cigarettes sold, exchanged, bartered,
 18 furnished, given away, or otherwise disposed of by distributors or to
 19 retailers. Distributors who hold certificates shall be agents of the
 20 department to affix the required stamps and shall be entitled to
 21 purchase the stamps from the department at a discount of one and
 22 two-tenths cents (\$0.012) per individual package of cigarettes as
 23 compensation for their labor and expense.

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

- 28 (1) ~~except as provided in subsection (c);~~ a bond ~~or letter of credit~~
 29 satisfactory to the department, in an amount not less than the sales
 30 price of the stamps, is filed with the department;
 31 (2) proof of payment is made of all property taxes, excise taxes,
 32 and listed taxes (as defined in IC 6-8.1-1-1) for which any such
 33 distributor may be liable; and
 34 (3) payment for the revenue stamps must be made by electronic
 35 funds transfer (as defined in IC 4-8.1-2-7).

36 The bond, ~~or letter of credit~~, conditioned to secure payment for the
 37 stamps, shall be executed by the distributor as principal and by a
 38 corporation duly authorized to engage in business as a surety company
 39 ~~or financial institution~~ in Indiana.

40 (c) ~~If a distributor has at least five (5) consecutive years of good~~
 41 ~~credit standing with the state, the distributor shall not be required to~~
 42



1 post a bond or letter of credit under subsection (b):

2 SECTION 18. IC 6-8.1-4-5 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2015]: Sec. 5. (a) The department may deny an application under
5 section 4(c) of this chapter if the applicant has had a registration
6 revoked under section 4(f) of this chapter or any other applicable
7 statute.

8 (b) The department may deny an application described in
9 section 4(c) of this chapter if the applicant's business is operated,
10 managed, or otherwise controlled by or affiliated with a person,
11 including the applicant, a relative, family member, responsible
12 officer, or shareholder, whom the department has determined is
13 covered by any of the following:

14 (1) Has failed to file all tax returns or information reports
15 with the department required under IC 6, IC 8, or IC 9.

16 (2) Has failed to pay all taxes, penalties, and interest required
17 to the department under IC 6, IC 8, or IC 9.

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

21 (4) Has failed to return a license plate described in subdivision
22 (3) to the department.

23 (5) Has an unsatisfactory safety rating under 49 CFR Part
24 385.

25 (6) Has multiple violations of IC 9 or a rule adopted under
26 IC 9.

27 (c) The department may deny any application described in
28 section 4(c) of this chapter if the applicant is a motor carrier whose
29 business is operated, managed, or otherwise controlled by or
30 affiliated with a person, including an owner, relative, family
31 member, responsible officer, or shareholder, whom the department
32 has determined is covered by any item listed in subsection (b).

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

35 SECTION 19. IC 6-8.1-5-1, AS AMENDED BY P.L.172-2011,
36 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2015]: Sec. 1. (a) As used in this section, "letter of findings"
38 includes a supplemental letter of findings.

39 (b) If the department reasonably believes that a person has not
40 reported the proper amount of tax due, the department shall make a
41 proposed assessment of the amount of the unpaid tax on the basis of the
42 best information available to the department. The amount of the



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

5 (c) ~~If the person has a surety bond guaranteeing payment of the tax~~
 6 ~~for which the proposed assessment is made, the department shall~~
 7 ~~furnish a copy of the proposed assessment to the surety.~~ The notice of
 8 proposed assessment is prima facie evidence that the department's
 9 claim for the unpaid tax is valid. The burden of proving that the
 10 proposed assessment is wrong rests with the person against whom the
 11 proposed assessment is made.

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

18 (1) set the hearing at the department's earliest convenient time;
 19 and

20 (2) notify the person by United States mail of the time, date, and
 21 location of the hearing.

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

24 (f) ~~No later than sixty (60) days~~ After conducting a hearing on a
 25 protest, or after making a decision on a protest when no hearing is
 26 requested, the department shall issue a letter of findings and shall send
 27 a copy of the letter through the United States mail to the person who
 28 filed the protest and to the person's surety, if the surety was notified of
 29 the proposed assessment under subsection (b). The department may
 30 continue the hearing until a later date if the taxpayer presents
 31 additional information at the hearing or the taxpayer requests an
 32 opportunity to present additional information after the hearing.

