



March 20, 2015

---

---

## ENGROSSED HOUSE BILL No. 1349

---

DIGEST OF HB 1349 (Updated March 17, 2015 12:39 pm - DI 120)

**Citations Affected:** IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-3.5; IC 6-5.5; IC 6-6; IC 6-8; IC 6-8.1; IC 8-24; IC 24-3; noncode.

**Synopsis:** Various tax matters. Provides that the equipment eligible for the double direct sales tax exemption includes material handling equipment purchased for the purpose of transporting materials into production activities from an onsite location. Specifies that the double direct sales tax exemption applies to agricultural machinery, tools, and equipment that is acquired for timber harvesting. Eliminates various adjustments to income for purposes of determining Indiana adjusted gross income. Eliminates various income tax exemptions, deductions, and credits. Provides that business income is all income apportionable to the state under the Constitution of the United States. Provides that, for purposes of the sales factor, sales of tangible personal property are not considered to be made in this state if the property is shipped from the location of a third-party logistics services provider in this state. Broadens the addback to Indiana adjusted gross income related to intercompany interest expenses. Provides for a tax amnesty program. Increases, for purposes of determining minimum cigarette pricing, the presumed cost of doing business from 10% to 12% of the basic cost of cigarettes to the retailer. Makes technical corrections and conforming amendments.

**Effective:** July 1, 2015; January 1, 2016.

---

---

### Huston, Brown T

(SENATE SPONSOR — HERSHMAN)

---

---

January 13, 2015, read first time and referred to Committee on Ways and Means.  
February 16, 2015, amended, reported — Do Pass.  
February 19, 2015, read second time, ordered engrossed. Engrossed.  
February 24, 2015, read third time, passed. Yeas 68, nays 26.

SENATE ACTION

March 2, 2015, read first time and referred to Committee on Tax & Fiscal Policy.  
March 19, 2015, amended, reported favorably — Do Pass.

---

---

EH 1349—LS 6858/DI 58





March 20, 2015

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

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1349

---

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

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

- 1 SECTION 1. IC 6-2.5-5-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 2. (a)  
3 Transactions involving agricultural machinery, tools, and equipment  
4 are exempt from the state gross retail tax if the person acquiring that  
5 property acquires it for ~~his~~ **the person's** direct use in the direct  
6 production, extraction, harvesting, or processing of agricultural  
7 commodities **(including timber harvesting), and including material**  
8 **handling equipment purchased for the purpose of transporting**  
9 **materials into such activities from an onsite location.**  
10 (b) Transactions involving agricultural machinery or equipment are  
11 exempt from the state gross retail tax if:  
12 (1) the person acquiring the property acquires it for use in  
13 conjunction with the production of food and food ingredients or  
14 commodities for sale;  
15 (2) the person acquiring the property is occupationally engaged in

**EH 1349—LS 6858/DI 58**



1 the production of food or commodities which ~~he~~ **the person** sells  
 2 for human or animal consumption or uses for further food and  
 3 food ingredients or commodity production; and

4 (3) the machinery or equipment is designed for use in gathering,  
 5 moving, or spreading animal waste.

6 SECTION 2. IC 6-2.5-5-3, AS AMENDED BY P.L.211-2007,  
 7 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JANUARY 1, 2016]: Sec. 3. (a) For purposes of this section:

9 (1) the retreading of tires shall be treated as the processing of  
 10 tangible personal property; and

11 (2) commercial printing shall be treated as the production and  
 12 manufacture of tangible personal property.

13 (b) Except as provided in subsection (c), transactions involving  
 14 manufacturing machinery, tools, and equipment are exempt from the  
 15 state gross retail tax if the person acquiring that property acquires it for  
 16 direct use in the direct production, manufacture, fabrication, assembly,  
 17 extraction, mining, processing, refining, or finishing of other tangible  
 18 personal property, **including material handling equipment**  
 19 **purchased for the purpose of transporting materials into such**  
 20 **activities from an onsite location.**

21 (c) The exemption provided in subsection (b) does not apply to  
 22 transactions involving distribution equipment or transmission  
 23 equipment acquired by a public utility engaged in generating  
 24 electricity.

25 SECTION 3. IC 6-2.5-5-4 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 4. Transactions  
 27 involving tangible personal property are exempt from the state gross  
 28 retail tax if the person acquiring the property acquires it for ~~his~~ **the**  
 29 **person's** direct use in the direct production of the machinery, tools, or  
 30 equipment described in section 2 or 3 of this chapter, **including**  
 31 **material handling equipment purchased for the purpose of**  
 32 **transporting materials into such activities from an onsite location.**

33 SECTION 4. IC 6-3-1-3.5, AS AMENDED BY P.L.205-2013,  
 34 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JANUARY 1, 2016]: Sec. 3.5. When used in this article, the term  
 36 "adjusted gross income" shall mean the following:

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

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

42 (2) Add an amount equal to any deduction or deductions allowed



- 1 or allowable pursuant to Section 62 of the Internal Revenue Code  
 2 for taxes based on or measured by income and levied at the state  
 3 level by any state of the United States.
- 4 (3) Subtract one thousand dollars (\$1,000), or in the case of a  
 5 joint return filed by a husband and wife, subtract for each spouse  
 6 one thousand dollars (\$1,000).
- 7 (4) Subtract one thousand dollars (\$1,000) for:  
 8 (A) each of the exemptions provided by Section 151(c) of the  
 9 Internal Revenue Code;  
 10 (B) each additional amount allowable under Section 63(f) of  
 11 the Internal Revenue Code; and  
 12 (C) the spouse of the taxpayer if a separate return is made by  
 13 the taxpayer and if the spouse, for the calendar year in which  
 14 the taxable year of the taxpayer begins, has no gross income  
 15 and is not the dependent of another taxpayer.
- 16 (5) Subtract:  
 17 (A) one thousand five hundred dollars (\$1,500) for each of the  
 18 exemptions allowed under Section 151(c)(1)(B) of the Internal  
 19 Revenue Code (as effective January 1, 2004); and  
 20 (B) five hundred dollars (\$500) for each additional amount  
 21 allowable under Section 63(f)(1) of the Internal Revenue Code  
 22 if the adjusted gross income of the taxpayer, or the taxpayer  
 23 and the taxpayer's spouse in the case of a joint return, is less  
 24 than forty thousand dollars (\$40,000).  
 25 This amount is in addition to the amount subtracted under  
 26 subdivision (4).
- 27 (6) Subtract an amount equal to the lesser of:  
 28 (A) that part of the individual's adjusted gross income (as  
 29 defined in Section 62 of the Internal Revenue Code) for that  
 30 taxable year that is subject to a tax that is imposed by a  
 31 political subdivision of another state and that is imposed on or  
 32 measured by income; or  
 33 (B) two thousand dollars (\$2,000);
- 34 (7) Add an amount equal to the total capital gain portion of a  
 35 lump sum distribution (as defined in Section 402(e)(4)(D) of the  
 36 Internal Revenue Code) if the lump sum distribution is received  
 37 by the individual during the taxable year and if the capital gain  
 38 portion of the distribution is taxed in the manner provided in  
 39 Section 402 of the Internal Revenue Code.
- 40 (8) (6) Subtract any amounts included in federal adjusted gross  
 41 income under Section 111 of the Internal Revenue Code as a  
 42 recovery of items previously deducted as an itemized deduction



- 1 from adjusted gross income.
- 2 ~~(9)~~ **(7)** Subtract any amounts included in federal adjusted gross  
 3 income under the Internal Revenue Code which amounts were  
 4 received by the individual as supplemental railroad retirement  
 5 annuities under 45 U.S.C. 231 and which are not deductible under  
 6 subdivision (1).
- 7 ~~(10)~~ **(8)** Subtract an amount equal to the amount of federal Social  
 8 Security and Railroad Retirement benefits included in a taxpayer's  
 9 federal gross income by Section 86 of the Internal Revenue Code.
- 10 ~~(11)~~ **(9)** In the case of a nonresident taxpayer or a resident  
 11 taxpayer residing in Indiana for a period of less than the taxpayer's  
 12 entire taxable year, the total amount of the deductions allowed  
 13 pursuant to subdivisions (3), (4), **and** (5) ~~and~~ ~~(6)~~ shall be reduced  
 14 to an amount which bears the same ratio to the total as the  
 15 taxpayer's income taxable in Indiana bears to the taxpayer's total  
 16 income.
- 17 ~~(12)~~ **(10)** In the case of an individual who is a recipient of  
 18 assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or  
 19 IC 12-15-7, subtract an amount equal to that portion of the  
 20 individual's adjusted gross income with respect to which the  
 21 individual is not allowed under federal law to retain an amount to  
 22 pay state and local income taxes.
- 23 ~~(13)~~ **(11)** In the case of an eligible individual, subtract the amount  
 24 of a Holocaust victim's settlement payment included in the  
 25 individual's federal adjusted gross income.
- 26 ~~(14)~~ **(12)** Subtract an amount equal to the portion of any  
 27 premiums paid during the taxable year by the taxpayer for a  
 28 qualified long term care policy (as defined in IC 12-15-39.6-5) for  
 29 the taxpayer or the taxpayer's spouse, or both.
- 30 ~~(15)~~ **(13)** Subtract an amount equal to the lesser of:
- 31 (A) two thousand five hundred dollars (\$2,500); or
- 32 (B) the amount of property taxes that are paid during the  
 33 taxable year in Indiana by the individual on the individual's  
 34 principal place of residence.
- 35 ~~(16)~~ **(14)** Subtract an amount equal to the amount of a September  
 36 11 terrorist attack settlement payment included in the individual's  
 37 federal adjusted gross income.
- 38 ~~(17)~~ **(15)** Add or subtract the amount necessary to make the  
 39 adjusted gross income of any taxpayer that owns property for  
 40 which bonus depreciation was allowed in the current taxable year  
 41 or in an earlier taxable year equal to the amount of adjusted gross  
 42 income that would have been computed had an election not been



- 1 made under Section 168(k) of the Internal Revenue Code to apply  
 2 bonus depreciation to the property in the year that it was placed  
 3 in service.
- 4 ~~(18)~~ **(16)** Add an amount equal to any deduction allowed under  
 5 Section 172 of the Internal Revenue Code.
- 6 ~~(19)~~ **(17)** Add or subtract the amount necessary to make the  
 7 adjusted gross income of any taxpayer that placed Section 179  
 8 property (as defined in Section 179 of the Internal Revenue Code)  
 9 in service in the current taxable year or in an earlier taxable year  
 10 equal to the amount of adjusted gross income that would have  
 11 been computed had an election for federal income tax purposes  
 12 not been made for the year in which the property was placed in  
 13 service to take deductions under Section 179 of the Internal  
 14 Revenue Code in a total amount exceeding twenty-five thousand  
 15 dollars (\$25,000).
- 16 ~~(20)~~ **(18)** Add an amount equal to the amount that a taxpayer  
 17 claimed as a deduction for domestic production activities for the  
 18 taxable year under Section 199 of the Internal Revenue Code for  
 19 federal income tax purposes.
- 20 ~~(21)~~ **(19)** Subtract an amount equal to the amount of the taxpayer's  
 21 qualified military income that was not excluded from the  
 22 taxpayer's gross income for federal income tax purposes under  
 23 Section 112 of the Internal Revenue Code.
- 24 ~~(22)~~ **(20)** Subtract income that is:
- 25 (A) exempt from taxation under IC 6-3-2-21.7; and  
 26 (B) included in the individual's federal adjusted gross income  
 27 under the Internal Revenue Code.
- 28 ~~(23)~~ Subtract any amount of a credit (including an advance refund  
 29 of the credit) that is provided to an individual under 26 U.S.C.  
 30 6428 (federal Economic Stimulus Act of 2008) and included in  
 31 the individual's federal adjusted gross income.
- 32 ~~(24)~~ Add any amount of unemployment compensation excluded  
 33 from federal gross income, as defined in Section 61 of the Internal  
 34 Revenue Code, under Section 85(c) of the Internal Revenue Code.
- 35 ~~(25)~~ Add the amount excluded from gross income under Section  
 36 108(a)(1)(e) of the Internal Revenue Code for the discharge of  
 37 debt on a qualified principal residence.
- 38 ~~(26)~~ **(21)** Add an amount equal to any income not included in  
 39 gross income as a result of the deferral of income arising from  
 40 business indebtedness discharged in connection with the  
 41 reacquisition after December 31, 2008, and before January 1,  
 42 2011, of an applicable debt instrument, as provided in Section



1 108(i) of the Internal Revenue Code. Subtract the amount  
 2 necessary from the adjusted gross income of any taxpayer that  
 3 added an amount to adjusted gross income in a previous year to  
 4 offset the amount included in federal gross income as a result of  
 5 the deferral of income arising from business indebtedness  
 6 discharged in connection with the reacquisition after December  
 7 31, 2008, and before January 1, 2011, of an applicable debt  
 8 instrument, as provided in Section 108(i) of the Internal Revenue  
 9 Code.

10 (27) Add or subtract the amount necessary to make the adjusted  
 11 gross income of any taxpayer that claimed the special allowance  
 12 for qualified disaster assistance property under Section 168(n) of  
 13 the Internal Revenue Code equal to the amount of adjusted gross  
 14 income that would have been computed had the special allowance  
 15 not been claimed for the property:

16 (28) Add or subtract the amount necessary to make the adjusted  
 17 gross income of any taxpayer that made an election under Section  
 18 179C of the Internal Revenue Code to expense costs for qualified  
 19 refinery property equal to the amount of adjusted gross income  
 20 that would have been computed had an election for federal  
 21 income tax purposes not been made for the year:

22 (29) Add or subtract the amount necessary to make the adjusted  
 23 gross income of any taxpayer that made an election under Section  
 24 181 of the Internal Revenue Code to expense costs for a qualified  
 25 film or television production equal to the amount of adjusted  
 26 gross income that would have been computed had an election for  
 27 federal income tax purposes not been made for the year:

28 (30) Add or subtract the amount necessary to make the adjusted  
 29 gross income of any taxpayer that treated a loss from the sale or  
 30 exchange of preferred stock in:

31 (A) the Federal National Mortgage Association, established  
 32 under the Federal National Mortgage Association Charter Act  
 33 (12 U.S.C. 1716 et seq.); or

34 (B) the Federal Home Loan Mortgage Corporation, established  
 35 under the Federal Home Loan Mortgage Corporation Act (12  
 36 U.S.C. 1451 et seq.);

37 as an ordinary loss under Section 301 of the Emergency  
 38 Economic Stabilization Act of 2008 in the current taxable year or  
 39 in an earlier taxable year equal to the amount of adjusted gross  
 40 income that would have been computed had the loss not been  
 41 treated as an ordinary loss.

