



February 13, 2015

SENATE BILL No. 438

DIGEST OF SB 438 (Updated February 10, 2015 2:20 pm - DI 73)

Citations Affected: IC 4-6; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-5.5; IC 6-7; IC 6-8.1; IC 27-1; noncode.

Synopsis: State and local tax issues. Codifies the attorney-client privilege for an attorney employed by a state agency. Specifies that the definition of "storage" for purposes of the use tax does not include temporary storage of property for not more than 90 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 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. Establishes standards governing the date by which a taxpayer must notify the department of state revenue (department) of a modification of a taxpayer's federal income tax return or tax liability for a taxable year. Requires an employer to file annual withholding tax reports (Form WH-3) not later than 31 days after the end of the calendar year. Removes the two-year time limitation for refund of
(Continued next page)

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

Hershman, Broden

January 13, 2015, read first time and referred to Committee on Tax & Fiscal Policy.
February 12, 2015, amended, reported favorably — Do Pass.

SB 438—LS 7415/DI 120



Digest Continued

employment tax withholdings. Provides that "base amount" and "qualified research expense" for purposes of the state research expense credit have the same meaning as those terms are defined under the Internal Revenue Code. Specifies that the federal research and development credit used for purposes of calculating the Indiana research expense credit is the same as the federal research and development credit allowed under the Internal Revenue Code. Removes outdated references to earned income tax advance payments. Provides that cigarette tax stamps remain the property of the state until payment has been made in full. Permits the department to deny an application for a motor carrier in certain situations. Requires the department to enter into an agreement with the fiscal officer of a capital improvement board of managers to provide the fiscal officer with certain information. Provides that a fiscal officer of a municipality in which a food and beverage tax is imposed and collected may request from the department a statement of the percentage amount of food and beverage tax collected within the municipality in the preceding year. Provides that the time limit to appeal: (1) letters of findings; and (2) a denial of a refund claim; may be extended according to terms of a written agreement. Provides that a tax judgment may be released and a tax warrant expunged if the commissioner of the department determines that the release of the tax judgment and the expungement of the tax warrant are in the best interest of the state. Requires the department to adopt rules to define the circumstances under which a release and expungement may be granted based on a finding that the release and expungement would be in the best interest of the state. Aligns the administrative procedures for protesting refund denials and proposed assessments. Provides that the interest required to be paid on an overpayment of tax begins to accrue: (1) on the date the tax was due; or (2) the date the tax was paid; whichever is later. Amends the definition of "captive insurer" for insurance regulation and taxation purposes. Requires the department to: (1) study the department's current information systems; (2) develop a plan for modernizing the department's information systems; and (3) submit a report of the study and plan to the budget committee and the legislative council. Makes conforming amendments.

SB 438—LS 7415/DI 120



February 13, 2015

First Regular Session 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.

SENATE BILL No. 438

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 agency and the state without
6 the written consent of the attorney general.

7 (b) **An attorney hired or employed by an agency as outside**
8 **counsel or to provide in-house legal advice is subject to**
9 **IC 34-46-3-1 and Trial Rule 26(B) of the Indiana Rules of Trial**
10 **Procedure, commonly referred to as the attorney-client and work**
11 **product privileges, if the requirements to assert the protection and**
12 **privilege have been satisfied.**

13 SECTION 2. IC 6-2.5-1-21.5 IS ADDED TO THE INDIANA
14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2015]: **Sec. 21.5. "Licensed practitioner"**

SB 438—LS 7415/DI 120



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 JULY 1, 2015]: Sec. 1. For purposes of this
 7 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 **ninety (90) days and only for the purpose of the subsequent use of**
 38 **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 (1) **Sales or rentals of Durable medical equipment (including a**
 38 **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 used exclusively 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, contact lenses (and**
 15 **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 aids aid devices are exempt from the**
 33 **state gross retail tax if the hearing aids are fitted or dispensed by**
 34 **a 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 the patient**
 10 **upon the prescription of a practitioner; or**
 11 **(B) the licensed practitioner makes the sale to the 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, and 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. The term does not**
14 **include activities incidental to experimental or laboratory research**
15 **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 the research and**
29 **development activity.**

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 ~~(e)(2)~~: **(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 6-2.5-5-45.8, AS ADDED BY P.L.137-2012,
 11 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2015]: Sec. 45.8. (a) For purposes of this section,
 13 IC 6-2.5-4-5, and section 30 of this chapter, the following definitions
 14 apply:

15 (1) "Recycling" means the processing of recycling materials and
 16 other tangible personal property into a product for sale if the
 17 product is predominantly composed of recycling materials. The
 18 term does not include the following:

19 (A) The demolition of improvements to real estate.

20 (B) The processing of tangible personal property primarily for
 21 disposal in a licensed solid waste disposal facility rather than
 22 for sale.

23 (C) The collection of recycling materials. ~~by licensed motor~~
 24 ~~vehicles.~~

25 (2) "Recycling materials" means tangible personal property,
 26 including metal, paper, glass, plastic, textile, or rubber, that:

27 (A) is considered "scrap" by industry standards or has no more
 28 than scrap value;

29 (B) is a byproduct of another person's manufacturing or
 30 production process;

31 (C) was previously manufactured or incorporated into a
 32 product;

33 (D) would otherwise reasonably be expected to be destined for
 34 disposal in a licensed solid waste disposal facility; or

35 (E) has been removed or diverted from the solid waste stream
 36 for sale, use, or reuse as raw materials, regardless of whether
 37 or not the materials require subsequent processing or
 38 separation from each other.

39 (3) "Processing of recycling materials" means

40 ~~(A) the activities involved in collecting or otherwise receiving~~
 41 ~~recycling materials and other tangible personal property; and~~

42 ~~(B) creating a product for sale by changing the original form,~~



1 use, or composition of the property (whether manually,
 2 mechanically, chemically, or otherwise) through weighing,
 3 sorting, grading, separating, shredding, crushing, compacting,
 4 breaking, cutting, baling, shearing, torching, wire-stripping, or
 5 other means.

6 **(4) "Occupationally engaged in the business of recycling"**
 7 **means to process recycling materials with the intention of**
 8 **processing such materials at a profit.**

9 (b) Transactions involving machinery, tools, and equipment are exempt
 10 from the state gross retail tax if:

11 (1) the person acquiring that property acquires it for **the person's**
 12 direct use **or consumption** in the ~~direct~~ processing of recycling
 13 materials; and

14 (2) the person acquiring that property is occupationally engaged
 15 in **the business of** recycling.

16 (c) Transactions involving recycling materials and other tangible
 17 personal property to be **used or** consumed in the processing of
 18 recycling materials or to become a part of the product produced by the
 19 processing of recycling materials are exempt from the state gross retail
 20 tax if:

21 (1) the person acquiring that property acquires it for **the person's**
 22 direct use **or consumption** in the ~~direct~~ processing of recycling
 23 materials; and

24 (2) the person acquiring that property is occupationally engaged
 25 in **the business of** recycling.

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

33 (1) ~~Sale or solicitation of a sale involving a synthetic drug (as~~
 34 ~~defined in IC 35-31.5-2-321) or a synthetic drug lookalike~~
 35 ~~substance (as defined in IC 35-31.5-2-321.5).~~

36 (2) ~~Failure to collect sales tax on a sale involving a synthetic drug~~
 37 ~~or a synthetic drug lookalike substance.~~

38 (1) **Failure to:**
 39 (A) **file a return required under this chapter or for any tax**
 40 **collected for the state in trust; or**

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

42 (2) **Violation of any provision under IC 35.**



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

3 **The department may revoke a certificate before a criminal**
 4 **adjudication or without a criminal prosecution being filed.** If the
 5 department gives notice of an intent to revoke based on an alleged
 6 violation of subdivision ~~(1)~~ or (2), the department shall hold a public
 7 hearing to determine whether good cause exists. If the department finds
 8 in a public hearing by a preponderance of the evidence that a person
 9 has committed a violation described in subdivision ~~(1)~~ or (2), the
 10 department shall proceed in accordance with subsection (i) (if the
 11 violation resulted in a criminal conviction) or subsection (j) (if the
 12 violation resulted in a judgment for an infraction).