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

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



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

6 (i) The tax court shall ~~hear an appeal~~ **review legal conclusions set**
 7 **forth in a final decision issued** under subsection (h) de novo and
 8 without a jury. **The tax court shall grant deference to the**
 9 **department's findings of fact and interpretation of a statute or rule**
 10 **that the department is responsible for enforcing.** The tax court may
 11 do the following:

- 12 (1) Uphold or deny any part of the assessment that is appealed.
 13 (2) Assess the court costs in a manner that the court believes to be
 14 equitable.
 15 (3) Enjoin the collection of a listed tax under IC 33-26-6-2.

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

- 19 (1) the person failed to properly respond within the forty-five (45)
 20 day period;
 21 (2) the person requested a hearing but failed to appear at that
 22 hearing; or
 23 (3) after consideration of the evidence presented in the protest or
 24 hearing, the department finds that the person still owes tax.

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

27 (l) Subsection (b) does not apply to a motor carrier fuel tax return.

28 SECTION 20. IC 6-8.1-6-1, AS AMENDED BY P.L.190-2014,
 29 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2015]: Sec. 1. (a) This subsection does not apply to a person's
 31 Indiana adjusted gross income tax return or a person's financial
 32 institutions tax return. If a person responsible for filing a tax return is
 33 unable to file the return by the appropriate due date, the person may
 34 petition the department, before that due date, for a filing extension.
 35 When the department receives the petition, the department shall grant
 36 the person a sixty (60) day extension.

37 (b) If a person responsible for filing a tax return has received an
 38 extension of the due date and is still unable to file the return by the
 39 extended due date, the person may petition the department for another
 40 extension. The person must include in the petition a statement of the
 41 reasons for the person's inability to file the return by the due date. If the
 42 department finds that the person's petition is proper and that the person



1 has good cause for requesting the extension, the department may
 2 extend the person's due date for any period that the department deems
 3 reasonable under the circumstances. The department may allow
 4 additional, successive extensions if the person properly petitions for the
 5 extension before the end of the person's current extension period.

6 (c) The following apply only to a person's Indiana adjusted gross
 7 income tax return or a person's financial institutions tax return:

8 (1) If the Internal Revenue Service allows a person an extension
 9 on the person's federal income tax return, the corresponding due
 10 dates for the person's Indiana income tax returns are automatically
 11 extended for the same period as the federal extension. ~~plus thirty~~
 12 ~~(30) days.~~

13 (2) If a person petitions the department for a filing extension for
 14 the person's Indiana adjusted gross income tax return or financial
 15 institutions tax return without obtaining an extension for filing the
 16 person's federal income tax return, the department shall extend
 17 the person's due date for the person's Indiana adjusted gross
 18 income tax return or financial institutions tax return for the same
 19 period that the person would have been allowed under subdivision

20 (1) if the person had been granted an extension by the Internal
 21 Revenue Service.

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

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

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



- 1 notice must state the following:
- 2 (1) That the person has ten (10) days from the date the department
- 3 mails the notice to either pay the amount demanded or show
- 4 reasonable cause for not paying the amount demanded.
- 5 (2) The statutory authority of the department for the issuance of
- 6 a tax warrant.
- 7 (3) The earliest date on which a tax warrant may be filed and
- 8 recorded.
- 9 (4) The statutory authority for the department to levy against a
- 10 person's property that is held by a financial institution.
- 11 (5) The remedies available to the taxpayer to prevent the filing
- 12 and recording of the judgment.
- 13 If the department files a tax warrant in more than one (1) county, the
- 14 department is not required to issue more than one (1) demand notice.
- 15 (b) If the person does not pay the amount demanded or show
- 16 reasonable cause for not paying the amount demanded within the ten
- 17 (10) day period, the department may issue a tax warrant for the amount
- 18 of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs,
- 19 and fees established under section 4(b) of this chapter when applicable.
- 20 When the department issues a tax warrant, a collection fee of ten
- 21 percent (10%) of the unpaid tax is added to the total amount due.
- 22 (c) When the department issues a tax warrant, it may not file the
- 23 warrant with the circuit court clerk of any county in which the person
- 24 owns property until at least twenty (20) days after the date the demand
- 25 notice was mailed to the taxpayer. The department may also send the
- 26 warrant to the sheriff of any county in which the person owns property
- 27 and direct the sheriff to file the warrant with the circuit court clerk:
- 28 (1) at least twenty (20) days after the date the demand notice was
- 29 mailed to the taxpayer; and
- 30 (2) no later than five (5) days after the date the department issues
- 31 the warrant.
- 32 (d) When the circuit court clerk receives a tax warrant from the
- 33 department or the sheriff, the clerk shall record the warrant by making
- 34 an entry in the judgment debtor's column of the judgment record,
- 35 listing the following:
- 36 (1) The name of the person owing the tax.
- 37 (2) The amount of the tax, interest, penalties, collection fee,
- 38 sheriff's costs, clerk's costs, and fees established under section
- 39 4(b) of this chapter when applicable.
- 40 (3) The date the warrant was filed with the clerk.
- 41 (e) When the entry is made, the total amount of the tax warrant
- 42 becomes a judgment against the person owing the tax. The judgment



1 creates a lien in favor of the state that attaches to all the person's
2 interest in any:

- 3 (1) chose in action in the county; and
4 (2) real or personal property in the county;
5 excepting only negotiable instruments not yet due.