42 (31) (22) Add the amount excluded from federal gross income





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

5 (32) This subdivision does not apply to payments made for  
 6 services provided to a business that was enrolled and participated  
 7 in the E-Verify program (as defined in IC 22-5-1.7-3) during the  
 8 time the taxpayer conducted business in Indiana in the taxable  
 9 year. For a taxable year beginning after June 30, 2011, add the  
 10 amount of any trade or business deduction allowed under the  
 11 Internal Revenue Code for wages, reimbursements, or other  
 12 payments made for services provided in Indiana by an individual  
 13 for services as an employee, if the individual was, during the  
 14 period of service, prohibited from being hired as an employee  
 15 under 8 U.S.C. 1324a.

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

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

21 (2) Add an amount equal to any deduction or deductions allowed  
 22 or allowable pursuant to Section 170 of the Internal Revenue  
 23 Code.

24 (3) Add an amount equal to any deduction or deductions allowed  
 25 or allowable pursuant to Section 63 of the Internal Revenue Code  
 26 for taxes based on or measured by income and levied at the state  
 27 level by any state of the United States.

28 (4) Subtract an amount equal to the amount included in the  
 29 corporation's taxable income under Section 78 of the Internal  
 30 Revenue Code.

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

39 (6) Add an amount equal to any deduction allowed under Section  
 40 172 of the Internal Revenue Code.

41 (7) Add or subtract the amount necessary to make the adjusted  
 42 gross income of any taxpayer that placed Section 179 property (as



- 1 defined in Section 179 of the Internal Revenue Code) in service  
 2 in the current taxable year or in an earlier taxable year equal to  
 3 the amount of adjusted gross income that would have been  
 4 computed had an election for federal income tax purposes not  
 5 been made for the year in which the property was placed in  
 6 service to take deductions under Section 179 of the Internal  
 7 Revenue Code in a total amount exceeding twenty-five thousand  
 8 dollars (\$25,000).
- 9 (8) Add an amount equal to the amount that a taxpayer claimed as  
 10 a deduction for domestic production activities for the taxable year  
 11 under Section 199 of the Internal Revenue Code for federal  
 12 income tax purposes.
- 13 (9) Add to the extent required by IC 6-3-2-20 the amount of  
 14 intangible expenses (as defined in IC 6-3-2-20) and any directly  
 15 related intangible interest expenses (as defined in IC 6-3-2-20) for  
 16 the taxable year that reduced the corporation's taxable income (as  
 17 defined in Section 63 of the Internal Revenue Code) for federal  
 18 income tax purposes.
- 19 (10) Add an amount equal to any deduction for dividends paid (as  
 20 defined in Section 561 of the Internal Revenue Code) to  
 21 shareholders of a captive real estate investment trust (as defined  
 22 in section 34.5 of this chapter).
- 23 (11) Subtract income that is:
- 24 (A) exempt from taxation under IC 6-3-2-21.7; and
  - 25 (B) included in the corporation's taxable income under the
- 26 Internal Revenue Code.
- 27 (12) Add an amount equal to any income not included in gross  
 28 income as a result of the deferral of income arising from business  
 29 indebtedness discharged in connection with the reacquisition after  
 30 December 31, 2008, and before January 1, 2011, of an applicable  
 31 debt instrument, as provided in Section 108(i) of the Internal  
 32 Revenue Code. Subtract from the adjusted gross income of any  
 33 taxpayer that added an amount to adjusted gross income in a  
 34 previous year the amount necessary to offset the amount included  
 35 in federal gross income as a result of the deferral of income  
 36 arising from business indebtedness discharged in connection with  
 37 the reacquisition after December 31, 2008, and before January 1,  
 38 2011, of an applicable debt instrument, as provided in Section  
 39 108(i) of the Internal Revenue Code.
- 40 (13) Add or subtract the amount necessary to make the adjusted  
 41 gross income of any taxpayer that claimed the special allowance  
 42 for qualified disaster assistance property under Section 168(n) of



1 the Internal Revenue Code equal to the amount of adjusted gross  
 2 income that would have been computed had the special allowance  
 3 not been claimed for the property:

4 (14) Add or subtract the amount necessary to make the adjusted  
 5 gross income of any taxpayer that made an election under Section  
 6 179C of the Internal Revenue Code to expense costs for qualified  
 7 refinery property equal to the amount of adjusted gross income  
 8 that would have been computed had an election for federal  
 9 income tax purposes not been made for the year:

10 (15) Add or subtract the amount necessary to make the adjusted  
 11 gross income of any taxpayer that made an election under Section  
 12 181 of the Internal Revenue Code to expense costs for a qualified  
 13 film or television production equal to the amount of adjusted  
 14 gross income that would have been computed had an election for  
 15 federal income tax purposes not been made for the year:

16 (16) Add or subtract the amount necessary to make the adjusted  
 17 gross income of any taxpayer that treated a loss from the sale or  
 18 exchange of preferred stock in:

19 (A) the Federal National Mortgage Association, established  
 20 under the Federal National Mortgage Association Charter Act  
 21 (12 U.S.C. 1716 et seq.); or

22 (B) the Federal Home Loan Mortgage Corporation, established  
 23 under the Federal Home Loan Mortgage Corporation Act (12  
 24 U.S.C. 1451 et seq.);

25 as an ordinary loss under Section 301 of the Emergency  
 26 Economic Stabilization Act of 2008 in the current taxable year or  
 27 in an earlier taxable year equal to the amount of adjusted gross  
 28 income that would have been computed had the loss not been  
 29 treated as an ordinary loss:

30 (17) This subdivision does not apply to payments made for  
 31 services provided to a business that was enrolled and participated  
 32 in the E-Verify program (as defined in IC 22-5-1.7-3) during the  
 33 time the taxpayer conducted business in Indiana in the taxable  
 34 year. For a taxable year beginning after June 30, 2011, add the  
 35 amount of any trade or business deduction allowed under the  
 36 Internal Revenue Code for wages, reimbursements, or other  
 37 payments made for services provided in Indiana by an individual  
 38 for services as an employee, if the individual was, during the  
 39 period of service, prohibited from being hired as an employee  
 40 under 8 U.S.C. 1324a.

41 (18) (13) Add the amount excluded from federal gross income  
 42 under Section 103 of the Internal Revenue Code for interest



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

4 (c) In the case of life insurance companies (as defined in Section  
5 816(a) of the Internal Revenue Code) that are organized under Indiana  
6 law, the same as "life insurance company taxable income" (as defined  
7 in Section 801 of the Internal Revenue Code), adjusted as follows:

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

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

12 (3) Add an amount equal to a deduction allowed or allowable  
13 under Section 805 or Section 831(c) of the Internal Revenue Code  
14 for taxes based on or measured by income and levied at the state  
15 level by any state.

16 (4) Subtract an amount equal to the amount included in the  
17 company's taxable income under Section 78 of the Internal  
18 Revenue Code.

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

27 (6) Add an amount equal to any deduction allowed under Section  
28 172 or Section 810 of the Internal Revenue Code.

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

39 (8) Add an amount equal to the amount that a taxpayer claimed as  
40 a deduction for domestic production activities for the taxable year  
41 under Section 199 of the Internal Revenue Code for federal  
42 income tax purposes.



- 1 (9) Subtract income that is:  
 2 (A) exempt from taxation under IC 6-3-2-21.7; and  
 3 (B) included in the insurance company's taxable income under  
 4 the Internal Revenue Code.
- 5 (10) Add an amount equal to any income not included in gross  
 6 income as a result of the deferral of income arising from business  
 7 indebtedness discharged in connection with the reacquisition after  
 8 December 31, 2008, and before January 1, 2011, of an applicable  
 9 debt instrument, as provided in Section 108(i) of the Internal  
 10 Revenue Code. Subtract from the adjusted gross income of any  
 11 taxpayer that added an amount to adjusted gross income in a  
 12 previous year the amount necessary to offset the amount included  
 13 in federal gross income as a result of the deferral of income  
 14 arising from business indebtedness discharged in connection with  
 15 the reacquisition after December 31, 2008, and before January 1,  
 16 2011, of an applicable debt instrument, as provided in Section  
 17 108(i) of the Internal Revenue Code.
- 18 (11) Add or subtract the amount necessary to make the adjusted  
 19 gross income of any taxpayer that claimed the special allowance  
 20 for qualified disaster assistance property under Section 168(n) of  
 21 the Internal Revenue Code equal to the amount of adjusted gross  
 22 income that would have been computed had the special allowance  
 23 not been claimed for the property.
- 24 (12) Add or subtract the amount necessary to make the adjusted  
 25 gross income of any taxpayer that made an election under Section  
 26 179C of the Internal Revenue Code to expense costs for qualified  
 27 refinery property equal to the amount of adjusted gross income  
 28 that would have been computed had an election for federal  
 29 income tax purposes not been made for the year.
- 30 (13) Add or subtract the amount necessary to make the adjusted  
 31 gross income of any taxpayer that made an election under Section  
 32 181 of the Internal Revenue Code to expense costs for a qualified  
 33 film or television production equal to the amount of adjusted  
 34 gross income that would have been computed had an election for  
 35 federal income tax purposes not been made for the year.
- 36 (14) Add or subtract the amount necessary to make the adjusted  
 37 gross income of any taxpayer that treated a loss from the sale or  
 38 exchange of preferred stock in:  
 39 (A) the Federal National Mortgage Association, established  
 40 under the Federal National Mortgage Association Charter Act  
 41 (12 U.S.C. 1716 et seq.); or  
 42 (B) the Federal Home Loan Mortgage Corporation, established



- 1           under the Federal Home Loan Mortgage Corporation Act (~~12~~  
2           U.S.C. 1451 et seq.);  
3           as an ordinary loss under Section 301 of the Emergency  
4           Economic Stabilization Act of 2008 in the current taxable year or  
5           in an earlier taxable year equal to the amount of adjusted gross  
6           income that would have been computed had the loss not been  
7           treated as an ordinary loss.
- 8           ~~(15)~~ **(11)** Add an amount equal to any exempt insurance income  
9           under Section 953(e) of the Internal Revenue Code that is active  
10          financing income under Subpart F of Subtitle A, Chapter 1,  
11          Subchapter N of the Internal Revenue Code.
- 12          ~~(16)~~ This subdivision does not apply to payments made for  
13          services provided to a business that was enrolled and participated  
14          in the E-Verify program (as defined in IC 22-5-1.7-3) during the  
15          time the taxpayer conducted business in Indiana in the taxable  
16          year. For a taxable year beginning after June 30, 2011, add the  
17          amount of any trade or business deduction allowed under the  
18          Internal Revenue Code for wages, reimbursements, or other  
19          payments made for services provided in Indiana by an individual  
20          for services as an employee, if the individual was, during the  
21          period of service, prohibited from being hired as an employee  
22          under 8 U.S.C. 1324a.
- 23          ~~(17)~~ **(12)** Add the amount excluded from federal gross income  
24          under Section 103 of the Internal Revenue Code for interest  
25          received on an obligation of a state other than Indiana, or a  
26          political subdivision of such a state, that is acquired by the  
27          taxpayer after December 31, 2011.
- 28          (d) In the case of insurance companies subject to tax under Section  
29          831 of the Internal Revenue Code and organized under Indiana law, the  
30          same as "taxable income" (as defined in Section 832 of the Internal  
31          Revenue Code), adjusted as follows:
- 32                  (1) Subtract income that is exempt from taxation under this article  
33                  by the Constitution and statutes of the United States.
- 34                  (2) Add an amount equal to any deduction allowed or allowable  
35                  under Section 170 of the Internal Revenue Code.
- 36                  (3) Add an amount equal to a deduction allowed or allowable  
37                  under Section 805 or Section 831(c) of the Internal Revenue Code  
38                  for taxes based on or measured by income and levied at the state  
39                  level by any state.
- 40                  (4) Subtract an amount equal to the amount included in the  
41                  company's taxable income under Section 78 of the Internal  
42                  Revenue Code.



- 1 (5) Add or subtract the amount necessary to make the adjusted  
 2 gross income of any taxpayer that owns property for which bonus  
 3 depreciation was allowed in the current taxable year or in an  
 4 earlier taxable year equal to the amount of adjusted gross income  
 5 that would have been computed had an election not been made  
 6 under Section 168(k) of the Internal Revenue Code to apply bonus  
 7 depreciation to the property in the year that it was placed in  
 8 service.
- 9 (6) Add an amount equal to any deduction allowed under Section  
 10 172 of the Internal Revenue Code.
- 11 (7) Add or subtract the amount necessary to make the adjusted  
 12 gross income of any taxpayer that placed Section 179 property (as  
 13 defined in Section 179 of the Internal Revenue Code) in service  
 14 in the current taxable year or in an earlier taxable year equal to  
 15 the amount of adjusted gross income that would have been  
 16 computed had an election for federal income tax purposes not  
 17 been made for the year in which the property was placed in  
 18 service to take deductions under Section 179 of the Internal  
 19 Revenue Code in a total amount exceeding twenty-five thousand  
 20 dollars (\$25,000).
- 21 (8) Add an amount equal to the amount that a taxpayer claimed as  
 22 a deduction for domestic production activities for the taxable year  
 23 under Section 199 of the Internal Revenue Code for federal  
 24 income tax purposes.
- 25 (9) Subtract income that is:
- 26 (A) exempt from taxation under IC 6-3-2-21.7; and  
 27 (B) included in the insurance company's taxable income under  
 28 the Internal Revenue Code.
- 29 (10) Add an amount equal to any income not included in gross  
 30 income as a result of the deferral of income arising from business  
 31 indebtedness discharged in connection with the reacquisition after  
 32 December 31, 2008, and before January 1, 2011, of an applicable  
 33 debt instrument, as provided in Section 108(i) of the Internal  
 34 Revenue Code. Subtract from the adjusted gross income of any  
 35 taxpayer that added an amount to adjusted gross income in a  
 36 previous year the amount necessary to offset the amount included  
 37 in federal gross income as a result of the deferral of income  
 38 arising from business indebtedness discharged in connection with  
 39 the reacquisition after December 31, 2008, and before January 1,  
 40 2011, of an applicable debt instrument, as provided in Section  
 41 108(i) of the Internal Revenue Code.
- 42 (11) Add or subtract the amount necessary to make the adjusted



1 gross income of any taxpayer that claimed the special allowance  
 2 for qualified disaster assistance property under Section 168(n) of  
 3 the Internal Revenue Code equal to the amount of adjusted gross  
 4 income that would have been computed had the special allowance  
 5 not been claimed for the property.

6 (12) Add or subtract the amount necessary to make the adjusted  
 7 gross income of any taxpayer that made an election under Section  
 8 179C of the Internal Revenue Code to expense costs for qualified  
 9 refinery property equal to the amount of adjusted gross income  
 10 that would have been computed had an election for federal  
 11 income tax purposes not been made for the year.