13 (b) The department shall revoke a certificate issued under section
 14 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
 15 holder fails to:

- 16 (1) file the returns required by IC 6-2.5-6-1; or
- 17 (2) report the collection of any state gross retail or use tax on the
- 18 returns filed under IC 6-2.5-6-1.

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

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

- 24 (1) the certificate holder is subject to an innkeeper's tax under
- 25 IC 6-9; and
- 26 (2) a board, bureau, or commission established under IC 6-9 files
- 27 a written statement with the department.

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

- 29 (1) information obtained by the board, bureau, or commission
- 30 under IC 6-8.1-7-1 indicates that the certificate holder has not
- 31 complied with IC 6-9; and
- 32 (2) the board, bureau, or commission has determined that
- 33 significant harm will result to the county from the certificate
- 34 holder's failure to comply with IC 6-9.

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

- 38 (1) the certificate holder owes taxes, penalties, fines, interest, or
- 39 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
- 40 days after the due date under IC 6-1.1; and
- 41 (2) the treasurer of the county to which the taxes are due requests
- 42 the department to revoke or suspend the certificate.



1 (f) The department shall reinstate a certificate suspended under
 2 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
 3 or the county treasurer requests the department to reinstate the
 4 certificate because an agreement for the payment of taxes and any
 5 penalties due under IC 6-1.1 has been reached to the satisfaction of the
 6 county treasurer.

7 (g) The department shall revoke a certificate issued under section
 8 1 of this chapter after at least five (5) days notice to the certificate
 9 holder if the department finds in a public hearing by a preponderance
 10 of the evidence that the certificate holder has violated IC 35-45-5-3,
 11 IC 35-45-5-3.5, or IC 35-45-5-4.

12 (h) If a person makes a payment for the certificate under section 1
 13 or 3 of this chapter with a check, credit card, debit card, or electronic
 14 funds transfer, and the department is unable to obtain payment of the
 15 check, credit card, debit card, or electronic funds transfer for its full
 16 face amount when the check, credit card, debit card, or electronic funds
 17 transfer is presented for payment through normal banking channels, the
 18 department shall notify the person by mail that the check, credit card,
 19 debit card, or electronic funds transfer was not honored and that the
 20 person has five (5) days after the notice is mailed to pay the fee in cash,
 21 by certified check, or other guaranteed payment. If the person fails to
 22 make the payment within the five (5) day period, the department shall
 23 revoke the certificate.

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

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

33 (2) may not issue another retail merchant certificate under section
 34 1 of this chapter for one (1) year to any person:

35 (A) that:

36 (i) applied for; or

37 (ii) made a retail transaction under;

38 the retail merchant certificate suspended under subdivision

39 (1); or

40 (B) that:

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

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



- 1 the retail merchant that was issued the retail merchant
 2 certificate suspended under subdivision (1).
- 3 (j) If the department finds in a public hearing by a preponderance of
 4 the evidence that a person has a judgment for a violation of
 5 IC 35-48-4-10.5 as an infraction and the violation involved the sale of
 6 or the offer to sell, in the normal course of business, a synthetic drug
 7 or a synthetic drug lookalike substance by a retail merchant in a place
 8 of business for which the retail merchant has been issued a registered
 9 retail merchant certificate under section 1 of this chapter, the
 10 department:
- 11 (1) may suspend the registered retail merchant certificate for the
 12 place of business for six (6) months; and
- 13 (2) may withhold issuance of another retail merchant certificate
 14 under section 1 of this chapter for six (6) months to any person:
- 15 (A) that:
- 16 (i) applied for; or
- 17 (ii) made a retail transaction under;
- 18 the retail merchant certificate suspended under subdivision
 19 (1); or
- 20 (B) that:
- 21 (i) owned or co-owned, directly or indirectly; or
- 22 (ii) was an officer, a director, a manager, or a partner of;
- 23 the retail merchant that was issued the retail merchant
 24 certificate suspended under subdivision (1).
- 25 SECTION 11. IC 6-3-4-6, AS AMENDED BY P.L.172-2011,
 26 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2015]: Sec. 6. (a) Any taxpayer, upon request by the
 28 department, shall furnish to the department a true and correct copy of
 29 any tax return which the taxpayer has filed with the United States
 30 Internal Revenue Service which copy shall be certified to by the
 31 taxpayer under penalties of perjury.
- 32 (b) Each taxpayer shall notify the department of any modification **as**
 33 **provided in subsection (c)** of:
- 34 (1) a federal income tax return filed by the taxpayer after January
 35 1, 1978; or
- 36 (2) the taxpayer's federal income tax liability for a taxable year
 37 which begins after December 31, 1977.
- 38 The taxpayer shall file the notice on the form prescribed by the
 39 department within one hundred twenty (120) days after the
 40 modification is made if the modification was made before January 1,
 41 2011, and one hundred eighty (180) days after the modification is made
 42 if the modification is made after December 31, 2010.



1 **(c) For purposes of subsection (b), a modification occurs on the**
 2 **date on which a:**
 3 **(1) taxpayer files an amended federal income tax return;**
 4 **(2) final determination is made concerning an assessment of**
 5 **deficiency;**
 6 **(3) final determination is made concerning a claim for refund;**
 7 **(4) taxpayer waives the restrictions on assessment and**
 8 **collection of all, or any part, of an underpayment of federal**
 9 **income tax by signing a federal Form 870, or any other Form**
 10 **prescribed by the Internal Revenue Service for that purpose.**
 11 **For purposes of this subdivision:**
 12 **(A) a final determination does not occur with respect to**
 13 **any part of the underpayment that is not covered by the**
 14 **waiver; and**
 15 **(B) if the signature of an authorized representative of the**
 16 **Internal Revenue Service is required to execute a waiver,**
 17 **the date of the final determination is the date of signing by**
 18 **the authorized representative of the Internal Revenue**
 19 **Service;**
 20 **(5) taxpayer enters into a closing agreement with the Internal**
 21 **Revenue Service concerning the taxpayer's tax liability under**
 22 **Section 7121 of the Internal Revenue Code that is a final**
 23 **determination. The date the taxpayer enters into a closing**
 24 **agreement under this subdivision is the date the closing**
 25 **agreement is signed by an authorized representative of the**
 26 **Internal Revenue Service; or**
 27 **(6) modification or alteration in an amount of tax is otherwise**
 28 **made that is a final determination;**
 29 **for a taxable year, regardless of whether a modification results in**
 30 **an underpayment or overpayment of tax.**
 31 **(d) For purposes of subsection (c)(2) through (c)(6), a final**
 32 **determination means an action or decision by a taxpayer, the**
 33 **Internal Revenue Service (including the Appeals Division), the**
 34 **United States Tax Court, or any other United States federal court**
 35 **concerning any disputed tax issue that:**
 36 **(1) is final and conclusive; and**
 37 **(2) cannot be reopened or appealed by a taxpayer or the**
 38 **Internal Revenue Service as a matter of law.**
 39 ~~(e)~~ **(e) If the federal modification results in a change in the**
 40 **taxpayer's federal or Indiana adjusted gross income, the taxpayer shall**
 41 **file an Indiana amended return within one hundred twenty (120) days**
 42 **after the modification is made if the modification was made before**



1 January 1, 2011, and one hundred eighty (180) days after the
2 modification is made if the modification is made after December 31,
3 2010.