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

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

- 13 (1) after the judgment, including all accrued interest to the date of
14 payment, has been fully satisfied; or
15 (2) if the department determines that the tax assessment or the
16 issuance of the tax warrant was in error.

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

- 27 (1) the determination by the department that the filing of the
28 warrant was in error; and
29 (2) the receipt of information by the department that the judgment
30 has been recorded under subsection (d).

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

- 34 (1) a release of the judgment to the taxpayer; and
35 (2) an order requiring the circuit court clerk of each county where
36 the judgment was filed to expunge the warrant.

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



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

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

9 (1) before the judgment is fully satisfied;

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

11 or

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

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

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

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

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

27 (1) The facts of the notice.

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

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

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

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

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



1 (1) The due date of the return.

2 (2) The date of payment.

3 For purposes of this section, the due date for a return filed for the state
4 gross retail or use tax, the gasoline tax, the special fuel tax, the motor
5 carrier fuel tax, the oil inspection fee, or the petroleum severance tax
6 is the end of the calendar year which contains the taxable period for
7 which the return is filed. The claim must set forth the amount of the
8 refund to which the person is entitled and the reasons that the person
9 is entitled to the refund.

10 (b) After considering the claim and all evidence relevant to the
11 claim, the department shall issue a decision on the claim, stating the
12 part, if any, of the refund allowed and containing a statement of the
13 reasons for any part of the refund that is denied. The department shall
14 mail a copy of the decision to the person who filed the claim. **The**
15 **decision on the claim is prima facie evidence the decision is valid.**
16 If the person disagrees with a part of the decision **on the claim**, the
17 person may file a protest and request a hearing with the department.
18 **The department shall mail a copy of the decision to the person who**
19 **filed the protest. If the department allows the full amount of the refund**
20 **claim, a warrant for the payment of the claim is sufficient notice of the**
21 **decision. The burden of proving that the decision on the claim is**
22 **wrong rests with the person who filed the claim.**

23 (c) If the person disagrees with any part of the department's
24 decision, the person may appeal the decision, regardless of whether or
25 not the person protested the tax payment or whether or not the person
26 has accepted a refund. The person must file the appeal with the tax
27 court. The tax court does not have jurisdiction to hear a refund appeal
28 suit, if:

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

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

32 (B) the decision made on the protest filed under subsection

33 (b); or

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

37 (d) The tax court shall hear the appeal de novo and without a jury;
38 and after the hearing may order or deny any part of the appealed
39 refund. The court may assess the court costs in any manner that it feels
40 is equitable. The court may enjoin the collection of any of the listed
41 taxes under IC 33-26-6-2. The court may also allow a refund of taxes;
42 interest, and penalties that have been paid to and collected by the



1 department.

2 (c) The decision on the claim must state that the person has sixty
3 (60) days from the date the decision is mailed to file a written
4 protest. If the person files a protest and requires a hearing on the
5 protest, the department shall:

6 (1) set the hearing at the department's earliest convenient
7 time; and

8 (2) notify the person by United States mail of the time, date,
9 and location of the hearing.

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

12 (e) After conducting a hearing on a protest, or after making a
13 decision on a protest when no hearing is requested, the department
14 shall issue a memorandum of decision or order denying a refund
15 and shall send a copy of the decision through the United States mail
16 to the person who filed the protest. If the department allows the
17 full amount of the refund claim, a warrant for the payment of the
18 claim is sufficient notice of the decision. The department may
19 continue the hearing until a later date if the taxpayer presents
20 additional information at the hearing or the taxpayer requests an
21 opportunity to present additional information after the hearing.

22 (f) A person that disagrees with a decision in a memorandum of
23 decision or order denying a refund may request a rehearing not
24 more than thirty (30) days after the date on which the
25 memorandum of decision or order denying a refund is issued by
26 the department. The department shall consider the request and
27 may grant the rehearing if the department reasonably believes that
28 a rehearing would be in the best interests of the taxpayer and the
29 state.