12 (13) Add or subtract the amount necessary to make the adjusted  
 13 gross income of any taxpayer that made an election under Section  
 14 181 of the Internal Revenue Code to expense costs for a qualified  
 15 film or television production equal to the amount of adjusted  
 16 gross income that would have been computed had an election for  
 17 federal income tax purposes not been made for the year.

18 (14) Add or subtract the amount necessary to make the adjusted  
 19 gross income of any taxpayer that treated a loss from the sale or  
 20 exchange of preferred stock in:

21 (A) the Federal National Mortgage Association, established  
 22 under the Federal National Mortgage Association Charter Act  
 23 (12 U.S.C. 1716 et seq.); or

24 (B) the Federal Home Loan Mortgage Corporation, established  
 25 under the Federal Home Loan Mortgage Corporation Act (12  
 26 U.S.C. 1451 et seq.);

27 as an ordinary loss under Section 301 of the Emergency  
 28 Economic Stabilization Act of 2008 in the current taxable year or  
 29 in an earlier taxable year equal to the amount of adjusted gross  
 30 income that would have been computed had the loss not been  
 31 treated as an ordinary loss.

32 (15) (11) Add an amount equal to any exempt insurance income  
 33 under Section 953(e) of the Internal Revenue Code that is active  
 34 financing income under Subpart F of Subtitle A, Chapter 1,  
 35 Subchapter N of the Internal Revenue Code.

36 (16) This subdivision does not apply to payments made for  
 37 services provided to a business that was enrolled and participated  
 38 in the E-Verify program (as defined in IC 22-5-1.7-3) during the  
 39 time the taxpayer conducted business in Indiana in the taxable  
 40 year. For a taxable year beginning after June 30, 2011, add the  
 41 amount of any trade or business deduction allowed under the  
 42 Internal Revenue Code for wages, reimbursements, or other





1 payments made for services provided in Indiana by an individual  
 2 for services as an employee; if the individual was, during the  
 3 period of service, prohibited from being hired as an employee  
 4 under 8 U.S.C. 1324a.

5 ~~(17)~~ (12) Add the amount excluded from federal gross income  
 6 under Section 103 of the Internal Revenue Code for interest  
 7 received on an obligation of a state other than Indiana, or a  
 8 political subdivision of such a state, that is acquired by the  
 9 taxpayer after December 31, 2011.

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

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

15 (2) Subtract an amount equal to the amount of a September 11  
 16 terrorist attack settlement payment included in the federal  
 17 adjusted gross income of the estate of a victim of the September  
 18 11 terrorist attack or a trust to the extent the trust benefits a victim  
 19 of the September 11 terrorist attack.

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

28 (4) Add an amount equal to any deduction allowed under Section  
 29 172 of the Internal Revenue Code.

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

40 (6) Add an amount equal to the amount that a taxpayer claimed as  
 41 a deduction for domestic production activities for the taxable year  
 42 under Section 199 of the Internal Revenue Code for federal



- 1 income tax purposes.
- 2 (7) Subtract income that is:
- 3 (A) exempt from taxation under IC 6-3-2-21.7; and
- 4 (B) included in the taxpayer's taxable income under the
- 5 Internal Revenue Code.
- 6 (8) Add an amount equal to any income not included in gross
- 7 income as a result of the deferral of income arising from business
- 8 indebtedness discharged in connection with the reacquisition after
- 9 December 31, 2008, and before January 1, 2011, of an applicable
- 10 debt instrument, as provided in Section 108(i) of the Internal
- 11 Revenue Code. Subtract from the adjusted gross income of any
- 12 taxpayer that added an amount to adjusted gross income in a
- 13 previous year the amount necessary to offset the amount included
- 14 in federal gross income as a result of the deferral of income
- 15 arising from business indebtedness discharged in connection with
- 16 the reacquisition after December 31, 2008, and before January 1,
- 17 2011, of an applicable debt instrument, as provided in Section
- 18 108(i) of the Internal Revenue Code.
- 19 (9) Add or subtract the amount necessary to make the adjusted
- 20 gross income of any taxpayer that claimed the special allowance
- 21 for qualified disaster assistance property under Section 168(n) of
- 22 the Internal Revenue Code equal to the amount of adjusted gross
- 23 income that would have been computed had the special allowance
- 24 not been claimed for the property.
- 25 (10) Add or subtract the amount necessary to make the adjusted
- 26 gross income of any taxpayer that made an election under Section
- 27 179E of the Internal Revenue Code to expense costs for qualified
- 28 refinery property equal to the amount of adjusted gross income
- 29 that would have been computed had an election for federal
- 30 income tax purposes not been made for the year.
- 31 (11) Add or subtract the amount necessary to make the adjusted
- 32 gross income of any taxpayer that made an election under Section
- 33 181 of the Internal Revenue Code to expense costs for a qualified
- 34 film or television production equal to the amount of adjusted
- 35 gross income that would have been computed had an election for
- 36 federal income tax purposes not been made for the year.
- 37 (12) Add or subtract the amount necessary to make the adjusted
- 38 gross income of any taxpayer that treated a loss from the sale or
- 39 exchange of preferred stock in:
- 40 (A) the Federal National Mortgage Association, established
- 41 under the Federal National Mortgage Association Charter Act
- 42 (12 U.S.C. 1716 et seq.); or



- 1 (B) the Federal Home Loan Mortgage Corporation, established  
 2 under the Federal Home Loan Mortgage Corporation Act (12  
 3 U.S.C. 1451 et seq.);  
 4 as an ordinary loss under Section 301 of the Emergency  
 5 Economic Stabilization Act of 2008 in the current taxable year or  
 6 in an earlier taxable year equal to the amount of adjusted gross  
 7 income that would have been computed had the loss not been  
 8 treated as an ordinary loss.
- 9 (13) Add the amount excluded from gross income under Section  
 10 108(a)(1)(e) of the Internal Revenue Code for the discharge of  
 11 debt on a qualified principal residence.
- 12 (14) This subdivision does not apply to payments made for  
 13 services provided to a business that was enrolled and participated  
 14 in the E-Verify program (as defined in IC 22-5-1.7-3) during the  
 15 time the taxpayer conducted business in Indiana in the taxable  
 16 year. For a taxable year beginning after June 30, 2011, add the  
 17 amount of any trade or business deduction allowed under the  
 18 Internal Revenue Code for wages, reimbursements, or other  
 19 payments made for services provided in Indiana by an individual  
 20 for services as an employee, if the individual was, during the  
 21 period of service, prohibited from being hired as an employee  
 22 under 8 U.S.C. 1324a.
- 23 (15) (9) Add the amount excluded from federal gross income  
 24 under Section 103 of the Internal Revenue Code for interest  
 25 received on an obligation of a state other than Indiana, or a  
 26 political subdivision of such a state, that is acquired by the  
 27 taxpayer after December 31, 2011.
- 28 **(f) For purposes of this section, if a taxpayer:**
- 29 **(1) claimed the special allowance for qualified disaster**  
 30 **assistance property under Section 168(n) of the Internal**  
 31 **Revenue Code;**
- 32 **(2) made an election under Section 179C of the Internal**  
 33 **Revenue Code to expense costs for qualified refinery property**  
 34 **equal to the amount of adjusted gross income that would have**  
 35 **been computed had an election for federal income tax**  
 36 **purposes not been made for the year;**
- 37 **(3) made an election under Section 181 of the Internal**  
 38 **Revenue Code to expense costs for a qualified film or**  
 39 **television production equal to the amount of adjusted gross**  
 40 **income that would have been computed had an election for**  
 41 **federal income tax purposes not been made for the year; or**  
 42 **(4) treated a loss from the sale or exchange of preferred stock**



1 in:

2 (A) the Federal National Mortgage Association, established  
3 under the Federal National Mortgage Association Charter  
4 Act (12 U.S.C. 1716 et seq.); or

5 (B) the Federal Home Loan Mortgage Corporation,  
6 established under the Federal Home Loan Mortgage  
7 Corporation Act (12 U.S.C. 1451 et seq.);

8 as an ordinary loss under Section 301 of the Emergency  
9 Economic Stabilization Act of 2008 for any taxable year  
10 beginning before January 1, 2015;

11 the taxpayer shall continue to add or subtract the amounts  
12 required under this section for the taxable years beginning after  
13 December 31, 2014, as provided in this section as in effect on  
14 December 31, 2014. However, any amount otherwise allowable as  
15 a deduction but not deducted in a taxable year beginning before  
16 January 1, 2020, shall be deducted in the taxpayer's first taxable  
17 year beginning after December 31, 2019.

18 SECTION 5. IC 6-3-1-20 IS AMENDED TO READ AS FOLLOWS  
19 [EFFECTIVE JANUARY 1, 2016]: Sec. 20. The term "business  
20 income" means all income arising from transactions and activity in the  
21 regular course of the taxpayer's trade or business and includes income  
22 from tangible and intangible property if the acquisition, management,  
23 and disposition of the property constitutes integral parts of the  
24 taxpayer's regular trade or business operations: that is apportionable  
25 under the Constitution of the United States.

26 SECTION 6. IC 6-3-2-2, AS AMENDED BY P.L.233-2013,  
27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JANUARY 1, 2016]: Sec. 2. (a) With regard to corporations and  
29 nonresident persons, "adjusted gross income derived from sources  
30 within Indiana", for the purposes of this article, shall mean and include:

- 31 (1) income from real or tangible personal property located in this  
32 state;
- 33 (2) income from doing business in this state;
- 34 (3) income from a trade or profession conducted in this state;
- 35 (4) compensation for labor or services rendered within this state;  
36 and
- 37 (5) income from stocks, bonds, notes, bank deposits, patents,  
38 copyrights, secret processes and formulas, good will, trademarks,  
39 trade brands, franchises, and other intangible personal property to  
40 the extent that the income is apportioned to Indiana under this  
41 section or if the income is allocated to Indiana or considered to be  
42 derived from sources within Indiana under this section.



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

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

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

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

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

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

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

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



- 1 (3) For all taxable years beginning after December 31, 2008, and  
 2 before January 1, 2010, a fraction. The:
- 3 (A) numerator of the fraction is the property factor plus the  
 4 payroll factor plus the product of the sales factor multiplied by  
 5 eight (8); and  
 6 (B) denominator of the fraction is ten (10).
- 7 (4) For all taxable years beginning after December 31, 2009, and  
 8 before January 1, 2011, a fraction. The:
- 9 (A) numerator of the fraction is the property factor plus the  
 10 payroll factor plus the product of the sales factor multiplied by  
 11 eighteen (18); and  
 12 (B) denominator of the fraction is twenty (20).
- 13 (5) For all taxable years beginning after December 31, 2010, the  
 14 sales factor.
- 15 (c) The property factor is a fraction, the numerator of which is the  
 16 average value of the taxpayer's real and tangible personal property  
 17 owned or rented and used in this state during the taxable year and the  
 18 denominator of which is the average value of all the taxpayer's real and  
 19 tangible personal property owned or rented and used during the taxable  
 20 year. However, with respect to a foreign corporation, the denominator  
 21 does not include the average value of real or tangible personal property  
 22 owned or rented and used in a place that is outside the United States.  
 23 Property owned by the taxpayer is valued at its original cost. Property  
 24 rented by the taxpayer is valued at eight (8) times the net annual rental  
 25 rate. Net annual rental rate is the annual rental rate paid by the taxpayer  
 26 less any annual rental rate received by the taxpayer from subrentals.  
 27 The average of property shall be determined by averaging the values at  
 28 the beginning and ending of the taxable year, but the department may  
 29 require the averaging of monthly values during the taxable year if  
 30 reasonably required to reflect properly the average value of the  
 31 taxpayer's property.
- 32 (d) The payroll factor is a fraction, the numerator of which is the  
 33 total amount paid in this state during the taxable year by the taxpayer  
 34 for compensation, and the denominator of which is the total  
 35 compensation paid everywhere during the taxable year. However, with  
 36 respect to a foreign corporation, the denominator does not include  
 37 compensation paid in a place that is outside the United States.  
 38 Compensation is paid in this state if:
- 39 (1) the individual's service is performed entirely within the state;  
 40 (2) the individual's service is performed both within and without  
 41 this state, but the service performed without this state is incidental  
 42 to the individual's service within this state; or



1 (3) some of the service is performed in this state and:

2 (A) the base of operations or, if there is no base of operations,  
3 the place from which the service is directed or controlled is in  
4 this state; or

5 (B) the base of operations or the place from which the service  
6 is directed or controlled is not in any state in which some part  
7 of the service is performed, but the individual is a resident of  
8 this state.

9 (e) The sales factor is a fraction, the numerator of which is the total  
10 sales of the taxpayer in this state during the taxable year, and the  
11 denominator of which is the total sales of the taxpayer everywhere  
12 during the taxable year. Sales include receipts from intangible property  
13 and receipts from the sale or exchange of intangible property. However,  
14 with respect to a foreign corporation, the denominator does not include  
15 sales made in a place that is outside the United States. Receipts from  
16 intangible personal property are derived from sources within Indiana  
17 if the receipts from the intangible personal property are attributable to  
18 Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point  
19 or other conditions of the sale, sales of tangible personal property are  
20 in this state if:

21 (1) the property is delivered or shipped to a purchaser that is  
22 within Indiana, other than the United States government; or

23 (2) the property is shipped from an office, a store, a warehouse, a  
24 factory, or other place of storage in this state and:

25 (A) the purchaser is the United States government; or

26 (B) the taxpayer is not taxable in the state of the purchaser.

27 **However, sales of tangible personal property are not in this state**  
28 **if the property is shipped from the location of a third party**  
29 **logistics services provider in this state.** Gross receipts derived from  
30 commercial printing as described in IC 6-2.5-1-10 **and from the sale**  
31 **of computer software** shall be treated as sales of tangible personal  
32 property for purposes of this chapter.

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

36 (1) the income-producing activity is performed in this state; or

37 (2) the income-producing activity is performed both within and  
38 without this state and a greater proportion of the  
39 income-producing activity is performed in this state than in any  
40 other state, based on costs of performance.

41 (g) Rents and royalties from real or tangible personal property,  
42 capital gains, interest, dividends, or patent or copyright royalties, to the



1 extent that they constitute nonbusiness income, shall be allocated as  
2 provided in subsections (h) through (k).

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

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

7 (i) if and to the extent that the property is utilized in this state; or

8 (ii) in their entirety if the taxpayer's commercial domicile is in this  
9 state and the taxpayer is not organized under the laws of or  
10 taxable in the state in which the property is utilized.