4 SECTION 12. IC 6-3-4-8, AS AMENDED BY P.L.158-2013,
5 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2015]: Sec. 8. (a) Except as provided in subsection (d), every
7 employer making payments of wages subject to tax under this article,
8 regardless of the place where such payment is made, who is required
9 under the provisions of the Internal Revenue Code to withhold, collect,
10 and pay over income tax on wages paid by such employer to such
11 employee, shall, at the time of payment of such wages, deduct and
12 retain therefrom the amount prescribed in withholding instructions
13 issued by the department. The department shall base its withholding
14 instructions on the adjusted gross income tax rate for persons, on the
15 total rates of any income taxes that the taxpayer is subject to under
16 IC 6-3.5, and on the total amount of exclusions the taxpayer is entitled
17 to under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4). However, the
18 withholding instructions on the adjusted gross income of a nonresident
19 alien (as defined in Section 7701 of the Internal Revenue Code) are to
20 be based on applying not more than one (1) withholding exclusion,
21 regardless of the total number of exclusions that IC 6-3-1-3.5(a)(3) and
22 IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final
23 return for the taxable year. Such employer making payments of any
24 wages:

25 (1) shall be liable to the state of Indiana for the payment of the tax
26 required to be deducted and withheld under this section and shall
27 not be liable to any individual for the amount deducted from the
28 individual's wages and paid over in compliance or intended
29 compliance with this section; and

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

33 (b) An employer shall pay taxes withheld under subsection (a)
34 during a particular month to the department no later than thirty (30)
35 days after the end of that month. However, in place of monthly
36 reporting periods, the department may permit an employer to report and
37 pay the tax for a calendar year reporting period, if the average monthly
38 amount of all tax required to be withheld by the employer in the
39 previous calendar year does not exceed one thousand dollars (\$1,000).
40 An employer using a reporting period (other than a monthly reporting
41 period) must file the employer's return and pay the tax for a reporting
42 period no later than the last day of the month immediately following



- 1 the close of the reporting period.
- 2 (c) For purposes of determining whether an employee is subject to
3 taxation under IC 6-3.5, an employer is entitled to rely on the statement
4 of an employee as to the employee's county of residence as represented
5 by the statement of address in forms claiming exemptions for purposes
6 of withholding, regardless of when the employee supplied the forms.
7 Every employee shall notify the employee's employer within five (5)
8 days after any change in the employee's county of residence.
- 9 (d) A county that makes payments of wages subject to tax under this
10 article:
- 11 (1) to a precinct election officer (as defined in IC 3-5-2-40.1); and
12 (2) for the performance of the duties of the precinct election
13 officer imposed by IC 3 that are performed on election day;
14 is not required, at the time of payment of the wages, to deduct and
15 retain from the wages the amount prescribed in withholding
16 instructions issued by the department.
- 17 (e) Every employer shall, at the time of each payment made by the
18 employer to the department, deliver to the department a return upon the
19 form prescribed by the department showing:
- 20 (1) the total amount of wages paid to the employer's employees;
21 (2) the amount deducted therefrom in accordance with the
22 provisions of the Internal Revenue Code;
23 (3) the amount of adjusted gross income tax deducted therefrom
24 in accordance with the provisions of this section;
25 (4) the amount of income tax, if any, imposed under IC 6-3.5 and
26 deducted therefrom in accordance with this section; and
27 (5) any other information the department may require.
- 28 Every employer making a declaration of withholding as provided in this
29 section shall furnish the employer's employees annually, but not later
30 than thirty (30) days after the end of the calendar year, a record of the
31 total amount of adjusted gross income tax and the amount of each
32 income tax, if any, imposed under IC 6-3.5, withheld from the
33 employees, on the forms prescribed by the department. **In addition, the
34 employer shall file Form WH-3 annual withholding tax reports
35 with the department not later than thirty-one (31) days after the
36 end of the calendar year.**
- 37 (f) All money deducted and withheld by an employer shall
38 immediately upon such deduction be the money of the state, and every
39 employer who deducts and retains any amount of money under the
40 provisions of this article shall hold the same in trust for the state of
41 Indiana and for payment thereof to the department in the manner and
42 at the times provided in this article. Any employer may be required to



1 post a surety bond in the sum the department determines to be
 2 appropriate to protect the state with respect to money withheld pursuant
 3 to this section.

4 (g) The provisions of IC 6-8.1 relating to additions to tax in case of
 5 delinquency and penalties shall apply to employers subject to the
 6 provisions of this section, and for these purposes any amount deducted
 7 or required to be deducted and remitted to the department under this
 8 section shall be considered to be the tax of the employer, and with
 9 respect to such amount the employer shall be considered the taxpayer.
 10 In the case of a corporate or partnership employer, every officer,
 11 employee, or member of such employer, who, as such officer,
 12 employee, or member is under a duty to deduct and remit such taxes,
 13 shall be personally liable for such taxes, penalties, and interest.

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

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

38 (j) Notwithstanding subsection (b), an employer of a domestic
 39 service employee that enters into an agreement with the domestic
 40 service employee to withhold federal income tax under Section 3402
 41 of the Internal Revenue Code may withhold Indiana income tax on the
 42 domestic service employee's wages on the employer's Indiana



1 individual income tax return in the same manner as allowed by Section
2 3510 of the Internal Revenue Code.

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

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

10 SECTION 13. IC 6-3.1-4-1, AS AMENDED BY P.L.193-2005,
11 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2015]: Sec. 1. As used in this chapter:

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

17 (1) fixed base percentage; and

18 (2) average annual gross receipts.

19 "Indiana qualified research expense" means qualified research
20 expense that is incurred for research conducted in Indiana.

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

24 "Pass through entity" means:

25 (1) a corporation that is exempt from the adjusted gross income
26 tax under IC 6-3-2-2.8(2);

27 (2) a partnership;

28 (3) a limited liability company; or

29 (4) a limited liability partnership.

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

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

35 SECTION 14. IC 6-3.1-4-4 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The provisions of
37 Section 41 of the Internal Revenue Code ~~as in effect on January 1,
38 2001~~; and the regulations promulgated in respect to those provisions
39 ~~and in effect on January 1, 2001~~; are applicable to the interpretation
40 and administration by the department of the credit provided by this
41 chapter, including the allocation and pass through of the credit to
42 various taxpayers and the transitional rules for determination of the



- 1 base period.
- 2 SECTION 15. IC 6-3.1-21-6, AS AMENDED BY P.L.229-2011,
 3 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2015]: Sec. 6. (a) Except as provided by subsection (b), an
 5 individual who is eligible for an earned income tax credit under Section
 6 32 of the Internal Revenue Code as it existed before being amended by
 7 the Tax Relief, Unemployment Insurance Reauthorization, and Job
 8 Creation Act of 2010 (P.L. 111-312), is eligible for a credit under this
 9 chapter equal to nine percent (9%) of the amount of the federal earned
 10 income tax credit that the individual:
- 11 (1) is eligible to receive in the taxable year; and
 - 12 (2) claimed for the taxable year;
- 13 under Section 32 of the Internal Revenue Code as it existed before
 14 being amended by the Tax Relief, Unemployment Insurance
 15 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).
- 16 (b) In the case of a nonresident taxpayer or a resident taxpayer
 17 residing in Indiana for a period of less than the taxpayer's entire taxable
 18 year, the amount of the credit is equal to the product of:
- 19 (1) the amount determined under subsection (a); multiplied by
 - 20 (2) the quotient of the taxpayer's income taxable in Indiana
 21 divided by the taxpayer's total income.
- 22 (c) If the credit amount exceeds the taxpayer's adjusted gross
 23 income tax liability for the taxable year, the excess ~~less any advance~~
 24 ~~payments of the credit made by the taxpayer's employer under~~
 25 ~~IC 6-3-4-8 that reduce the excess;~~ shall be refunded to the taxpayer.
- 26 SECTION 16. IC 6-3.1-21-8, AS AMENDED BY P.L.172-2011,
 27 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2015]: Sec. 8. To obtain a credit under this chapter, a taxpayer
 29 must claim the ~~advance payment~~ or credit in the manner prescribed by
 30 the department of state revenue. The taxpayer shall submit to the
 31 department of state revenue all information that the department of state
 32 revenue determines is necessary for the calculation of the credit
 33 provided by this chapter.
- 34 SECTION 17. IC 6-5.5-6-6 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Each taxpayer
 36 shall notify the department in writing of any alteration or modification
 37 of a federal income tax return filed with the United States Internal
 38 Revenue Service for a taxable year that begins after December 31,
 39 1988, including any modification or alteration in the amount of tax,
 40 regardless of whether the modification or assessment results from an
 41 assessment.
- 42 (b) The taxpayer shall file the notice in the form required by the



1 department within one hundred twenty (120) days after the alteration
 2 or modification is made by the taxpayer or finally determined,
 3 whichever occurs first.