30 (g) If a person disagrees with a decision in a memorandum of
31 decision or order denying a refund, the person may appeal the
32 decision to the tax court. However, the tax court does not have
33 jurisdiction to hear an appeal that is filed more than ninety (90)
34 days after the date on which:

35 (1) the memorandum of decision or order denying a refund is
36 issued by the department if the person does not make a timely
37 request for a rehearing under subsection (f) on the letter of
38 findings; or

39 (2) the department issues a denial of the person's timely
40 request for a rehearing under subsection (f) on the
41 memorandum of decision or order denying a refund.

42 (h) The tax court shall review legal conclusions contained within



1 a final decision issued under subsection (g) using a de novo
 2 standard of review and without a jury. The tax court shall grant
 3 deference to the department's findings of fact and interpretation
 4 of statutes and regulations that the department is charged with
 5 enforcing. The tax court may do the following:

- 6 (1) Order or deny any part of the refund that is appealed.
- 7 (2) Assess the court costs in a manner that the court believes
- 8 to be equitable.
- 9 (3) Enjoin the collection of a listed tax under IC 33-26-6-2.

10 ~~(e)~~ (i) With respect to the motor vehicle excise tax, this section
 11 applies only to penalties and interest paid on assessments of the motor
 12 vehicle excise tax. Any other overpayment of the motor vehicle excise
 13 tax is subject to IC 6-6-5.

14 ~~(f)~~ (j) If a taxpayer's federal income tax liability for a taxable year
 15 is modified by the Internal Revenue Service, and the modification
 16 would result in a reduction of the tax legally due, the due date by which
 17 the taxpayer must file a claim for refund with the department is the
 18 later of:

- 19 (1) the date determined under subsection (a); or
- 20 (2) the date that is one hundred eighty (180) days after the date on
- 21 which the taxpayer is notified of the modification by the Internal
- 22 Revenue Service.

23 ~~(g)~~ (k) If an agreement to extend the assessment time period is
 24 entered into under IC 6-8.1-5-2(h), the period during which a person
 25 may file a claim for a refund under subsection (a) is extended to the
 26 same date to which the assessment time period is extended.

27 SECTION 23. IC 9-29-5-46 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2015]: **Sec. 46. The fees collected by the department of state
 30 revenue for the registration of commercial motor vehicles under
 31 this chapter shall be deposited in the motor carrier regulation
 32 fund.**

33 SECTION 24. IC 34-16-2-33 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2015]: **Sec. 33. (a) As used in this section:**

- 36 (1) "decision making activities and information" includes all
- 37 interexecutive, intraexecutive, and administrative agency
- 38 communications and any other records relating to a finalized
- 39 or ongoing decision making process; and
- 40 (2) "state official" includes agents of the state and entities
- 41 under a contract with the state.

42 (b) To ensure that state officials can communicate candidly



1 among themselves while making decisions, and to preserve the
 2 quality of executive and administrative agency decisions, the
 3 following decision making activities are protected by a deliberative
 4 process privilege and are not subject to discovery, except as
 5 otherwise provided by statute:

6 (1) Records that are advisory, expressions of thoughts, ideas,
 7 recommendations, or opinions.

8 (2) Analyses engaged in for decision making purposes.

9 (3) Materials that pertain to consultative functions or are
 10 otherwise deliberative in nature.

11 (c) A person engaged in deliberative decision making functions
 12 on behalf of the executive branch or an administrative agency may
 13 not be compelled to testify regarding:

14 (1) the person's, branch's, or agency's deliberative decision
 15 making functions; or

16 (2) materials referred to in subsection (b)(1).

17 (d) The deliberative process privilege applies to documents,
 18 testimony, and any other deliberative communications, regardless
 19 of form.

20 (e) A judicial inquiry into the motivation or reasoning of an
 21 executive or administrative agency decision maker is a substantial
 22 intrusion into the functions of the executive branch of government
 23 because these inquiries contradict the general bar against probing
 24 the mental processes involved in executive and administrative
 25 decision maker deliberations. For this reason, the deliberative
 26 process privilege applies whether a party is seeking judicial review
 27 on the merits of a decision or a judicial review of the decision
 28 making process.

29 (f) The following exceptions apply to the deliberative process
 30 privilege:

31 (1) Facts that exist independent from the thoughts, ideas,
 32 opinions, and analyses that encompass the process by which
 33 a decision was reached are not within this privilege.

34 (2) Once an executive or administrative decision is final, any
 35 subsequent materials are not protected under this section, but
 36 this subdivision does not affect whether a protection under
 37 another privilege or statute applies.

38 SECTION 25. An emergency is declared for this act.