11 (3) The extent of utilization of tangible personal property in a state  
12 is determined by multiplying the rents and royalties by a fraction, the  
13 numerator of which is the number of days of physical location of the  
14 property in the state during the rental or royalty period in the taxable  
15 year, and the denominator of which is the number of days of physical  
16 location of the property everywhere during all rental or royalty periods  
17 in the taxable year. If the physical location of the property during the  
18 rental or royalty period is unknown or unascertainable by the taxpayer,  
19 tangible personal property is utilized in the state in which the property  
20 was located at the time the rental or royalty payer obtained possession.

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

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

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

26 (ii) the taxpayer's commercial domicile is in this state and the  
27 taxpayer is not taxable in the state in which the property had a  
28 situs.

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

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

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

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

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

40 (2) A patent is utilized in a state to the extent that it is employed  
41 in production, fabrication, manufacturing, or other processing in  
42 the state or to the extent that a patented product is produced in the





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

5 (3) A copyright is utilized in a state to the extent that printing or  
 6 other publication originates in the state. If the basis of receipts  
 7 from copyright royalties does not permit allocation to states or if  
 8 the accounting procedures do not reflect states of utilization, the  
 9 copyright is utilized in the state in which the taxpayer's  
 10 commercial domicile is located.

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

16 (1) separate accounting;

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

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

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

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

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

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

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

40 (o) Notwithstanding subsections (l) and (m), the department may  
 41 not, under any circumstances, require that income, deductions, and  
 42 credits attributable to a taxpayer and another entity be reported in a



1 combined income tax return for any taxable year, if the other entity is:

2 (1) a foreign corporation; or

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

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

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

21 (r) This subsection applies to a corporation that is a life insurance  
22 company (as defined in Section 816(a) of the Internal Revenue Code)  
23 or an insurance company that is subject to tax under Section 831 of the  
24 Internal Revenue Code. The corporation's adjusted gross income that  
25 is derived from sources within Indiana is determined by multiplying the  
26 corporation's adjusted gross income by a fraction:

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

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

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

36 (s) This subsection applies to receipts derived from motorsports  
37 racing.

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

42 (2) Any amounts received from an individual or entity as a result



1 of sponsorship or similar promotional consideration for one (1) or  
 2 more races shall be in this state in the amount received, multiplied  
 3 by the following fraction:

4 (A) The numerator of the fraction is the number of racing  
 5 events for which sponsorship or similar promotional  
 6 consideration has been paid in a taxable year and that occur in  
 7 Indiana.

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

11 (3) Any amounts earned as an incentive for placement or  
 12 participation in one (1) or more races and that are not covered  
 13 under subdivisions (1) or (2) or under IC 6-3-2-3.2 shall be  
 14 attributed to Indiana in the proportion of the races that occurred  
 15 in Indiana.

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

18 **(t) For purposes of subsection (e), the following definitions**  
 19 **apply:**

20 **(1) "Third party logistics provider" means a person,**  
 21 **corporation, partnership, or other entity that provides**  
 22 **logistics services to unrelated parties.**

23 **(2) "Logistics services" means the provision of warehousing,**  
 24 **management, distribution, transportation, fulfillment, or**  
 25 **other services by a third party logistics services provider on**  
 26 **behalf of an unrelated party with respect to, but not taking**  
 27 **title to, the property of the unrelated party.**

28 **(3) "Unrelated party" means a person, corporation,**  
 29 **partnership, or other entity that is not related to the third**  
 30 **party logistics provider within the meaning of Section 267 of**  
 31 **the Internal Revenue Code.**

32 SECTION 7. IC 6-3-2-4, AS AMENDED BY P.L.6-2012,  
 33 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JANUARY 1, 2016]: Sec. 4. (a) Each taxable year, an individual, or the  
 35 individual's surviving spouse, is entitled to an adjusted gross income  
 36 tax deduction for the first five thousand dollars (\$5,000) of income,  
 37 including retirement or survivor's benefits, received during the taxable  
 38 year by the individual, or the individual's surviving spouse, for the  
 39 individual's service in an active or reserve component of the armed  
 40 forces of the United States, including the army, navy, air force, coast  
 41 guard, marine corps, merchant marine, Indiana army national guard, or  
 42 Indiana air national guard. However, a person who is less than sixty



1 (60) years of age on the last day of the person's taxable year, is not, for  
 2 that taxable year, entitled to a deduction under this section for  
 3 retirement or survivor's benefits.

4 (b) An individual whose qualified military income is subtracted  
 5 from the individual's federal adjusted gross income under  
 6 ~~IC 6-3-1-3.5(a)(2)~~ **IC 6-3-1-3.5(a)(19)** for Indiana individual income  
 7 tax purposes is not, for that taxable year, entitled to a deduction under  
 8 this section for the individual's qualified military income.

9 SECTION 8. IC 6-3-2-13, AS AMENDED BY P.L.98-2008,  
 10 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JANUARY 1, 2016]: Sec. 13. (a) As used in this section, "export  
 12 income" means the gross receipts from the sale, transfer, or exchange  
 13 of tangible personal property destined for international markets that is:

- 14 (1) manufactured at a plant located within a maritime opportunity  
 15 district established under IC 6-1.1-40; and
- 16 (2) shipped through a port operated by the state.

17 (b) As used in this section, "export sales ratio" means the quotient  
 18 of:

- 19 (1) the taxpayer's export income; divided by
- 20 (2) the taxpayer's gross receipts from the sale, transfer, or  
 21 exchange of tangible personal property, regardless of its  
 22 destination.

23 (c) As used in this section, "taxpayer" means a person or corporation  
 24 that has export income.

25 (d) The ports of Indiana established by IC 8-10-1-3 shall notify the  
 26 department when a maritime opportunity district is established under  
 27 IC 6-1.1-40. The notice must include:

- 28 (1) the resolution passed by the commission to establish the  
 29 district; and
- 30 (2) a list of all taxpayers located in the district.

31 (e) The ports of Indiana shall also notify the department of any  
 32 subsequent changes in the list of taxpayers located in the district.

33 (f) A taxpayer is entitled to a deduction from the taxpayer's adjusted  
 34 gross income in an amount equal to the lesser of:

- 35 (1) the taxpayer's adjusted gross income; or
- 36 (2) the product of the export sales ratio multiplied by the  
 37 percentage set forth in subsection (g).

38 **A deduction under this section is not permitted for a taxpayer  
 39 whose first year of a deduction begins after December 31, 2015.**

40 (g) The percentage to be used in determining the amount a taxpayer  
 41 is entitled to deduct under this section depends upon the number of  
 42 years that the taxpayer could have taken a deduction under this section.



1 The percentage to be used in subsection (f) is as follows:

2 YEAR OF DEDUCTION	PERCENTAGE
3 1st through 4th	100%
4 5th	80%
5 6th	60%
6 7th	40%
7 8th	20%
8 9th and thereafter	0%

9 (h) The department shall determine, for each taxpayer claiming a  
10 deduction under this section, the taxpayer's export sales ratio for  
11 purposes of IC 6-1.1-40. The department shall certify the amount of the  
12 ratio to the department of local government finance.

13 SECTION 9. IC 6-3-2-14.1 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 14.1.  
15 Notwithstanding section 14.5 of this chapter and IC 6-3-4-8.2, a  
16 payment made after June 30, 2002, on prize money received from a  
17 winning lottery ticket purchased under IC 4-30 for a lottery held before  
18 July 1, 2002, is exempt from the adjusted gross income tax and  
19 supplemental net income tax (repealed) imposed by this article.

20 SECTION 10. IC 6-3-2-14.5 IS REPEALED [EFFECTIVE  
21 JANUARY 1, 2016]. Sec. 14.5: The first one thousand two hundred  
22 dollars (\$1,200) of prize money received from a winning lottery ticket  
23 purchased under IC 4-30 is exempt from the adjusted gross income tax  
24 imposed by this article. If the amount of prize money received from a  
25 winning lottery ticket exceeds one thousand two hundred dollars  
26 (\$1,200), the amount of the excess is subject to the adjusted gross  
27 income tax imposed by this article.

28 SECTION 11. IC 6-3-2-17 IS REPEALED [EFFECTIVE  
29 JANUARY 1, 2016]. Sec. 17: A reward received by an individual is  
30 exempt from taxation under IC 6-3-1 through IC 6-3-7, in an amount  
31 not to exceed one thousand dollars (\$1,000), if:

32 (1) the reward is for information provided to a law enforcement  
33 official or agency, or to a not-for-profit corporation whose  
34 exclusive purpose is to assist law enforcement officials or  
35 agencies;

36 (2) the information that is provided assists in the arrest,  
37 indictment, or the filing of charges against a person; and

38 (3) the individual is not:

39 (A) compensated for investigating crimes or accidents  
40 (including an employee of, or an individual under contract  
41 with, a law enforcement agency);

42 (B) the person convicted of the crime; or



- 1                    ~~(c)~~ the victim of the crime.
- 2                    SECTION 12. IC 6-3-2-18 IS AMENDED TO READ AS
- 3                    FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 18. (a) As used
- 4                    in this section, "eligible medical expense" has the meaning set forth in
- 5                    IC 6-8-11-3.
- 6                    (b) As used in this section, "medical care savings account" has the
- 7                    meaning set forth in IC 6-8-11-6.
- 8                    (c) **This subsection applies only to money deposited by an**
- 9                    **employer in a medical care savings account before January 1, 2016.**
- 10                   Except as provided in subsection (g), the amount of money deposited
- 11                   by an employer in a medical care savings account established for an
- 12                   employee under IC 6-8-11 is exempt from taxation under IC 6-3-1
- 13                   through IC 6-3-7 as income of the employee in the taxable year in
- 14                   which the money is deposited in the account.
- 15                   (d) Except as provided in subsection (g), the amount of money that
- 16                   is:
- 17                   (1) withdrawn from a medical care savings account established
- 18                   for an employee under IC 6-8-11; and
- 19                   (2) either:
- 20                   (A) used by the administrator of the account for a purpose set
- 21                   forth in IC 6-8-11-13; or
- 22                   (B) used under IC 6-8-11-13 to reimburse an employee for
- 23                   eligible medical expenses that the employee has incurred and
- 24                   paid for medical care for the employee or a dependent of the
- 25                   employee;
- 26                   is exempt from taxation under IC 6-3-1 through IC 6-3-7 as income of
- 27                   the employee.
- 28                   (e) Except as provided in IC 6-8-11-11 **and IC 6-8-11-11.5**, in each
- 29                   taxable year, the amount of money that is:
- 30                   (1) withdrawn by an employee from a medical care savings
- 31                   account established under IC 6-8-11; and
- 32                   (2) used for a purpose other than the purposes set forth in
- 33                   IC 6-8-11-13;
- 34                   is income to the employee that is subject to taxation under IC 6-3-1
- 35                   through IC 6-3-7.
- 36                   (f) If an employee withdraws money from the employee's medical
- 37                   care savings account under the circumstances set forth in
- 38                   IC 6-8-11-17(c), the interest earned on the balance in the account
- 39                   during the full tax year in which the withdrawal is made is subject to
- 40                   taxation under IC 6-3-1 through IC 6-3-7 as income of the employee.
- 41                   (g) A taxpayer that excluded or deducted an amount deposited into
- 42                   a medical care savings account from adjusted gross income under:



1 (1) section 106 of the Internal Revenue Code;  
 2 (2) section 220 of the Internal Revenue Code; or  
 3 (3) any other section of the Internal Revenue Code;  
 4 is not eligible for an additional exemption from adjusted gross income  
 5 under this section.

6 SECTION 13. IC 6-3-2-20, AS AMENDED BY P.L.211-2007,  
 7 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JANUARY 1, 2016]: Sec. 20. (a) The following definitions apply  
 9 throughout this section:

10 (1) "Affiliated group" has the meaning provided in Section 1504  
 11 of the Internal Revenue Code, except that the ownership  
 12 percentage in Section 1504(a)(2) of the Internal Revenue Code  
 13 shall be determined using fifty percent (50%) instead of eighty  
 14 percent (80%).

15 (2) "Directly related ~~intangible~~ interest expenses" means interest  
 16 expenses that are paid to, or accrued or incurred as a liability to,  
 17 a recipient if:

18 (A) the amounts represent, in the hands of the recipient,  
 19 income from making one (1) or more loans; and

20 (B) the funds loaned were originally received by the recipient  
 21 from the payment of ~~intangible~~ expenses by any of the  
 22 following:

23 (i) The taxpayer.

24 (ii) A member of the same affiliated group as the taxpayer.

25 (iii) A foreign corporation.

26 (3) "Foreign corporation" means a corporation that is organized  
 27 under the laws of a country other than the United States and  
 28 would be a member of the same affiliated group as the taxpayer  
 29 if the corporation were organized under the laws of the United  
 30 States.

31 (4) "Intangible expenses" means the following amounts to the  
 32 extent these amounts are allowed as deductions in determining  
 33 taxable income under Section 63 of the Internal Revenue Code  
 34 before the application of any net operating loss deduction and  
 35 special deductions for the taxable year:

36 (A) Expenses, losses, and costs directly for, related to, or in  
 37 connection with the acquisition, use, maintenance,  
 38 management, ownership, sale, exchange, or any other  
 39 disposition of intangible property.

40 (B) Royalty, patent, technical, and copyright fees.

41 (C) Licensing fees.

42 (D) Other substantially similar expenses and costs.



- 1 (5) "Intangible property" means patents, patent applications, trade  
 2 names, trademarks, service marks, copyrights, trade secrets, and  
 3 substantially similar types of intangible assets.
- 4 (6) "Interest expenses" means amounts that are allowed as  
 5 deductions under Section 163 of the Internal Revenue Code in  
 6 determining taxable income under Section 63 of the Internal  
 7 Revenue Code before the application of any net operating loss  
 8 deductions and special deductions for the taxable year.
- 9 (7) "Makes a disclosure" means a taxpayer provides the following  
 10 information regarding a transaction with a member of the same  
 11 affiliated group or a foreign corporation involving an intangible  
 12 expense ~~and any or a~~ directly related ~~intangible~~ interest expense  
 13 with the taxpayer's tax return on the forms prescribed by the  
 14 department:
- 15 (A) The name of the recipient.  
 16 (B) The state or country of domicile of the recipient.  
 17 (C) The amount paid to the recipient.  
 18 (D) A copy of federal Form 851, Affiliation Schedule, as filed  
 19 with the taxpayer's federal consolidated tax return.  
 20 (E) The information needed to determine the taxpayer's status  
 21 under the exceptions listed in subsection (c).
- 22 (8) "Recipient" means:  
 23 (A) a member of the same affiliated group as the taxpayer; or  
 24 (B) a foreign corporation;  
 25 to which is paid an item of income that corresponds to an  
 26 intangible expense or ~~any~~ directly related ~~intangible~~ interest  
 27 expense.
- 28 (9) "Unrelated party" means a person that, with respect to the  
 29 taxpayer, is not a member of the same affiliated group or a foreign  
 30 corporation.
- 31 (b) Except as provided in subsection (c), in determining its adjusted  
 32 gross income under IC 6-3-1-3.5(b), a corporation subject to the tax  
 33 imposed by IC 6-3-2-1 shall add to its taxable income under Section 63  
 34 of the Internal Revenue Code:
- 35 (1) **all** intangible expenses; and  
 36 (2) ~~any~~ **all** directly related ~~intangible~~ interest expenses;  
 37 paid, accrued, or incurred with one (1) or more members of the same  
 38 affiliated group or with one (1) or more foreign corporations.
- 39 (c) The addition of intangible expenses or ~~any~~ directly related  
 40 ~~intangible~~ interest expenses otherwise required in a taxable year under  
 41 subsection (b) is not required if one (1) or more of the following apply  
 42 to the taxable year:





1 (1) The taxpayer and the recipient are both included in the same  
 2 consolidated tax return filed under IC 6-3-4-14 or in the same  
 3 combined return filed under IC 6-3-2-2(q) for the taxable year.