4 **(c) For purposes of this section, a modification or alteration**
 5 **occurs on the date on which a:**

- 6 **(1) taxpayer files an amended federal income tax return;**
 7 **(2) final determination is made concerning an assessment of**
 8 **deficiency;**
 9 **(3) final determination is made concerning a claim for refund;**
 10 **(4) taxpayer waives the restrictions on assessment and**
 11 **collection of all, or any part, of an underpayment of federal**
 12 **income tax by signing a federal Form 870, or any other Form**
 13 **prescribed by the Internal Revenue Service for that purpose.**

14 **For purposes of this subdivision:**

15 **(A) a final determination does not occur with respect to**
 16 **any part of the underpayment that is not covered by the**
 17 **waiver; and**

18 **(B) if the signature of an authorized representative of the**
 19 **Internal Revenue Service is required to execute a waiver,**
 20 **the date of the final determination is the date of signing by**
 21 **the authorized representative of the Internal Revenue**
 22 **Service;**

23 **(5) taxpayer enters into a closing agreement with the Internal**
 24 **Revenue Service concerning the taxpayer's tax liability under**
 25 **Section 7121 of the Internal Revenue Code that is a final**
 26 **determination. The date the taxpayer enters into a closing**
 27 **agreement under this subdivision is the date the closing**
 28 **agreement is signed by an authorized representative of the**
 29 **Internal Revenue Service; or**

30 **(6) modification or alteration in an amount of tax is otherwise**
 31 **made that is a final determination;**

32 **for a taxable year, regardless of whether a modification or**
 33 **alteration results in an underpayment or overpayment of tax.**

34 **(d) For purposes of subsection (c)(2) through (c)(6), a final**
 35 **determination means an action or decision by a taxpayer, the**
 36 **Internal Revenue Service (including the Appeals Division), the**
 37 **United States Tax Court, or any other United States federal court**
 38 **concerning any disputed tax issue that:**

39 **(1) is final and conclusive; and**

40 **(2) cannot be reopened or appealed by a taxpayer or the**
 41 **Internal Revenue Service as a matter of law.**

42 **(e) Notwithstanding subsections (a) through (d), if a taxpayer**



1 **files an amended federal income tax return for a taxable year, the**
 2 **taxpayer shall also file an amended Indiana financial institutions**
 3 **tax return (as required by the department) and a copy of the**
 4 **taxpayer's amended federal income tax return with the department**
 5 **not later than the date that is one hundred eighty (180) days after**
 6 **the date of the taxpayer's amended federal income tax return.**

7 ~~(e)~~ **(f)** The taxpayer shall pay an additional tax or penalty due under
 8 this article upon notice or demand from the department.

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

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

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

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

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

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

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

40 **(d) A revenue stamp purchased by a distributor under this**
 41 **section remains the property of the state of Indiana, with a value**
 42 **equivalent to the stamp's face value, until payment has been made**



1 **in full, regardless of whether or not the stamp has been affixed to**
 2 **a package of cigarettes.**

3 SECTION 19. IC 6-8.1-3-7.1 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. (a) "Fiscal officer"
 5 has the meaning set forth in IC 36-1-2-7.

6 (b) The department shall enter into an agreement with the fiscal
 7 officer of an entity that has adopted an innkeeper's tax, a food and
 8 beverage tax, or an admissions tax under IC 6-9 to furnish the fiscal
 9 officer annually with:

10 (1) the name of each business collecting the taxes listed in this
 11 subsection; and

12 (2) the amount of money collected from each business.

13 (c) The agreement must provide that the department must provide
 14 the information in an electronic format that the fiscal officer can use,
 15 as well as a paper copy.

16 (d) The agreement must include a provision that, unless in
 17 accordance with a judicial order, the fiscal officer, employees of the
 18 fiscal officer, former employees of the fiscal officer, counsel of the
 19 fiscal officer, agents of the fiscal officer, or any other person may not
 20 divulge the names of the businesses, the amount of taxes paid by the
 21 businesses, or any other information disclosed to the fiscal officer by
 22 the department.

23 (e) **The department shall also enter into an agreement with the**
 24 **fiscal officer of a capital improvement board of managers:**

25 **(1) created under IC 36-10-8 or IC 36-10-9; and**

26 **(2) that is responsible for expenditure of funds from:**

27 **(A) an innkeeper's tax, a food and beverage tax, or an**
 28 **admissions tax under IC 6-9;**

29 **(B) the supplemental auto rental excise tax under**
 30 **IC 6-6-9.7; or**

31 **(C) the state gross retail taxes allocated to a professional**
 32 **sports development area fund, a sports and convention**
 33 **facilities operating fund, or other fund under IC 36-7-31 or**
 34 **IC 36-7-31.3;**

35 **to furnish the fiscal officer annually with the name of each business**
 36 **collecting the taxes listed in this subsection, and the amount of**
 37 **money collected from each business. An agreement with a fiscal**
 38 **officer under this subsection must include a nondisclosure**
 39 **provision the same as is required for a fiscal officer under**
 40 **subsection (d).**

41 SECTION 20. IC 6-8.1-3-7.2 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS



1 [EFFECTIVE UPON PASSAGE]: **Sec. 7.2. (a) The fiscal officer of a**
 2 **municipality in which a food and beverage tax is imposed and**
 3 **collected under an ordinance adopted by a fiscal body of a county**
 4 **under IC 6-9 may request from the department a statement of the**
 5 **percentage amount of the food and beverage tax collected annually**
 6 **within the municipality.**

7 **(b) The statement of the percentage amount of the food and**
 8 **beverage tax collected in a municipality under this section must be**
 9 **expressed as a percentage equal to:**

10 **(1) the dollar amount of food and beverage tax imposed and**
 11 **collected annually within a municipality under an ordinance**
 12 **adopted by a fiscal body of the county under IC 6-9; divided**
 13 **by**

14 **(2) the total dollar amount of food and beverage tax collected**
 15 **annually in all areas of the county in which the food and**
 16 **beverage tax is imposed and collected under an ordinance**
 17 **adopted by the fiscal body of the county under IC 6-9.**

18 **(c) Notwithstanding IC 5-14-3-4, IC 6-8.1-7-1(a), and any other**
 19 **law exempting information from disclosure, the information**
 20 **contained in a statement requested under this section may be:**

21 **(1) divulged by the department to a fiscal officer of a**
 22 **municipality; and**

23 **(2) publicly disclosed by the fiscal officer of a municipality to**
 24 **which a statement is furnished.**

25 **SECTION 21. IC 6-8.1-4-5 IS ADDED TO THE INDIANA CODE**
 26 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 27 **1, 2015]: **Sec. 5. (a) The department may deny an application under****
 28 **section 4(c) of this chapter if the applicant has had a registration**
 29 **revoked under section 4(f) of this chapter or any other applicable**
 30 **statute.**

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

37 **(1) Failed to file all tax returns or information reports with**
 38 **the department required under IC 6, IC 8, or IC 9.**

39 **(2) Failed to pay all taxes, penalties, and interest required to**
 40 **the department under IC 6, IC 8, or IC 9.**

41 **(3) Failed to pay any registration or license plate fees for**
 42 **vehicles that were at any point owned or operated by the**



1 **person or for which the person was responsible for payment.**

2 **(4) Failed to return a license plate described in subdivision (3)**
 3 **to the department.**

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

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

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

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

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

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

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

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

41 (1) set the hearing at the department's earliest convenient time;
 42 and



- 1 (2) notify the person by United States mail of the time, date, and
 2 location of the hearing.
- 3 (e) The department may hold the hearing at the location of its choice
 4 within Indiana if that location complies with IC 6-8.1-3-8.5.
- 5 (f) ~~No later than sixty (60) days~~ After conducting a hearing on a
 6 protest, or after making a decision on a protest when no hearing is
 7 requested, the department shall issue a letter of findings and shall send
 8 a copy of the letter through the United States mail to the person who
 9 filed the protest and to the person's surety, if the surety was notified of
 10 the proposed assessment under subsection (b). The department may
 11 continue the hearing until a later date if the taxpayer presents
 12 additional information at the hearing or the taxpayer requests an
 13 opportunity to present additional information after the hearing.
- 14 (g) A person that disagrees with a decision in a letter of findings
 15 may request a rehearing not more than thirty (30) days after the date on
 16 which the letter of findings is issued by the department. The
 17 department shall consider the request and may grant the rehearing if the
 18 department reasonably believes that a rehearing would be in the best
 19 interests of the taxpayer and the state.
- 20 (h) If a person disagrees with a decision in a letter of findings, the
 21 person may appeal the decision to the tax court. However, the tax court
 22 does not have jurisdiction to hear an appeal that is filed more than ~~sixty~~
 23 ~~(60)~~ **ninety (90)** days after the date on which:
- 24 (1) the letter of findings is issued by the department, if the person
 25 does not make a timely request for a rehearing under subsection
 26 (g) on the letter of findings; or
 27 (2) the department issues a denial of the person's timely request
 28 for a rehearing under subsection (g) on the letter of findings.
- 29 **The ninety (90) day period may be extended according to the terms**
 30 **of a written agreement signed by both the department and the**
 31 **person. The agreement must specify a date upon which the**
 32 **extension will terminate and a statement that the person agrees to**
 33 **preserve the person's records until that specified termination date.**
 34 **The specified termination date agreed upon under this subsection**
 35 **may not be more than ninety (90) days after the expiration of the**
 36 **period otherwise specified by this subsection.**
- 37 (i) The tax court shall hear an appeal under subsection (h) de novo
 38 and without a jury. The tax court may do the following:
- 39 (1) Uphold or deny any part of the assessment that is appealed.
 40 (2) Assess the court costs in a manner that the court believes to be
 41 equitable.
 42 (3) Enjoin the collection of a listed tax under IC 33-26-6-2.



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

- 4 (1) the person failed to properly respond within the forty-five (45)
 5 day period;
 6 (2) the person requested a hearing but failed to appear at that
 7 hearing; or
 8 (3) after consideration of the evidence presented in the protest or
 9 hearing, the department finds that the person still owes tax.

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

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

13 SECTION 23. IC 6-8.1-5-2, AS AMENDED BY P.L.182-2009(ss),
 14 SECTION 251, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Except as otherwise provided
 16 in this section, the department may not issue a proposed assessment
 17 under section 1 of this chapter more than three (3) years after the latest
 18 of the date the return is filed, or either of the following:

- 19 (1) The due date of the return.
 20 (2) In the case of a return filed for the state gross retail or use tax,
 21 the gasoline tax, the special fuel tax, the motor carrier fuel tax, the
 22 oil inspection fee, or the petroleum severance tax, the end of the
 23 calendar year which contains the taxable period for which the
 24 return is filed.

25 (b) If a person files a utility receipts tax return (IC 6-2.3), an
 26 adjusted gross income tax (IC 6-3), supplemental net income tax
 27 (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1),
 28 county option income tax (IC 6-3.5-6), or financial institutions tax
 29 (IC 6-5.5) return that understates the person's income, as that term is
 30 defined in the particular income tax law, by at least twenty-five percent
 31 (25%), the proposed assessment limitation is six (6) years instead of the
 32 three (3) years provided in subsection (a).

33 (c) In the case of the motor vehicle excise tax (IC 6-6-5), the tax
 34 shall be assessed as provided in IC 6-6-5-5 and IC 6-6-5-6 and shall
 35 include the penalties and interest due on all listed taxes not paid by the
 36 due date. A person that fails to properly register a vehicle as required
 37 by IC 9-18 and pay the tax due under IC 6-6-5 is considered to have
 38 failed to file a return for purposes of this article.

39 (d) In the case of the commercial vehicle excise tax imposed under
 40 IC 6-6-5.5, the tax shall be assessed as provided in IC 6-6-5.5 and shall
 41 include the penalties and interest due on all listed taxes not paid by the
 42 due date. A person that fails to properly register a commercial vehicle



1 as required by IC 9-18 and pay the tax due under IC 6-6-5.5 is
2 considered to have failed to file a return for purposes of this article.

3 (e) In the case of the excise tax imposed on recreational vehicles
4 and truck campers under IC 6-6-5.1, the tax shall be assessed as
5 provided in IC 6-6-5.1 and must include the penalties and interest due
6 on all listed taxes not paid by the due date. A person who fails to
7 properly register a recreational vehicle as required by IC 9-18 and pay
8 the tax due under IC 6-6-5.1 is considered to have failed to file a return
9 for purposes of this article. A person who fails to pay the tax due under
10 IC 6-6-5.1 on a truck camper is considered to have failed to file a return
11 for purposes of this article.

12 (f) If a person files a fraudulent, unsigned, or substantially blank
13 return, or if a person does not file a return, there is no time limit within
14 which the department must issue its proposed assessment.

15 (g) If any part of a listed tax has been erroneously refunded by the
16 department, the erroneous refund may be recovered through the
17 assessment procedures established in this chapter. An assessment
18 issued for an erroneous refund must be issued:

- 19 (1) within two (2) years after making the refund; or
20 (2) within five (5) years after making the refund if the refund was
21 induced by fraud or misrepresentation.

22 (h) If, before the end of the time within which the department may
23 make an assessment, the department and the person agree to extend
24 that assessment time period, the period may be extended according to
25 the terms of a written agreement signed by both the department and the
26 person. The agreement must contain:

- 27 (1) the date to which the extension is made; and
28 (2) a statement that the person agrees to preserve the person's
29 records until the extension terminates.

30 The department and a person may agree to more than one (1) extension
31 under this subsection.

32 (i) If a taxpayer's **federal taxable income, federal adjusted gross**
33 **income, or federal income tax liability** for a taxable year is modified
34 due to the assessment of a federal deficiency or the filing of an
35 amended federal income tax return, a modification as provided under
36 **IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted gross income tax),**
37 **or a modification or alteration as provided under IC 6-5.5-6-6(c)**
38 **and IC 6-5.5-6-6(d) (for the financial institutions tax),** then the date
39 by which the department must issue a proposed assessment under
40 section 1 of this chapter for tax imposed under IC 6-3 is extended to six
41 (6) months after the date on which the notice of modification is filed
42 with the department by the taxpayer.



1 SECTION 24. IC 6-8.1-7-1, AS AMENDED BY P.L.2-2014,
 2 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2015]: Sec. 1. (a) This subsection does not apply to the
 4 disclosure of information concerning a conviction on a tax evasion
 5 charge. Unless in accordance with a judicial order or as otherwise
 6 provided in this chapter, the department, its employees, former
 7 employees, counsel, agents, or any other person may not divulge the
 8 amount of tax paid by any taxpayer, terms of a settlement agreement
 9 executed between a taxpayer and the department, investigation records,
 10 investigation reports, or any other information disclosed by the reports
 11 filed under the provisions of the law relating to any of the listed taxes,
 12 including required information derived from a federal return, except to:

13 (1) members and employees of the department;

14 (2) the governor;

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

21 (4) the attorney general or any other legal representative of the
 22 state in any action in respect to the amount of tax due under the
 23 provisions of the law relating to any of the listed taxes; or

24 (5) any authorized officers of the United States;

25 when it is agreed that the information is to be confidential and to be
 26 used solely for official purposes.

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

22 (n) This section does not apply to:

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

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

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

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

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



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

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

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

23 **(s) The department may release information as required in**
 24 **IC 6-8.1-3-7.2(b) concerning the percentage amount of food and**
 25 **beverage tax collected within a municipality.**

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

- 35 (1) That the person has ten (10) days from the date the department
 36 mails the notice to either pay the amount demanded or show
 37 reasonable cause for not paying the amount demanded.
 38 (2) The statutory authority of the department for the issuance of
 39 a tax warrant.
 40 (3) The earliest date on which a tax warrant may be filed and
 41 recorded.
 42 (4) The statutory authority for the department to levy against a



1 person's property that is held by a financial institution.

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

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

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

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

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

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

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

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

28 (2) The amount of the tax, interest, penalties, collection fee,
29 sheriff's costs, clerk's costs, and fees established under section
30 4(b) of this chapter when applicable.

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

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

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

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

38 excepting only negotiable instruments not yet due.