4 **(2) If the recipient receives an item of income that**  
 5 **corresponds to the directly related interest expenses and the**  
 6 **recipient:**

7 **(A) is subject to the financial institutions tax under**  
 8 **IC 6-5.5;**

9 **(B) files a return under IC 6-5.5; and**

10 **(C) apportions the items of income that correspond to the**  
 11 **intangible expenses and the directly related interest**  
 12 **expenses in accordance with IC 6-5.5.**

13 ~~(2)~~ **(3)** The taxpayer makes a disclosure and, at the request of the  
 14 department, can establish by a preponderance of the evidence  
 15 that:

16 (A) the item of income corresponding to the intangible  
 17 expenses ~~and any or the~~ directly related ~~intangible~~ interest  
 18 expenses was included within the recipient's income that is  
 19 subject to tax in:

20 (i) a state or possession of the United States; or

21 (ii) a country other than the United States;

22 that is the recipient's commercial domicile and that imposes a  
 23 net income tax, a franchise tax measured, in whole or in part,  
 24 by net income, or a value added tax;

25 (B) the transaction giving rise to the intangible expenses ~~and~~  
 26 ~~any or the~~ directly related ~~intangible~~ interest expenses  
 27 between the taxpayer and the recipient was made at a  
 28 commercially reasonable rate and at terms comparable to an  
 29 arm's length transaction; and

30 (C) the transactions giving rise to the intangible expenses ~~and~~  
 31 ~~any or the~~ directly related ~~intangible~~ interest expenses  
 32 between the taxpayer and the recipient did not have Indiana  
 33 tax avoidance as a principal purpose.

34 ~~(3)~~ **(4)** The taxpayer makes a disclosure and, at the request of the  
 35 department, can establish by a preponderance of the evidence  
 36 that:

37 (A) the recipient regularly engages in transactions ~~involving~~  
 38 ~~intangible property~~ with one (1) or more unrelated parties on  
 39 terms substantially similar to those of the subject transaction;  
 40 and

41 (B) the transaction giving rise to the intangible expenses ~~and~~  
 42 ~~any or the~~ directly related ~~intangible~~ interest expenses



- 1           between the taxpayer and the recipient did not have Indiana  
2           tax avoidance as a principal purpose.
- 3       ~~(4)~~ **(5)** The taxpayer makes a disclosure and, at the request of the  
4       department, can establish by a preponderance of the evidence  
5       that:
- 6           (A) the payment was received from a person or entity that is an  
7           unrelated party, and on behalf of that unrelated party, paid that  
8           amount to the recipient in an arm's length transaction; and  
9           (B) the transaction giving rise to the intangible expenses ~~and~~  
10          **any or the** directly related ~~intangible~~ interest expenses  
11          between the taxpayer and the recipient did not have Indiana  
12          tax avoidance as a principal purpose.
- 13       ~~(5)~~ **(6)** The taxpayer makes a disclosure and, at the request of the  
14       department, can establish by a preponderance of the evidence  
15       that:
- 16           (A) the recipient paid, accrued, or incurred a liability to an  
17           unrelated party during the taxable year for an equal or greater  
18           amount that was directly for, related to, or in connection with  
19           the same ~~intangible~~ property giving rise to the ~~intangible~~  
20           expenses; and  
21           (B) the transactions giving rise to the intangible expenses ~~and~~  
22           **any or the** directly related ~~intangible~~ interest expenses  
23           between the taxpayer and the recipient did not have Indiana  
24           tax avoidance as a principal purpose.
- 25       ~~(6)~~ **(7)** The taxpayer makes a disclosure and, at the request of the  
26       department, can establish by a preponderance of the evidence  
27       that:
- 28           (A) the recipient is engaged in:
- 29               (i) substantial business activities from the acquisition, use,  
30               licensing, maintenance, management, ownership, sale,  
31               exchange, or any other disposition of intangible property; or  
32               (ii) other substantial business activities separate and apart  
33               from the business activities described in item (i);  
34           as evidenced by the maintenance of a permanent office space  
35           and an adequate number of full-time, experienced employees;
- 36           (B) the transactions giving rise to the intangible expenses ~~and~~  
37           **any or the** directly related ~~intangible~~ interest expenses  
38           between the taxpayer and the recipient did not have Indiana  
39           tax avoidance as a principal purpose; and  
40           (C) the ~~transactions were~~ **transaction was** made at a  
41           commercially reasonable rate and at terms comparable to an  
42           arm's length transaction.



1           (7) **(8)** The taxpayer and the department agree, in writing, to the  
 2 application or use of an alternative method of allocation or  
 3 apportionment under section 2(l) or 2(m) of this chapter.

4           (8) **(9)** Upon request by the taxpayer, the department determines  
 5 that the adjustment otherwise required by this section is  
 6 unreasonable.

7           (d) For purposes of this section, intangible expenses or directly  
 8 related ~~intangible~~ interest expenses shall be considered to be at a  
 9 commercially reasonable rate or at terms comparable to an arm's length  
 10 transaction if the intangible expenses or directly related ~~intangible~~  
 11 interest expenses meet the arm's length standards of United States  
 12 Treasury Regulation 1.482-1(b).

13           (e) If intangible expenses or directly related ~~intangible~~ **interest**  
 14 expenses are determined not to be at a commercially reasonable rate or  
 15 at terms comparable to an arm's length transaction for purposes of this  
 16 section, the adjustment required by subsection (b) shall be made only  
 17 to the extent necessary to cause the intangible expenses or directly  
 18 related ~~intangible~~ interest expenses to be at a commercially reasonable  
 19 rate and at terms comparable to an arm's length transaction.

20           (f) For purposes of this section, transactions giving rise to intangible  
 21 expenses ~~and any or the~~ directly related ~~intangible~~ interest expenses  
 22 between the taxpayer and the recipient shall be considered as having  
 23 Indiana tax avoidance as the principal purpose if:

24           (1) there is not one (1) or more valid business purposes that  
 25 independently sustain the transaction notwithstanding any tax  
 26 benefits associated with the transaction; and

27           (2) the principal purpose of tax avoidance exceeds any other valid  
 28 business purpose.

29           SECTION 14. IC 6-3-2-25, AS AMENDED BY P.L.6-2012,  
 30 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JANUARY 1, 2016]: Sec. 25. (a) This section applies only to an  
 32 individual who in 2008 paid property taxes that:

33           (1) were imposed on the individual's principal place of residence  
 34 for the March 1, 2006, assessment date or the January 15, 2007,  
 35 assessment date;

36           (2) are due after December 31, 2007; and

37           (3) are paid on or before the due date for the property taxes.

38           (b) As used in this section, "adjusted gross income" has the meaning  
 39 set forth in IC 6-3-1-3.5.

40           (c) An individual described in subsection (a) is entitled to a  
 41 deduction from the individual's adjusted gross income for a taxable  
 42 year beginning after December 31, 2007, and before January 1, 2009,



1 in an amount equal to the amount determined in the following STEPS:

2 STEP ONE: Determine the lesser of:

3 (A) two thousand five hundred dollars (\$2,500); or

4 (B) the total amount of property taxes imposed on the  
5 individual's principal place of residence for the March 1, 2006,  
6 assessment date or the January 15, 2007, assessment date and  
7 paid in 2007 or 2008.

8 STEP TWO: Determine the greater of zero (0) or the result of:

9 (A) the STEP ONE result; minus

10 (B) the total amount of property taxes that:

11 (i) were imposed on the individual's principal place of  
12 residence for the March 1, 2006, assessment date or the  
13 January 15, 2007, assessment date;

14 (ii) were paid in 2007; and

15 (iii) were deducted from the individual's adjusted gross  
16 income under ~~IC 6-3-1-3.5(a)(15)~~ **IC 6-3-1-3.5(a)(13)** by  
17 the individual on the individual's state income tax return for  
18 a taxable year beginning before January 1, 2008.

19 (d) The deduction under this section is in addition to any deduction  
20 that an individual is otherwise entitled to claim under  
21 ~~IC 6-3-1-3.5(a)(15)~~ **IC 6-3-1-3.5(a)(13)**. However, an individual may  
22 not deduct under ~~IC 6-3-1-3.5(a)(15)~~ **IC 6-3-1-3.5(a)(13)** any property  
23 taxes deducted under this section.

24 SECTION 15. IC 6-3.1-15-7 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 7. (a) A taxpayer  
26 that has donated during the taxable year qualified computer equipment  
27 to a service center is entitled to a tax credit as provided in section 8 of  
28 this chapter.

29 **(b) A taxpayer is not entitled to a credit under this chapter for**  
30 **a contribution made in a taxable year beginning after December**  
31 **31, 2015.**

32 **(c) This chapter expires January 1, 2019.**

33 SECTION 16. IC 6-3.1-16-7, AS AMENDED BY P.L.166-2014,  
34 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JANUARY 1, 2016]: Sec. 7. (a) Subject to section 14 of this chapter,  
36 a taxpayer is entitled to a credit against the taxpayer's state tax liability  
37 in the taxable year in which the taxpayer completes the preservation or  
38 rehabilitation of historic property and obtains the certifications required  
39 under section 8 of this chapter.

40 (b) The amount of the credit is equal to twenty percent (20%) of the  
41 qualified expenditures that:

42 (1) the taxpayer makes for the preservation or rehabilitation of



- 1 historic property; and  
 2 (2) are approved by the office.  
 3 (c) In the case of a husband and wife who:  
 4 (1) own and rehabilitate a historic property jointly; and  
 5 (2) file separate tax returns;  
 6 the husband and wife may take the credit in equal shares or one (1)  
 7 spouse may take the whole credit.

8 **(d) A taxpayer is not entitled to a credit under this chapter for**  
 9 **a contribution made in a taxable year beginning after December**  
 10 **31, 2015.**

11 **(e) This chapter expires January 1, 2019.**

12 SECTION 17. IC 6-3.1-18-11 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 11. **(a)** A tax  
 14 credit shall be allowable under this chapter only for the taxable year of  
 15 the taxpayer in which the contribution qualifying for the credit is paid.

16 **(b) A taxpayer is not entitled to a credit under this chapter for**  
 17 **a contribution made in a taxable year beginning after December**  
 18 **31, 2015.**

19 **(c) This chapter expires January 1, 2019.**

20 SECTION 18. IC 6-3.1-19-2, AS AMENDED BY P.L.4-2005,  
 21 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2015]: Sec. 2. As used in this chapter, "qualified investment"  
 23 means the amount of a taxpayer's expenditures that is:

- 24 (1) for redevelopment or rehabilitation of property located within  
 25 a community revitalization enhancement district designated under  
 26 IC 36-7-13;  
 27 (2) made under a plan adopted by an advisory commission on  
 28 industrial development under IC 36-7-13; and  
 29 (3) approved by the Indiana economic development corporation  
 30 before the expenditure is made.

31 **Beginning after December 31, 2015, the term does not include a**  
 32 **taxpayer's expenditures made on property that is classified as**  
 33 **residential for property tax purposes, except for expenditures that**  
 34 **were approved by the Indiana economic development corporation**  
 35 **before January 1, 2016.**

36 SECTION 19. IC 6-3.1-20-4, AS AMENDED BY P.L.166-2014,  
 37 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JANUARY 1, 2016]: Sec. 4. (a) Except as provided in subsection (b),  
 39 an individual is entitled to a credit under this chapter if:

- 40 (1) the individual's Indiana income for the taxable year is less than  
 41 eighteen thousand six hundred dollars (\$18,600); and  
 42 (2) the individual pays property taxes in the taxable year on a



1 homestead that:  
 2 (A) the individual:  
 3 (i) owns; or  
 4 (ii) is buying under a contract that requires the individual to  
 5 pay property taxes on the homestead, if the contract or a  
 6 memorandum of the contract is recorded in the county  
 7 recorder's office; and  
 8 (B) is located in a county having a population of more than  
 9 four hundred thousand (400,000) but less than seven hundred  
 10 thousand (700,000).

11 (b) An individual is not entitled to a credit under this chapter for a  
 12 taxable year for property taxes paid on the individual's homestead if the  
 13 individual claims the deduction under ~~IC 6-3-1-3.5(a)(15)~~  
 14 **IC 6-3-1-3.5(a)(13)** for the homestead for that same taxable year.

15 SECTION 20. IC 6-3.1-21-6, AS AMENDED BY P.L.229-2011,  
 16 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JANUARY 1, 2016]: Sec. 6. (a) Except as provided by subsection (b),  
 18 an individual who is eligible for an earned income tax credit under  
 19 Section 32 of the Internal Revenue Code as it existed before being  
 20 amended by the Tax Relief, Unemployment Insurance Reauthorization,  
 21 and Job Creation Act of 2010 (P.L. 111-312), is eligible for a credit  
 22 under this chapter equal to nine percent (9%) of the amount of the  
 23 federal earned income tax credit that the individual:

24 (1) is eligible to receive in the taxable year; and  
 25 (2) claimed for the taxable year;  
 26 under Section 32 of the Internal Revenue Code as it existed before  
 27 being amended by the Tax Relief, Unemployment Insurance  
 28 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

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

32 (1) the amount determined under subsection (a); multiplied by  
 33 (2) the quotient of the taxpayer's income taxable in Indiana  
 34 divided by the taxpayer's total income.

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

39 SECTION 21. IC 6-3.1-22-8, AS AMENDED BY P.L.166-2014,  
 40 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JANUARY 1, 2016]: Sec. 8. (a) Subject to section 14 of this chapter,  
 42 a taxpayer is entitled to a credit against the taxpayer's state tax liability



1 in the taxable year in which the taxpayer completes the preservation or  
 2 rehabilitation of historic property and obtains the certifications required  
 3 under section 9 of this chapter.

4 (b) The amount of the credit is equal to twenty percent (20%) of the  
 5 qualified expenditures that:

- 6 (1) the taxpayer makes for the preservation or rehabilitation of
- 7 historic property; and
- 8 (2) are approved by the office.

9 (c) In the case of a husband and wife who:

- 10 (1) own and rehabilitate a historic property jointly; and
- 11 (2) file separate tax returns;

12 the husband and wife may take the credit in equal shares or one (1)  
 13 spouse may take the whole credit.

14 **(d) A taxpayer may not claim a credit under this chapter for**  
 15 **qualified expenditures approved in a taxable year beginning after**  
 16 **December 31, 2015.**

17 **(e) This chapter expires January 1, 2033.**

18 SECTION 22. IC 6-3.5-1.1-7 IS REPEALED [EFFECTIVE  
 19 JANUARY 1, 2016]. Sec. 7: (a) If for a particular taxable year a county  
 20 taxpayer is; or a county taxpayer and the taxpayer's spouse who file a  
 21 joint return are; allowed a credit for the elderly or individuals with a  
 22 total disability under Section 22 of the Internal Revenue Code; the  
 23 county taxpayer is; or the county taxpayer and the taxpayer's spouse  
 24 are; entitled to a credit against the taxpayer's or the taxpayer's and the  
 25 taxpayer's spouse's county adjusted gross income tax liability for that  
 26 same taxable year. The amount of the credit equals the lesser of:

27 (1) the product of:

28 (A) the taxpayer's or the taxpayer's and the taxpayer's spouse's  
 29 credit for the elderly or individuals with a total disability for  
 30 that same taxable year; multiplied by

31 (B) a fraction; the numerator of which is the county adjusted  
 32 gross income tax rate imposed against the county taxpayer; or  
 33 the county taxpayer and the taxpayer's spouse; and the  
 34 denominator of which is fifteen hundredths (0.15); or

35 (2) the amount of county adjusted gross income tax imposed on  
 36 the county taxpayer; or the county taxpayer and the taxpayer's  
 37 spouse.

38 (b) If a county taxpayer and the taxpayer's spouse file a joint return  
 39 and are subject to different county adjusted gross income tax rates for  
 40 the same taxable year; they shall compute the credit under this section  
 41 by using the formula provided by subsection (a); except that they shall  
 42 use the average of the two (2) county adjusted gross income tax rates



1 imposed against them as the numerator referred to in subsection  
2 ~~(a)(1)(B)~~:

3 SECTION 23. IC 6-3.5-1.1-18, AS AMENDED BY P.L.146-2008,  
4 SECTION 330, IS AMENDED TO READ AS FOLLOWS  
5 [EFFECTIVE JANUARY 1, 2016]: Sec. 18. (a) Except as otherwise  
6 provided in this chapter, all provisions of the adjusted gross income tax  
7 law (IC 6-3) concerning:

- 8 (1) definitions;
- 9 (2) declarations of estimated tax;
- 10 (3) filing of returns;
- 11 (4) remittances;
- 12 (5) incorporation of the provisions of the Internal Revenue Code;
- 13 (6) penalties and interest;
- 14 (7) exclusion of military pay credits for withholding; and
- 15 (8) exemptions and deductions;

16 apply to the imposition, collection, and administration of the tax  
17 imposed by this chapter.

18 (b) ~~The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3 and IC 6-3-3-5~~  
19 ~~and IC 6-3-5-1~~ do not apply to the tax imposed by this chapter.

20 (c) Notwithstanding subsections (a) and (b), each employer shall  
21 report to the department the amount of withholdings attributable to  
22 each county. This report shall be submitted to the department:

- 23 (1) each time the employer remits to the department the tax that  
24 is withheld; and
- 25 (2) annually along with the employer's annual withholding report.

26 SECTION 24. IC 6-3.5-6-22, AS AMENDED BY P.L.146-2008,  
27 SECTION 340, IS AMENDED TO READ AS FOLLOWS  
28 [EFFECTIVE JANUARY 1, 2016]: Sec. 22. (a) Except as otherwise  
29 provided in subsection (b) and the other provisions of this chapter, all  
30 provisions of the adjusted gross income tax law (IC 6-3) concerning:

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

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

41 (b) ~~The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3 and IC 6-3-3-5~~  
42 ~~and IC 6-3-5-1~~ do not apply to the tax imposed by this chapter.





1 (c) Notwithstanding subsections (a) and (b), each employer shall  
 2 report to the department the amount of withholdings attributable to  
 3 each county. This report shall be submitted to the department:

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

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

7 SECTION 25. IC 6-3.5-6-24 IS REPEALED [EFFECTIVE  
 8 JANUARY 1, 2016]. Sec. 24: (a) If for a particular taxable year a  
 9 county taxpayer is, or a county taxpayer and the taxpayer's spouse who  
 10 file a joint return are, allowed a credit for the elderly or individuals  
 11 with a total disability under Section 22 of the Internal Revenue Code;  
 12 the county taxpayer is, or the county taxpayer and the taxpayer's spouse  
 13 are, entitled to a credit against the county option income tax liability for  
 14 that same taxable year. The amount of the credit equals the lesser of:

15 (1) the product of:

16 (A) the credit for the elderly or individuals with a total  
 17 disability for that same taxable year; multiplied by

18 (B) a fraction, the numerator of which is the county option  
 19 income tax rate imposed against the county taxpayer; or the  
 20 county taxpayer and the taxpayer's spouse; and the  
 21 denominator of which is fifteen-hundredths (0.15); or

22 (2) the amount of county option income tax imposed on the  
 23 county taxpayer; or the county taxpayer and the taxpayer's spouse.

24 (b) If a county taxpayer and the taxpayer's spouse file a joint return  
 25 and are subject to different county option income tax rates for the same  
 26 taxable year, they shall compute the credit under this section by using  
 27 the formula provided by subsection (a), except that they shall use the  
 28 average of the two (2) county option income tax rates imposed against  
 29 them as the numerator referred to in subsection (a)(1)(B):

30 SECTION 26. IC 6-3.5-7-9 IS REPEALED [EFFECTIVE  
 31 JANUARY 1, 2016]. Sec. 9: (a) If for a taxable year a county taxpayer  
 32 is (or a county taxpayer and a county taxpayer's spouse who file a joint  
 33 return are) allowed a credit for the elderly or individuals with a total  
 34 disability under Section 22 of the Internal Revenue Code; the county  
 35 taxpayer is (or the county taxpayer and the county taxpayer's spouse  
 36 are) entitled to a credit against the county taxpayer's (or the county  
 37 taxpayer's and the county taxpayer's spouse's) county economic  
 38 development income tax liability for that same taxable year. The  
 39 amount of the credit equals the lesser of:

40 (1) the product of:

41 (A) the county taxpayer's (or the county taxpayer's and the  
 42 county taxpayer's spouse's) credit for the elderly or individuals



1 with a total disability for that same taxable year; multiplied by  
 2 (B) a fraction. The numerator of the fraction is the county  
 3 economic development income tax rate imposed against the  
 4 county taxpayer (or against the county taxpayer and the county  
 5 taxpayer's spouse). The denominator of the fraction is  
 6 fifteen-hundredths (0.15); or

7 (2) the amount of county economic development income tax  
 8 imposed on the county taxpayer (or the county taxpayer and the  
 9 county taxpayer's spouse).

10 (b) If a county taxpayer and the county taxpayer's spouse file a joint  
 11 return and are subject to different county economic development  
 12 income tax rates for the same taxable year, they shall compute the  
 13 credit under this section by using the formula provided by subsection  
 14 (a); except that they shall use the average of the two (2) county  
 15 economic development income tax rates imposed against them as the  
 16 numerator referred to in subsection (a)(1)(B):

17 SECTION 27. IC 6-3.5-7-18, AS AMENDED BY P.L.146-2008,  
 18 SECTION 348, IS AMENDED TO READ AS FOLLOWS  
 19 [EFFECTIVE JANUARY 1, 2016]: Sec. 18. (a) Except as otherwise  
 20 provided in this chapter, all provisions of the adjusted gross income tax  
 21 law (IC 6-3) concerning:

- 22 (1) definitions;
- 23 (2) declarations of estimated tax;
- 24 (3) filing of returns;
- 25 (4) remittances;
- 26 (5) incorporation of the provisions of the Internal Revenue Code;
- 27 (6) penalties and interest;
- 28 (7) exclusion of military pay credits for withholding; and
- 29 (8) exemptions and deductions;

30 apply to the imposition, collection, and administration of the tax  
 31 imposed by this chapter.

32 (b) ~~The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3 and IC 6-3-3-5~~  
 33 ~~and IC 6-3-5-1~~ do not apply to the tax imposed by this chapter.

34 (c) Notwithstanding subsections (a) and (b), each employer shall  
 35 report to the department the amount of withholdings attributable to  
 36 each county. This report shall be submitted to the department:

- 37 (1) each time the employer remits to the department the tax that  
 38 is withheld; and
- 39 (2) annually along with the employer's annual withholding report.

40 SECTION 28. IC 6-5.5-1-2, AS AMENDED BY P.L.205-2013,  
 41 SECTION 124, IS AMENDED TO READ AS FOLLOWS  
 42 [EFFECTIVE JANUARY 1, 2016]: Sec. 2. (a) Except as provided in



1 subsections (b) through (d), "adjusted gross income" means taxable  
 2 income as defined in Section 63 of the Internal Revenue Code, adjusted  
 3 as follows:

4 (1) Add the following amounts:

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

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

10 (C) An amount equal to a deduction or deductions allowed or  
 11 allowable under Section 63 of the Internal Revenue Code for  
 12 taxes based on or measured by income and levied at the state  
 13 level by a state of the United States or levied at the local level  
 14 by any subdivision of a state of the United States.

15 (D) The amount of interest excluded under Section 103 of the  
 16 Internal Revenue Code or under any other federal law, minus  
 17 the associated expenses disallowed in the computation of  
 18 taxable income under Section 265 of the Internal Revenue  
 19 Code.

20 (E) An amount equal to the deduction allowed under Section  
 21 172 or 1212 of the Internal Revenue Code for net operating  
 22 losses or net capital losses.

23 (F) For a taxpayer that is not a large bank (as defined in  
 24 Section 585(c)(2) of the Internal Revenue Code), an amount  
 25 equal to the recovery of a debt, or part of a debt, that becomes  
 26 worthless to the extent a deduction was allowed from gross  
 27 income in a prior taxable year under Section 166(a) of the  
 28 Internal Revenue Code.

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

37 (H) Add the amount necessary to make the adjusted gross  
 38 income of any taxpayer that placed Section 179 property (as  
 39 defined in Section 179 of the Internal Revenue Code) in  
 40 service in the current taxable year or in an earlier taxable year  
 41 equal to the amount of adjusted gross income that would have  
 42 been computed had an election for federal income tax



1 purposes not been made for the year in which the property was  
2 placed in service to take deductions under Section 179 of the  
3 Internal Revenue Code in a total amount exceeding  
4 twenty-five thousand dollars (\$25,000).

5 (I) Add an amount equal to the amount that a taxpayer claimed  
6 as a deduction for domestic production activities for the  
7 taxable year under Section 199 of the Internal Revenue Code  
8 for federal income tax purposes.

9 (J) Add an amount equal to any income not included in gross  
10 income as a result of the deferral of income arising from  
11 business indebtedness discharged in connection with the  
12 reacquisition after December 31, 2008, and before January 1,  
13 2011, of an applicable debt instrument, as provided in Section  
14 108(i) of the Internal Revenue Code. Subtract from the  
15 adjusted gross income of any taxpayer that added an amount  
16 to adjusted gross income in a previous year the amount  
17 necessary to offset the amount included in federal gross  
18 income as a result of the deferral of income arising from  
19 business indebtedness discharged in connection with the  
20 reacquisition after December 31, 2008, and before January 1,  
21 2011, of an applicable debt instrument, as provided in Section  
22 108(i) of the Internal Revenue Code.

23 (K) Add or subtract the amount necessary to make the adjusted  
24 gross income of any taxpayer that claimed the special  
25 allowance for qualified disaster assistance property under  
26 Section 168(n) of the Internal Revenue Code equal to the  
27 amount of adjusted gross income that would have been  
28 computed had the special allowance not been claimed for the  
29 property.

30 (L) Add or subtract the amount necessary to make the adjusted  
31 gross income of any taxpayer that made an election under  
32 Section 179C of the Internal Revenue Code to expense costs  
33 for qualified refinery property equal to the amount of adjusted  
34 gross income that would have been computed had an election  
35 for federal income tax purposes not been made for the year.

36 (M) Add or subtract the amount necessary to make the  
37 adjusted gross income of any taxpayer that made an election  
38 under Section 181 of the Internal Revenue Code to expense  
39 costs for a qualified film or television production equal to the  
40 amount of adjusted gross income that would have been  
41 computed had an election for federal income tax purposes not  
42 been made for the year.