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



- 1 previously existed.
- 2 (g) A judgment arising from a tax warrant in a county shall be
3 released by the department:
- 4 (1) after the judgment, including all accrued interest to the date of
5 payment, has been fully satisfied; or
6 (2) if the department determines that the tax assessment or the
7 issuance of the tax warrant was in error.
- 8 (h) **Subject to subsections (p) and (q)**, if the department
9 determines that the filing of a tax warrant was in error **or if the**
10 **commissioner determines that the release of the judgment and**
11 **expungement of the tax warrant are in the best interest of the state**,
12 the department shall mail a release of the judgment to the taxpayer and
13 the circuit court clerk of each county where the warrant was filed. The
14 circuit court clerk of each county where the warrant was filed shall
15 expunge the warrant from the judgment debtor's column of the
16 judgment record. The department shall mail the release and the order
17 for the warrant to be expunged as soon as possible but no later than
18 seven (7) days after:
- 19 (1) the determination by the department that the filing of the
20 warrant was in error; and
21 (2) the receipt of information by the department that the judgment
22 has been recorded under subsection (d).
- 23 (i) If the department determines that a judgment described in
24 subsection (h) is obstructing a lawful transaction, the department shall
25 immediately upon making the determination mail:
- 26 (1) a release of the judgment to the taxpayer; and
27 (2) an order requiring the circuit court clerk of each county where
28 the judgment was filed to expunge the warrant.
- 29 (j) A release issued under subsection (h) or (i) must state that the
30 filing of the tax warrant was in error. Upon the request of the taxpayer,
31 the department shall mail a copy of a release and the order for the
32 warrant to be expunged issued under subsection (h) or (i) to each major
33 credit reporting company located in each county where the judgment
34 was filed.
- 35 (k) The commissioner shall notify each state agency or officer
36 supplied with a tax warrant list of the issuance of a release under
37 subsection (h) or (i).
- 38 (l) If the sheriff collects the full amount of a tax warrant, the sheriff
39 shall disburse the money collected in the manner provided in section
40 3(c) of this chapter. If a judgment has been partially or fully satisfied
41 by a person's surety, the surety becomes subrogated to the department's
42 rights under the judgment. If a sheriff releases a judgment:



- 1 (1) before the judgment is fully satisfied;
 2 (2) before the sheriff has properly disbursed the amount collected;
 3 or
 4 (3) after the sheriff has returned the tax warrant to the department;
 5 the sheriff commits a Class B misdemeanor and is personally liable for
 6 the part of the judgment not remitted to the department.
- 7 (m) A lien on real property described in subsection (e)(2) is void if
 8 both of the following occur:
- 9 (1) The person owing the tax provides written notice to the
 10 department to file an action to foreclose the lien.
 11 (2) The department fails to file an action to foreclose the lien not
 12 later than one hundred eighty (180) days after receiving the
 13 notice.
- 14 (n) A person who gives notice under subsection (m) by registered
 15 or certified mail to the department may file an affidavit of service of the
 16 notice to file an action to foreclose the lien with the circuit court clerk
 17 in the county in which the property is located. The affidavit must state
 18 the following:
- 19 (1) The facts of the notice.
 20 (2) That more than one hundred eighty (180) days have passed
 21 since the notice was received by the department.
 22 (3) That no action for foreclosure of the lien is pending.
 23 (4) That no unsatisfied judgment has been rendered on the lien.
- 24 (o) Upon receipt of the affidavit described in subsection (n), the
 25 circuit court clerk shall make an entry showing the release of the
 26 judgment lien in the judgment records for tax warrants.
- 27 **(p) The department shall adopt rules to define the circumstances**
 28 **under which a release and expungement may be granted based on**
 29 **a finding that the release and expungement would be in the best**
 30 **interest of the state. The rules may allow the commissioner to**
 31 **expunge a tax warrant in other circumstances not inconsistent with**
 32 **subsection (q) that the commissioner determines are appropriate.**
 33 **Any releases or expungements granted by the commissioner must**
 34 **be consistent with these rules.**
- 35 (q) The commissioner may expunge a tax warrant in the
 36 following circumstances:
- 37 (1) If the taxpayer has timely and fully filed and paid all of the
 38 taxpayer's state taxes, or has otherwise resolved any
 39 outstanding state tax issues, for the preceding five (5) years.
 40 (2) If the warrant was issued more than ten (10) years prior
 41 to the expungement.
 42 (3) If the warrant is not subject to pending litigation.



- 1 **(4) Other circumstances not inconsistent with subdivisions (1)**
 2 **through (3) that are specified in the rules adopted under**
 3 **subsection (p).**
- 4 **(r) Notwithstanding any other provision in this section, the**
 5 **commissioner may decline to release a judgment or expunge a**
 6 **warrant upon a finding that the warrant was issued based on the**
 7 **taxpayer's fraudulent, intentional, or reckless conduct.**
- 8 **(s) The rules required under subsection (p) shall specify the**
 9 **process for requesting that the commissioner release and expunge**
 10 **a tax warrant.**
- 11 SECTION 26. IC 6-8.1-9-1, AS AMENDED BY P.L.137-2012,
 12 SECTION 109, IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) If a person has paid more tax
 14 than the person determines is legally due for a particular taxable
 15 period, the person may file a claim for a refund with the department.
 16 Except as provided in subsections ~~(f)~~ **(j)** and ~~(g)~~ **(k)**, in order to obtain
 17 the refund, the person must file the claim with the department within
 18 three (3) years after the latter of the following:
- 19 (1) The due date of the return.
 - 20 (2) The date of payment.
- 21 For purposes of this section, the due date for a return filed for the state
 22 gross retail or use tax, the gasoline tax, the special fuel tax, the motor
 23 carrier fuel tax, the oil inspection fee, or the petroleum severance tax
 24 is the end of the calendar year which contains the taxable period for
 25 which the return is filed. The claim must set forth the amount of the
 26 refund to which the person is entitled and the reasons that the person
 27 is entitled to the refund.
- 28 (b) After considering the claim and all evidence relevant to the
 29 claim, the department shall issue a decision on the claim, stating the
 30 part, if any, of the refund allowed and containing a statement of the
 31 reasons for any part of the refund that is denied. The department shall
 32 mail a copy of the decision to the person who filed the claim. If the
 33 person disagrees with a part of the decision **on the claim**, the person
 34 may file a protest and request a hearing with the department. ~~The~~
 35 ~~department shall mail a copy of the decision to the person who filed the~~
 36 ~~protest. If the department allows the full amount of the refund claim,~~
 37 ~~a warrant for the payment of the claim is sufficient notice of the~~
 38 ~~decision.~~
- 39 (c) ~~If the person disagrees with any part of the department's~~
 40 ~~decision, the person may appeal the decision, regardless of whether or~~
 41 ~~not the person protested the tax payment or whether or not the person~~
 42 ~~has accepted a refund. The person must file the appeal with the tax~~



1 court. The tax court does not have jurisdiction to hear a refund appeal
2 suit, if:

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

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

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

7 (b); or

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

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

18 (d) **The decision on the claim must state that the person has**
19 **sixty (60) days from the date the decision is mailed to file a written**
20 **protest. If the person files a protest and requires a hearing on the**
21 **protest, the department shall:**

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

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

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

28 (f) **After conducting a hearing on a protest, or after making a**
29 **decision on a protest when no hearing is requested, the department**
30 **shall issue a memorandum of decision or order denying a refund**
31 **and shall send a copy of the decision through the United States mail**
32 **to the person who filed the protest. If the department allows the**
33 **full amount of the refund claim, a warrant for the payment of the**
34 **claim is sufficient notice of the decision. The department may**
35 **continue the hearing until a later date if the taxpayer presents**
36 **additional information at the hearing or the taxpayer requests an**
37 **opportunity to present additional information after the hearing.**

38 (g) **A person that disagrees with a decision in a memorandum of**
39 **decision or order denying a refund may request a rehearing not**
40 **more than thirty (30) days after the date on which the**
41 **memorandum of decision or order denying a refund is issued by**
42 **the department. The department shall consider the request and**



1 may grant the rehearing if the department reasonably believes that
 2 a rehearing would be in the best interests of the taxpayer and the
 3 state.

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

9 (1) the memorandum of decision or order denying a refund is
 10 issued by the department, if the person does not make a timely
 11 request for a rehearing under subsection (g) on the letter of
 12 findings; or

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

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

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

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

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

34 (2) the date that is one hundred eighty (180) days after the date ~~on~~
 35 ~~which the taxpayer is notified~~ of the modification by the Internal
 36 Revenue Service **as provided under:**

37 (A) IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted gross
 38 income tax); or

39 (B) IC 6-5.5-6-6(c) and IC 6-5.5-6-6(d) (for the financial
 40 institutions tax).