- 1           ~~(N)~~ Add or subtract the amount necessary to make the adjusted  
2 gross income of any taxpayer that treated a loss from the sale  
3 or exchange of preferred stock in:
- 4           (i) the Federal National Mortgage Association, established  
5 under the Federal National Mortgage Association Charter  
6 Act (12 U.S.C. 1716 et seq.); or
- 7           (ii) the Federal Home Loan Mortgage Corporation,  
8 established under the Federal Home Loan Mortgage  
9 Corporation Act (12 U.S.C. 1451 et seq.);
- 10 as an ordinary loss under Section 301 of the Emergency  
11 Economic Stabilization Act of 2008 in the current taxable year  
12 or in an earlier taxable year equal to the amount of adjusted  
13 gross income that would have been computed had the loss not  
14 been treated as an ordinary loss.
- 15           ~~(O)~~ **(K)** Add an amount equal to any exempt insurance income  
16 under Section 953(e) of the Internal Revenue Code for active  
17 financing income under Subpart F, Subtitle A, Chapter 1,  
18 Subchapter N of the Internal Revenue Code.
- 19           (2) Subtract the following amounts:
- 20           (A) Income that the United States Constitution or any statute  
21 of the United States prohibits from being used to measure the  
22 tax imposed by this chapter.
- 23           (B) Income that is derived from sources outside the United  
24 States, as defined by the Internal Revenue Code.
- 25           (C) An amount equal to a debt or part of a debt that becomes  
26 worthless, as permitted under Section 166(a) of the Internal  
27 Revenue Code.
- 28           (D) An amount equal to any bad debt reserves that are  
29 included in federal income because of accounting method  
30 changes required by Section 585(c)(3)(A) or Section 593 of  
31 the Internal Revenue Code.
- 32           (E) The amount necessary to make the adjusted gross income  
33 of any taxpayer that owns property for which bonus  
34 depreciation was allowed in the current taxable year or in an  
35 earlier taxable year equal to the amount of adjusted gross  
36 income that would have been computed had an election not  
37 been made under Section 168(k) of the Internal Revenue Code  
38 to apply bonus depreciation.
- 39           (F) The amount necessary to make the adjusted gross income  
40 of any taxpayer that placed Section 179 property (as defined  
41 in Section 179 of the Internal Revenue Code) in service in the  
42 current taxable year or in an earlier taxable year equal to the



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

7 (G) Income that is:

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

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

11 ~~(H) This clause does not apply to payments made for services  
 12 provided to a business that was enrolled and participated in the  
 13 E-Verify program (as defined in IC 22-5-1.7-3) during the time  
 14 the taxpayer conducted business in Indiana in the taxable year.~~

15 ~~For a taxable year beginning after June 30, 2011, add the  
 16 amount of any trade or business deduction allowed under the  
 17 Internal Revenue Code for wages, reimbursements, or other  
 18 payments made for services provided in Indiana by an  
 19 individual for services as an employee, if the individual was;  
 20 during the period of service, prohibited from being hired as an  
 21 employee under 8 U.S.C. 1324a.~~

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

26 (c) In the case of an investment company, "adjusted gross income"  
 27 means the company's federal taxable income plus the amount excluded  
 28 from federal gross income under Section 103 of the Internal Revenue  
 29 Code for interest received on an obligation of a state other than Indiana,  
 30 or a political subdivision of such a state, that is acquired by the  
 31 taxpayer after December 31, 2011, multiplied by the quotient of:

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

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

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



- 1 (1) is registered under the Investment Company Act of 1940 (15  
 2 U.S.C. 80a-1 et seq.); and  
 3 (2) solicits or receives a payment to be made to itself and issues  
 4 in exchange for the payment:  
 5 (A) a so-called bond;  
 6 (B) a share;  
 7 (C) a coupon;  
 8 (D) a certificate of membership;  
 9 (E) an agreement;  
 10 (F) a pretended agreement; or  
 11 (G) other evidences of obligation;  
 12 entitling the holder to anything of value at some future date, if the  
 13 gross payments received by the company during the taxable year  
 14 on outstanding investment contracts, plus interest and dividends  
 15 earned on those contracts (by prorating the interest and dividends  
 16 earned on investment contracts by the same proportion that  
 17 certificate reserves (as defined by the Investment Company Act  
 18 of 1940) is to the company's total assets) is at least fifty percent  
 19 (50%) of the company's gross payments upon investment  
 20 contracts plus gross income from all other sources except  
 21 dividends from subsidiaries for the taxable year. The term  
 22 "investment contract" means an instrument listed in clauses (A)  
 23 through (G).
- 24 **(e) For purposes of this section, if a taxpayer:**  
 25 **(1) claimed the special allowance for qualified disaster**  
 26 **assistance property under Section 168(n) of the Internal**  
 27 **Revenue Code;**  
 28 **(2) made an election under Section 179C of the Internal**  
 29 **Revenue Code to expense costs for qualified refinery property**  
 30 **equal to the amount of adjusted gross income that would have**  
 31 **been computed had an election for federal income tax**  
 32 **purposes not been made for the year;**  
 33 **(3) made an election under Section 181 of the Internal**  
 34 **Revenue Code to expense costs for a qualified film or**  
 35 **television production equal to the amount of adjusted gross**  
 36 **income that would have been computed had an election for**  
 37 **federal income tax purposes not been made for the year; or**  
 38 **(4) treated a loss from the sale or exchange of preferred stock**  
 39 **in:**  
 40 **(A) the Federal National Mortgage Association, established**  
 41 **under the Federal National Mortgage Association Charter**  
 42 **Act (12 U.S.C. 1716 et seq.); or**



1           **(B) the Federal Home Loan Mortgage Corporation,**  
 2           **established under the Federal Home Loan Mortgage**  
 3           **Corporation Act (12 U.S.C. 1451 et seq.);**  
 4           **as an ordinary loss under Section 301 of the Emergency**  
 5           **Economic Stabilization Act of 2008 for any taxable year**  
 6           **beginning before January 1, 2015;**  
 7           **the taxpayer shall continue to add or subtract the amounts**  
 8           **required under this section for the taxable years beginning after**  
 9           **December 31, 2014, as provided in this section as in effect on**  
 10           **December 31, 2014. However, any amount otherwise allowable as**  
 11           **a deduction but not deducted in a taxable year beginning before**  
 12           **January 1, 2020, shall be deducted in the taxpayer's first taxable**  
 13           **year beginning after December 31, 2019.**

14           SECTION 29. IC 6-6-5-1, AS AMENDED BY P.L.259-2013,  
 15           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16           JANUARY 1, 2016]: Sec. 1. (a) As used in this chapter, "vehicle"  
 17           means a vehicle subject to annual registration as a condition of its  
 18           operation on the public highways pursuant to the motor vehicle  
 19           registration laws of the state.

20           (b) As used in this chapter, "mobile home" means a  
 21           nonself-propelled vehicle designed for occupancy as a dwelling or  
 22           sleeping place.

23           (c) As used in this chapter, "bureau" means the bureau of motor  
 24           vehicles.

25           (d) As used in this chapter, "license branch" means a branch office  
 26           of the bureau authorized to register motor vehicles pursuant to the laws  
 27           of the state.

28           (e) As used in this chapter, "owner" means the person in whose  
 29           name the vehicle or trailer is registered (as defined in IC 9-13-2).

30           (f) As used in this chapter, "motor home" means a self-propelled  
 31           vehicle having been designed and built as an integral part thereof  
 32           having living and sleeping quarters, including that which is commonly  
 33           referred to as a recreational vehicle.

34           (g) As used in this chapter, "last preceding annual excise tax  
 35           liability" means either:

36           (1) the amount of excise tax liability to which the vehicle was  
 37           subject on the owner's last preceding regular annual registration  
 38           date; or

39           (2) the amount of excise tax liability to which a vehicle that was  
 40           registered after the owner's last preceding annual registration date  
 41           would have been subject if it had been registered on that date.

42           (h) As used in this chapter, "trailer" means a device having a gross





1 vehicle weight equal to or less than three thousand (3,000) pounds that  
 2 is pulled behind a vehicle and that is subject to annual registration as  
 3 a condition of its operation on the public highways pursuant to the  
 4 motor vehicle registration laws of the state. The term includes any  
 5 utility, boat, or other two (2) wheeled trailer.

6 (i) This chapter does not apply to the following:

7 (1) Vehicles owned, or leased and operated, by the United States,  
 8 the state, or political subdivisions of the state.

9 (2) Mobile homes and motor homes.

10 (3) Vehicles assessed under IC 6-1.1-8.

11 (4) Vehicles subject to registration as trucks under the motor  
 12 vehicle registration laws of the state, except trucks having a  
 13 declared gross weight not exceeding eleven thousand (11,000)  
 14 pounds, trailers, semitrailers, tractors, and buses.

15 (5) Vehicles owned, or leased and operated, by a postsecondary  
 16 educational institution ~~described in IC 6-3-3-5(d)~~ that:

17 **(A) normally maintains a regular faculty and curriculum**  
 18 **and normally has a regularly organized body of students**  
 19 **in attendance at the place where its educational activities**  
 20 **are carried on;**

21 **(B) regularly offers education at a level above grade 12;**

22 **(C) regularly awards either associate, bachelor's, master's,**  
 23 **or doctoral degrees, or any combination thereof; and**

24 **(D) is accredited by the North Central Association of**  
 25 **Colleges and Schools, the Indiana state board of education,**  
 26 **or the American Association of Theological Schools.**

27 (6) Vehicles owned, or leased and operated, by a volunteer fire  
 28 department (as defined in IC 36-8-12-2).

29 (7) Vehicles owned, or leased and operated, by a volunteer  
 30 emergency ambulance service that:

31 (A) meets the requirements of IC 16-31; and

32 (B) has only members that serve for no compensation or a  
 33 nominal annual compensation of not more than three thousand  
 34 five hundred dollars (\$3,500).

35 (8) Vehicles that are exempt from the payment of registration fees  
 36 under IC 9-18-3-1.

37 (9) Farm wagons.

38 (10) Off-road vehicles (as defined in IC 14-8-2-185).

39 (11) Snowmobiles (as defined in IC 14-8-2-261).

40 SECTION 30. IC 6-6-5.1-1, AS ADDED BY P.L.131-2008,  
 41 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JANUARY 1, 2016]: Sec. 1. This chapter does not apply to the



- 1 following:
- 2 (1) A vehicle subject to the motor vehicle excise tax under
- 3 IC 6-6-5.
- 4 (2) A vehicle owned or leased and operated by the United States,
- 5 the state, or a political subdivision of the state.
- 6 (3) A mobile home.
- 7 (4) A vehicle assessed under IC 6-1.1-8.
- 8 (5) A vehicle subject to the commercial vehicle excise tax under
- 9 IC 6-6-5.5.
- 10 (6) A trailer subject to the annual excise tax imposed under
- 11 IC 6-6-5-5.5.
- 12 (7) A bus (as defined in IC 9-13-2-17(a)).
- 13 (8) A vehicle owned or leased and operated by a postsecondary
- 14 educational institution ~~(as described in IC 6-3-3-5(d))~~ **that:**
- 15 **(A) normally maintains a regular faculty and curriculum**
- 16 **and normally has a regularly organized body of students**
- 17 **in attendance at the place where its educational activities**
- 18 **are carried on;**
- 19 **(B) regularly offers education at a level above grade 12;**
- 20 **(C) regularly awards either associate, bachelor's, master's,**
- 21 **or doctoral degrees, or any combination thereof; and**
- 22 **(D) is accredited by the North Central Association of**
- 23 **Colleges and Schools, the Indiana state board of education,**
- 24 **or the American Association of Theological Schools.**
- 25 (9) A vehicle owned or leased and operated by a volunteer fire
- 26 department (as defined in IC 36-8-12-2).
- 27 (10) A vehicle owned or leased and operated by a volunteer
- 28 emergency ambulance service that:
- 29 (A) meets the requirements of IC 16-31; and
- 30 (B) has only members who serve for no compensation or a
- 31 nominal annual compensation of not more than three thousand
- 32 five hundred dollars (\$3,500).
- 33 (11) A vehicle that is exempt from the payment of registration
- 34 fees under IC 9-18-3-1.
- 35 (12) A farm wagon.
- 36 (13) A recreational vehicle or truck camper in the inventory of
- 37 recreational vehicles and truck campers held for sale by a
- 38 manufacturer, distributor, or dealer in the course of business.
- 39 SECTION 31. IC 6-6-5.5-2, AS AMENDED BY P.L.2-2007,
- 40 SECTION 127, IS AMENDED TO READ AS FOLLOWS
- 41 [EFFECTIVE JANUARY 1, 2016]: Sec. 2. (a) Except as provided in
- 42 subsection (b), this chapter applies to all commercial vehicles.



- 1 (b) This chapter does not apply to the following:
- 2 (1) Vehicles owned or leased and operated by the United States,
- 3 the state, or political subdivisions of the state.
- 4 (2) Mobile homes and motor homes.
- 5 (3) Vehicles assessed under IC 6-1.1-8.
- 6 (4) Buses subject to apportioned registration under the
- 7 International Registration Plan.
- 8 (5) Vehicles subject to taxation under IC 6-6-5.
- 9 (6) Vehicles owned or leased and operated by a postsecondary
- 10 educational institution ~~described in IC 6-3-3-5(d)~~ **that:**
- 11 **(A) normally maintains a regular faculty and curriculum**
- 12 **and normally has a regularly organized body of students**
- 13 **in attendance at the place where its educational activities**
- 14 **are carried on;**
- 15 **(B) regularly offers education at a level above grade 12;**
- 16 **(C) regularly awards either associate, bachelor's, master's,**
- 17 **or doctoral degrees, or any combination thereof; and**
- 18 **(D) is accredited by the North Central Association of**
- 19 **Colleges and Schools, the Indiana state board of education,**
- 20 **or the American Association of Theological Schools.**
- 21 (7) Vehicles owned or leased and operated by a volunteer fire
- 22 department (as defined in IC 36-8-12-2).
- 23 (8) Vehicles owned or leased and operated by a volunteer
- 24 emergency ambulance service that:
- 25 (A) meets the requirements of IC 16-31; and
- 26 (B) has only members that serve for no compensation or a
- 27 nominal annual compensation of not more than three thousand
- 28 five hundred dollars (\$3,500).
- 29 (9) Vehicles that are exempt from the payment of registration fees
- 30 under IC 9-18-3-1.
- 31 (10) Farm wagons.
- 32 (11) A vehicle in the inventory of vehicles held for sale by a
- 33 manufacturer, distributor, or dealer in the course of business.
- 34 SECTION 32. IC 6-8-11-9 IS AMENDED TO READ AS
- 35 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 9. (a) Except as
- 36 otherwise provided by statute, contract, or a collective bargaining
- 37 agreement, an employer may establish a medical care savings account
- 38 program for the employer's employees.
- 39 (b) An employer that establishes a medical care savings account
- 40 program under this chapter shall, before making any contributions to
- 41 medical care savings accounts under the program, inform all employees
- 42 in writing of the federal tax status of contributions made under this



- 1 chapter.
- 2 (c) Except as provided in sections **11.5**, 17, and 23 of this chapter,
- 3 the:
- 4 (1) principal contributed by an employer to a medical care savings
- 5 account **before January 1, 2016**;
- 6 (2) interest earned on money on deposit in a medical care savings
- 7 account; and
- 8 (3) money:
- 9 (A) paid out of a medical care savings account for eligible
- 10 medical expenses; or
- 11 (B) used to reimburse an employee for eligible medical
- 12 expenses;
- 13 are exempt from taxation as income of the employee under IC 6-3-2-18.
- 14 SECTION 33. IC 6-8-11-11.5 IS ADDED TO THE INDIANA
- 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 16 [EFFECTIVE JANUARY 1, 2016]: **Sec. 11.5. Notwithstanding**
- 17 **sections 17 and 23 of this chapter, if an employer contributes**
- 18 **money to an account under this chapter after December 31, 2015,**
- 19 **for which no exemption applies under IC 6-3-2-18(c):**
- 20 (1) **the money may be withdrawn from the account by the**
- 21 **employee at any time and for any purpose without a penalty;**
- 22 (2) **the withdrawal of the money by the employee is not**
- 23 **income to the employee that is subject to taxation under**
- 24 **IC 6-3-1 through IC 6-3-7; and**
- 25 (3) **income earned on the money while it is in the account is**
- 26 **not income to the employee that is subject to taxation under**
- 27 **IC 6-3-1 through IC 6-3-7.**
- 28 SECTION 34. IC 6-8-11-17 IS AMENDED TO READ AS
- 29 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 17. (a) An
- 30 employee may, under this section, withdraw money from the
- 31 employee's medical care savings account for a purpose other than the
- 32 purposes set forth in section 13 of this chapter.
- 33 (b) Except as provided in ~~section~~ **sections 11(b) and 11.5** of this
- 34 chapter, if an employee withdraws money from the employee's medical
- 35 care savings account on the last business day of the account
- 36 administrator's business year for a purpose not set forth in section 13
- 37 of this chapter:
- 38 (1) the money withdrawn is income to the individual that is
- 39 subject to taxation under IC 6-3-2-18(e); but
- 40 (2) the withdrawal does not:
- 41 (A) subject the employee to a penalty; or
- 42 (B) make the interest earned on the account during the tax year