41 (g) (k) If an agreement to extend the assessment time period is
 42 entered into under IC 6-8.1-5-2(h), the period during which a person



1 may file a claim for a refund under subsection (a) is extended to the
2 same date to which the assessment time period is extended.

3 SECTION 27. IC 6-8.1-9-2, AS AMENDED BY P.L.293-2013(ts),
4 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2015]: Sec. 2. (a) If the department finds that a person has
6 paid more tax for a taxable year than is legally due, the department
7 shall apply the amount of the excess against any amount of that same
8 tax that is assessed and is currently due. The department may then
9 apply any remaining excess against any of the listed taxes that have
10 been assessed against the person and that are currently due. Subject to
11 subsection (c), if any excess remains after the department has applied
12 the overpayment against the person's tax liabilities, the department
13 shall either refund the amount to the person or, at the person's request,
14 credit the amount to the person's future tax liabilities.

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

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

- 26 (1) the person has filed a timely claim for refund with respect to
27 the overpayment under IC 6-8.1-9-1;
28 (2) the overpayment:
29 (A) is with respect to a taxable year beginning before January
30 1, 2009;
31 (B) is attributable to amounts paid to the department by:
32 (i) a nonresident shareholder, partner, or member of a pass
33 through entity;
34 (ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13
35 on behalf of a nonresident shareholder, partner, or member
36 of the pass through entity; or
37 (iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13
38 on behalf of a nonresident shareholder, partner, or member
39 of another pass through entity; and
40 (3) the overpayment arises from a determination by the
41 department or a court that the person's pass through income is not
42 includible in the person's adjusted gross income derived from



1 sources within Indiana as a result of the application of
 2 IC 6-3-2-2(a)(5) and IC 6-3-2-2.2(g).

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

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

- 38 (1) the date the refund claim is filed, **if the refund claim is filed**
 39 **before July 1, 2015; or**
 40 (2) **for a refund claim filed after June 30, 2015, the latest of:**
 41 (A) the date the tax payment was due;
 42 (B) the date the tax was paid; or



1 **(C) July 1, 2015;**
 2 at the rate established under IC 6-8.1-10-1 until a date, determined by
 3 the department, that does not precede by more than thirty (30) days, the
 4 date on which the refund or credit is made. As used in this subsection,
 5 "refund claim" includes **a return and** an amended return that indicates
 6 an overpayment of tax. **For purposes of this subsection only, the due**
 7 **date for the payment of the state gross retail or use tax, the oil**
 8 **inspection fee, and the petroleum severance tax is December 31 of**
 9 **the calendar year that contains the taxable period for which the**
 10 **payment is remitted. Notwithstanding any other provision, no**
 11 **interest is due for any time before the filing of a tax return for the**
 12 **period and tax type for which a taxpayer files a refund claim.**

13 (e) A person who is liable for the payment of excise taxes under
 14 IC 7.1-4-3 or IC 7.1-4-4 is entitled to claim a credit against the person's
 15 excise tax liability in the amount of the excise taxes paid in duplicate
 16 by the person, or the person's assignors or predecessors, upon both:

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

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

22 (f) The amount of the credit under subsection (e) is equal to fifty
 23 percent (50%) of the amount of excise taxes:

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

25 (2) that are duplicative of excise taxes paid by the person as
 26 described in subsection (e)(1); and

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

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

37 (g) The amount of the credit calculated under subsection (f) must be
 38 used for capital expenditures to:

39 (1) expand employment; or

40 (2) assist in retaining employment within Indiana.

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



1 SECTION 28. IC 27-1-2-2.3, AS ADDED BY P.L.129-2014,
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2015]: Sec. 2.3. (a) As used in this section, "captive insurer"
 4 means a foreign company or an alien company:

- 5 (1) that is supervised in the foreign or alien jurisdiction;
 6 (2) that is owned by a person that conducts business in Indiana;
 7 (3) whose exclusive purpose is to insure property and casualty
 8 risks of:

- 9 (A) the parent entity described in subdivision (2);
 10 (B) affiliates of the parent entity; or
 11 (C) a controlled unaffiliated business;

12 which may include reinsuring (through risk-sharing
 13 arrangements) property and casualty risks insured by other foreign
 14 companies or alien companies described in subdivision (1); and
 15 (4) that has not more than two million dollars (\$2,000,000) of
 16 annual direct written premium. is:

17 **(A) owned or controlled by:**

18 **(i) an Indiana body politic; or**

19 **(ii) a state educational institution (as defined by**
 20 **IC 21-7-13-32); or**

21 **(B) a company with a Section 831(b) of the Internal**
 22 **Revenue Code election in effect.**

23 (b) As used in this section, "controlled unaffiliated business" means
 24 a business:

25 (1) that:

26 (A) is not an affiliate of; and

27 (B) has a contractual relationship with;

28 a parent entity described in subsection (a)(2) or an affiliate of the
 29 parent entity; and

30 (2) the risks of which are managed by a captive insurer.

31 (c) Except as provided in this section, this article does not apply to
 32 a captive insurer.

33 (d) A captive insurer that is doing business in Indiana:

34 (1) is not required to obtain a certificate of authority in Indiana
 35 **under IC 27-1-6 for domestic formation or under IC 27-1-17**
 36 **for foreign company admission.**

37 (2) shall register with the commissioner; and

38 (3) shall, for each calendar year after 2012 in which the captive
 39 insurer is doing business in Indiana, pay into the treasury of this
 40 state a tax of two thousand five hundred dollars (\$2,500).

41 (e) A captive insurer that is required to pay the tax imposed for a
 42 calendar year under subsection (d)(3) shall pay the tax as follows:



- 1 (1) For a tax imposed under subsection (d)(3) for calendar year
 2 2013, the captive insurer shall pay the tax before July 1, 2014.
 3 (2) For a tax imposed under subsection (d)(3) for a calendar year
 4 after 2013, the captive insurer shall pay the tax before April 15 of
 5 the following calendar year.
 6 (f) The state and a political subdivision of the state shall not impose
 7 a license fee or privilege or other tax on a captive insurer, except the
 8 following:
 9 (1) The tax described in subsection (d)(3).
 10 (2) An applicable tax on real and tangible personal property of the
 11 captive insurer.
 12 SECTION 29. [EFFECTIVE UPON PASSAGE] **(a) As used in this**
 13 **SECTION, "department" refers to the department of state**
 14 **revenue.**
 15 **(b) The department shall, not later than November 1, 2015:**
 16 **(1) conduct a study of the department's current information**
 17 **systems;**
 18 **(2) develop a plan for modernizing the department's**
 19 **information systems; and**
 20 **(3) submit a report of the study conducted under subdivision**
 21 **(1) and the plan developed under subdivision (2) to the budget**
 22 **committee and the legislative council.**
 23 **(c) The report submitted to the legislative council must be in an**
 24 **electronic format under IC 5-14-6.**
 25 **(d) This SECTION expires January 1, 2017.**
 26 SECTION 30. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 438, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective date in SECTION 9 with "[EFFECTIVE JANUARY 1, 2016]".

Page 1, delete lines 1 through 15, begin a new paragraph and insert:

"SECTION 1. IC 4-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) No agency, except as provided in this chapter, shall have any right to name, appoint, employ, or hire any attorney or special or general counsel to represent it or perform any legal service in behalf of such agency and the state without the written consent of the attorney general.

(b) An attorney hired or employed by an agency as outside counsel or to provide in-house legal advice is subject to IC 34-46-3-1 and Trial Rule 26(B) of the Indiana Rules of Trial Procedure, commonly referred to as the attorney-client and work product privileges, if the requirements to assert the protection and privilege have been satisfied."

Page 2, delete lines 1 through 27.

Page 3, line 25, delete "sixty (60)" and insert "**ninety (90)**".

Page 8, line 11, after "another's" insert "**patent, model, process, or product for the purpose of investigating or evaluating the value of a potential investment."**

Page 8, delete lines 12 through 13.

Page 8, delete lines 16 through 17.

Page 8, line 42, delete "an activity is devoted to" and insert "**a research and development activity is devoted to experimental or laboratory research and development if the activity is considered essential and integral to experimental or laboratory research. The term does not include activities incidental to experimental or laboratory research and development."**

Page 9, delete lines 1 through 30.

Page 20, line 21, reset in roman "as it existed before being amended by".

Page 20, reset in roman line 22.

Page 20, line 23, reset in roman "Creation Act of 2010 (P.L. 111-312),".

Page 20, line 28, after "Code" delete ".".

Page 20, line 28, reset in roman "as it existed before".

SB 438—LS 7415/DI 120



Page 20, reset in roman lines 29 through 30.

Page 21, delete lines 7 through 12.

Page 22, delete lines 30 through 42.

Delete page 23.

Page 24, delete lines 1 through 28, begin a new paragraph and insert:

"SECTION 25. IC 6-7-1-17, AS AMENDED BY P.L.131-2008, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 17. (a) Distributors who hold certificates and retailers shall be agents of the state in the collection of the taxes imposed by this chapter and the amount of the tax levied, assessed, and imposed by this chapter on cigarettes sold, exchanged, bartered, furnished, given away, or otherwise disposed of by distributors or to retailers. Distributors who hold certificates shall be agents of the department to affix the required stamps and shall be entitled to purchase the stamps from the department at a discount of one and two-tenths cents (\$0.012) per individual package of cigarettes as compensation for their labor and expense.

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

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

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

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

(d) A revenue stamp purchased by a distributor under this section remains the property of the state of Indiana, with a value equivalent to the stamp's face value, until payment has been made in full, regardless of whether or not the stamp has been affixed to a package of cigarettes.



SECTION 26. IC 6-8.1-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. (a) "Fiscal officer" has the meaning set forth in IC 36-1-2-7.

(b) The department shall enter into an agreement with the fiscal officer of an entity that has adopted an innkeeper's tax, a food and beverage tax, or an admissions tax under IC 6-9 to furnish the fiscal officer annually with:

- (1) the name of each business collecting the taxes listed in this subsection; and
- (2) the amount of money collected from each business.

(c) The agreement must provide that the department must provide the information in an electronic format that the fiscal officer can use, as well as a paper copy.

(d) The agreement must include a provision that, unless in accordance with a judicial order, the fiscal officer, employees of the fiscal officer, former employees of the fiscal officer, counsel of the fiscal officer, agents of the fiscal officer, or any other person may not divulge the names of the businesses, the amount of taxes paid by the businesses, or any other information disclosed to the fiscal officer by the department.

(e) The department shall also enter into an agreement with the fiscal officer of a capital improvement board of managers:

- (1) created under IC 36-10-8 or IC 36-10-9; and**
- (2) that is responsible for expenditure of funds from:**
 - (A) an innkeeper's tax, a food and beverage tax, or an admissions tax under IC 6-9;**
 - (B) the supplemental auto rental excise tax under IC 6-6-9.7; or**
 - (C) the state gross retail taxes allocated to a professional sports development area fund, a sports and convention facilities operating fund, or other fund under IC 36-7-31 or IC 36-7-31.3;**

to furnish the fiscal officer annually with the name of each business collecting the taxes listed in this subsection, and the amount of money collected from each business. An agreement with a fiscal officer under this subsection must include a nondisclosure provision the same as is required for a fiscal officer under subsection (d).

SECTION 27. IC 6-8.1-3-7.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.2. (a) The fiscal officer of a municipality in which a food and beverage tax is imposed and**



collected under an ordinance adopted by a fiscal body of a county under IC 6-9 may request from the department a statement of the percentage amount of the food and beverage tax collected annually within the municipality.

(b) The statement of the percentage amount of the food and beverage tax collected in a municipality under this section must be expressed as a percentage equal to:

- (1) the dollar amount of food and beverage tax imposed and collected annually within a municipality under an ordinance adopted by a fiscal body of the county under IC 6-9; divided by
- (2) the total dollar amount of food and beverage tax collected annually in all areas of the county in which the food and beverage tax is imposed and collected under an ordinance adopted by the fiscal body of the county under IC 6-9.

(c) Notwithstanding IC 5-14-3-4, IC 6-8.1-7-1(a), and any other law exempting information from disclosure, the information contained in a statement requested under this section may be:

- (1) divulged by the department to a fiscal officer of a municipality; and
- (2) publicly disclosed by the fiscal officer of a municipality to which a statement is furnished."

Page 26, between lines 32 and 33, begin a new line blocked left and insert:

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

Page 26, line 33, reset in roman "hear an appeal".

Page 26, line 33, delete "review legal conclusions set".

Page 26, line 34, delete "forth in a final decision issued".

Page 26, line 35, delete "The tax court shall grant deference to the".

Page 26, delete line 36.

Page 26, line 37, delete "that the department is responsible for enforcing."

Delete page 29.

Page 30, delete lines 1 through 7, begin a new paragraph and insert:
"SECTION 31. IC 6-8.1-7-1, AS AMENDED BY P.L.2-2014,



SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

- (1) members and employees of the department;
- (2) the governor;
- (3) a member of the general assembly or an employee of the house of representatives or the senate when acting on behalf of a taxpayer located in the member's legislative district who has provided sufficient information to the member or employee for the department to determine that the member or employee is acting on behalf of the taxpayer;
- (4) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or
- (5) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

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

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a county office of the division of family resources located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be



made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

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

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

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

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

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

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

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

(j) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor



vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

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

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

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

(n) This section does not apply to:

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

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

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

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

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



- (4) IC 36-7-27;
- (5) IC 36-7-31;
- (6) IC 36-7-31.3; or
- (7) any other statute providing for the calculation of incremental state taxes that will be distributed to or retained by a political subdivision or other entity;

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

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

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

(s) The department may release information as required in IC 6-8.1-3-7.2(b) concerning the percentage amount of food and beverage tax collected within a municipality."

Page 31, line 32, delete "If" and insert "Subject to subsections (p) and (q), if".

Page 33, between lines 7 and 8, begin a new paragraph and insert:

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

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

- (1) If the taxpayer has timely and fully filed and paid all of the taxpayer's state taxes, or has otherwise resolved any outstanding state tax issues, for the preceding five (5) years.**
- (2) If the warrant was issued more than ten (10) years prior to the expungement.**



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

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

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

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

Page 33, line 29, delete "The".

Page 33, delete line 30.

Page 33, line 36, delete "The burden of proving that the decision on the claim is".

Page 33, delete line 37.

Page 34, line 10, after "(d)" insert "(c)".

Page 34, line 10, reset in roman "The tax court shall hear the appeal de novo and without a jury,".

Page 34, reset in roman lines 11 through 16.

Page 34, line 17, delete "(c)" and insert "(d)".

Page 34, line 25, delete "(d)" and insert "(e)".

Page 34, line 27, delete "(e)" and insert "(f)".

Page 34, line 37, delete "(f)" and insert "(g)".

Page 35, line 3, delete "(g)" and insert "(h)".

Page 35, line 10, delete "(f)" and insert "(g)".

Page 35, line 13, delete "(f)" and insert "(g)".

Page 35, delete lines 15 through 24, begin a new line blocked left and insert:

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

Page 39, delete lines 2 through 42.

Delete page 40.

Page 41, delete lines 1 through 7.

Page 41, line 23, delete "qualifies as an insurance" and insert "is:

(A) owned or controlled by:



- (i) an Indiana body politic; or**
- (ii) a state educational institution (as defined by IC 21-7-13-32); or**
- (B) a company with a Section 831(b) of the Internal Revenue Code election in effect."**

Page 41, delete line 24.

Page 42, delete lines 14 through 42.

Page 43, delete lines 1 through 26, begin a new paragraph and insert:

"SECTION 39. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of state revenue.

(b) The department shall, not later than November 1, 2015:

- (1) conduct a study of the department's current information systems;**
- (2) develop a plan for modernizing the department's information systems; and**
- (3) submit a report of the study conducted under subdivision (1) and the plan developed under subdivision (2) to the budget committee and the legislative council.**

(c) The report submitted to the legislative council must be in an electronic format under IC 5-14-6.

(d) This SECTION expires January 1, 2017.

SECTION 40. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 438 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 9, Nays 1.