- 1 taxable as income of the employee.
- 2 (c) Except as provided in ~~section~~ **sections 11(b) and 11.5** of this  
 3 chapter, if an employee withdraws money for a purpose not set forth in  
 4 section 13 of this chapter at any time other than the last business day  
 5 of the account administrator's business year, all of the following apply:
- 6 (1) The amount of the withdrawal is income to the individual that  
 7 is subject to taxation under IC 6-3-2-18(e).
- 8 (2) The administrator shall withhold and, on behalf of the  
 9 employee, pay a penalty to the department of state revenue equal  
 10 to ten percent (10%) of the amount of the withdrawal.
- 11 (3) All interest earned on the balance in the account during the tax  
 12 year in which a withdrawal under this subsection is made is  
 13 income to the individual that is subject to taxation under  
 14 IC 6-3-2-18(f).
- 15 (d) Money paid to the department of state revenue as a penalty  
 16 under this section shall be deposited in the local health maintenance  
 17 fund established by IC 16-46-10-1.
- 18 SECTION 35. IC 6-8-11-23 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 23. (a) This  
 20 section applies when the employment of an individual by an employer  
 21 that participates in a medical care savings account program is  
 22 terminated.
- 23 (b) If the former employer is not informed, within ninety (90) days  
 24 after the former employee's final day of employment, of the name and  
 25 address of an account administrator to which the former employer is  
 26 transferring the former employee's medical care savings account under  
 27 section 21 of this chapter, the former employer shall pay the money in  
 28 the former employee's medical care savings account to the former  
 29 employee under subsection (d).
- 30 (c) If:
- 31 (1) the former employee, under section 22(2) of this chapter,  
 32 requests in writing that the former employer's account  
 33 administrator remain the administrator of the individual's medical  
 34 care savings account; and
- 35 (2) the account administrator does not agree to retain the account;  
 36 the former employer shall, within ninety (90) days after the former  
 37 employee's final day of employment, pay the money in the former  
 38 employee's medical care savings account to the former employee under  
 39 subsection (d).
- 40 (d) An employer that is required under this section to pay the money  
 41 in a former employee's medical care savings account to the former  
 42 employee shall mail to the former employee, at the former employee's



1 last known address, a check for the balance in the account on the  
2 ninety-first day after the employee's final day of employment.

3 (e) Except as provided in ~~section~~ **sections 11(b) and 11.5** of this  
4 chapter, money that is paid to a former employee under subsection (d):

5 (1) is subject to taxation under IC 6-3-1 through IC 6-3-7 as  
6 income of the individual; but

7 (2) is not subject to the penalty referred to in section 17(c)(2) of  
8 this chapter.

9 SECTION 36. IC 6-8.1-3-17, AS AMENDED BY P.L.236-2005,  
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2015]: Sec. 17. (a) Before an original tax appeal is filed with  
12 the tax court under IC 33-26, the commissioner may settle any tax  
13 liability dispute if a substantial doubt exists as to:

14 (1) the constitutionality of the tax under the Constitution of the  
15 State of Indiana;

16 (2) the right to impose the tax;

17 (3) the correct amount of tax due;

18 (4) the ~~collectibility~~ **collectability** of the tax; or

19 (5) whether the taxpayer is a resident or nonresident of Indiana.

20 (b) After an original tax appeal is filed with the tax court under  
21 IC 33-26, and notwithstanding IC 4-6-2-11, the commissioner may  
22 settle a tax liability dispute with an amount in contention of twenty-five  
23 thousand dollars (\$25,000) or less. Notwithstanding IC 6-8.1-7-1(a),  
24 the terms of a settlement under this subsection are available for public  
25 inspection.

26 (c) The department shall establish an amnesty program for taxpayers  
27 having an unpaid tax liability for a listed tax that was due and payable  
28 for a tax period ending before ~~July 1, 2004~~ **January 1, 2013**. A  
29 taxpayer is not eligible for the amnesty program:

30 (1) for any tax liability resulting from the taxpayer's failure to  
31 comply with IC 6-3-1-3.5(b)(3) with regard to the tax imposed by  
32 IC 4-33-13 **or IC 4-35-8; or**

33 (2) **if the taxpayer participated in any previous amnesty**  
34 **program under:**

35 (A) **this section (as in effect on December 31, 2014); or**

36 (B) **IC 6-2.5-14.**

37 The time in which a voluntary payment of tax liability may be made (or  
38 the taxpayer may enter into a payment program acceptable to the  
39 department for the payment of the unpaid listed taxes in full in the  
40 manner and time established in a written payment program agreement  
41 between the department and the taxpayer) under the amnesty program  
42 is limited to the period determined by the department, not to exceed



1 eight (8) regular business weeks ending before the earlier of the date  
 2 set by the department or ~~July 1, 2006.~~ **January 1, 2017.** The amnesty  
 3 program must provide that, upon payment by a taxpayer to the  
 4 department of all listed taxes due from the taxpayer for a tax period (or  
 5 payment of the unpaid listed taxes in full in the manner and time  
 6 established in a written payment program agreement between the  
 7 department and the taxpayer), entry into an agreement that the taxpayer  
 8 is not eligible for any other amnesty program that may be established  
 9 and waives any part of interest and penalties on the same type of listed  
 10 tax that is being granted amnesty in the current amnesty program, and  
 11 compliance with all other amnesty conditions adopted under a rule of  
 12 the department in effect on the date the voluntary payment is made, the  
 13 department:

- 14 (1) shall abate and not seek to collect any interest, penalties,  
 15 collection fees, or costs that would otherwise be applicable;  
 16 (2) shall release any liens imposed;  
 17 (3) shall not seek civil or criminal prosecution against any  
 18 individual or entity; and  
 19 (4) shall not issue, or, if issued, shall withdraw, an assessment, a  
 20 demand notice, or a warrant for payment under **IC 6-8.1-5-1,**  
 21 **IC 6-8.1-5-3, IC 6-8.1-8-2,** or another law against any individual  
 22 or entity;

23 for listed taxes due from the taxpayer for the tax period for which  
 24 amnesty has been granted to the taxpayer. Amnesty granted under this  
 25 subsection is binding on the state and its agents. However, failure to  
 26 pay to the department all listed taxes due for a tax period invalidates  
 27 any amnesty granted under this subsection for that tax period. The  
 28 department shall conduct an assessment of the impact of the tax  
 29 amnesty program on tax collections and an analysis of the costs of  
 30 administering the tax amnesty program. As soon as practicable after the  
 31 end of the tax amnesty period, the department shall submit a copy of  
 32 the assessment and analysis to the legislative council in an electronic  
 33 format under IC 5-14-6. The department shall enforce an agreement  
 34 with a taxpayer that prohibits the taxpayer from receiving amnesty in  
 35 another amnesty program.

36 (d) For purposes of subsection (c), a liability for a listed tax is due  
 37 and payable if:

- 38 (1) the department has issued:  
 39 (A) an assessment of the listed tax ~~and under IC 6-8.1-5-1;~~  
 40 **(B) a demand for payment under IC 6-8.1-5-3;** or  
 41 ~~(B)~~ **(C) a demand notice for payment of the listed tax under**  
 42 **IC 6-8.1-8-2;**



1 (2) the taxpayer has filed a return or an amended return in which  
2 the taxpayer has reported a liability for the listed tax; or

3 (3) the taxpayer has filed a written statement of liability for the  
4 listed tax in a form that is satisfactory to the department.

5 SECTION 37. IC 6-8.1-3-24 IS ADDED TO THE INDIANA CODE  
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2015]: **Sec. 24. (a) The department of state revenue may adopt  
8 emergency rules under IC 4-22-2-37.1 to carry out a tax amnesty  
9 program under section 17 of this chapter.**

10 **(b) Notwithstanding IC 4-22-2-37.1(g), an emergency rule  
11 adopted by the department under IC 4-22-2-37.1 expires on the  
12 date specified in the emergency rule.**

13 **(c) This section expires July 1, 2017.**

14 SECTION 38. IC 6-8.1-10-12, AS AMENDED BY P.L.1-2009,  
15 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2015]: **Sec. 12. (a) This section applies to a penalty related to  
17 a tax liability to the extent that the:**

18 (1) tax liability is for a listed tax;

19 (2) tax liability was due and payable, as determined under  
20 IC 6-8.1-3-17(d), for a tax period ending before ~~July 1, 2004;~~

21 **January 1, 2013;**

22 (3) department establishes an amnesty program for the tax  
23 liability under IC 6-8.1-3-17(c);

24 (4) individual or entity from which the tax liability is due was  
25 eligible to participate in the amnesty program described in  
26 subdivision (3); and

27 (5) tax liability is not paid:

28 (A) in conformity with a payment program acceptable to the  
29 department that provides for payment of the unpaid listed  
30 taxes in full in the manner and time established in a written  
31 payment program agreement entered into between the  
32 department and the taxpayer under IC 6-8.1-3-17(c); or

33 (B) if clause (A) does not apply, before the end of the amnesty  
34 period established by the department.

35 (b) Subject to subsection (c), if a penalty is imposed or otherwise  
36 calculated under any combination of:

37 (1) IC 6-8.1-1-8;

38 (2) section 2.1 of this chapter;

39 (3) section 3 of this chapter;

40 **(4) section 3.5 of this chapter;**

41 ~~(5) section 4 of this chapter;~~

42 ~~(6) section 5 of this chapter;~~





- 1           ~~(6)~~ (7) section 6 of this chapter;  
 2           ~~(7)~~ (8) section 7 of this chapter;  
 3           ~~(8)~~ (9) section 9 of this chapter; or  
 4           ~~(9)~~ (10) IC 6-6;  
 5 an additional penalty is imposed under this section. The amount of the  
 6 additional penalty imposed under this section is equal to the sum of the  
 7 penalties imposed or otherwise calculated under the provisions listed  
 8 in subdivisions (1) through ~~(9)~~: **(10)**.  
 9           (c) The additional penalty provided by subsection (b) does not apply  
 10 if all of the following apply:  
 11           (1) The department imposes a penalty on a taxpayer or otherwise  
 12 calculates the penalty under the provisions described in  
 13 subsection (b)(1) through ~~(b)(9)~~: **(b)(10)**.  
 14           (2) The taxpayer against whom the penalty is imposed:  
 15           (A) timely files an original tax appeal in the tax court under  
 16 IC 6-8.1-5-1; and  
 17           (B) contests the department's imposition of the penalty or the  
 18 tax on which the penalty is based.  
 19           (3) The taxpayer meets all other jurisdictional requirements to  
 20 initiate the original tax appeal.  
 21           (4) Either the:  
 22           (A) tax court enjoins collection of the penalty or the tax on  
 23 which the penalty is based under IC 33-26-6-2; or  
 24           (B) department consents to an injunction against collection of  
 25 the penalty or tax without entry of an order by the tax court.  
 26           (d) The additional penalty provided by subsection (b) does not apply  
 27 if the taxpayer:  
 28           (1) has a legitimate hold on making the payment as a result of an  
 29 audit, bankruptcy, protest, taxpayer advocate action, or another  
 30 reason permitted by the department;  
 31           (2) had established a payment plan with the department before  
 32 ~~May 12, 2005; July 1, 2016~~; or  
 33           (3) verifies with reasonable particularity that is satisfactory to the  
 34 commissioner that the taxpayer did not ever receive notice of the  
 35 outstanding tax liability.  
 36           SECTION 39. IC 8-24-17-14, AS ADDED BY P.L.182-2009(ss),  
 37 SECTION 282, IS AMENDED TO READ AS FOLLOWS  
 38 [EFFECTIVE JANUARY 1, 2016]: Sec. 14. (a) Except as otherwise  
 39 provided in this chapter, all provisions of the adjusted gross income tax  
 40 law (IC 6-3) concerning:  
 41           (1) definitions;  
 42           (2) declarations of estimated tax;



- 1 (3) filing of returns;  
 2 (4) remittances;  
 3 (5) incorporation of the provisions of the Internal Revenue Code;  
 4 (6) penalties and interest;  
 5 (7) exclusion of military pay credits for withholding; and  
 6 (8) exemptions and deductions;

7 apply to the imposition, collection, and administration of the  
 8 improvement tax.

9 ~~IC 6-3-1-3.5(a)(6); IC 6-3-3-3 and IC 6-3-3-5 and IC 6-3-5-1~~ do  
 10 not apply to the improvement tax.

11 (c) Notwithstanding subsections (a) and (b), each employer shall  
 12 report to the department the amount of withholdings of the  
 13 improvement tax attributable to each county. This report shall be  
 14 submitted to the department:

- 15 (1) each time the employer remits to the department the tax that  
 16 is withheld; and  
 17 (2) annually along with the employer's annual withholding report.

18 SECTION 40. IC 24-3-2-2, AS AMENDED BY P.L.172-2011,  
 19 SECTION 130, IS AMENDED TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 2015]: Sec. 2. Unless the context in this chapter  
 21 requires otherwise, the term:

22 (a) "Cigarette" shall mean and include any roll for smoking made  
 23 wholly or in part of tobacco, irrespective of size or shape and  
 24 irrespective of tobacco being flavored, adulterated, or mixed with any  
 25 other ingredient, where such roll has a wrapper or cover made of paper  
 26 or any other material; provided the definition in this paragraph shall not  
 27 be construed to include cigars.

28 (b) "Person" or the term "company", used in this chapter  
 29 interchangeably, means and includes any individual, assignee, receiver,  
 30 commissioner, fiduciary, trustee, executor, administrator, institution,  
 31 bank, consignee, firm, partnership, limited liability company, joint  
 32 vendor, pool, syndicate, bureau, association, cooperative association,  
 33 society, club, fraternity, sorority, lodge, corporation, municipal  
 34 corporation, or other political subdivision of the state engaged in  
 35 private or proprietary activities or business, estate, trust, or any other  
 36 group or combination acting as a unit, and the plural as well as the  
 37 singular number, unless the intention to give a more limited meaning  
 38 is disclosed by the context.

39 (c) "Distributor" shall mean and include every person who sells,  
 40 barterers, exchanges, or distributes cigarettes in the state of Indiana to  
 41 retail dealers for the purpose of resale, or who purchases for resale  
 42 cigarettes from a manufacturer of cigarettes or from a wholesaler,



1 jobber, or distributor outside the state of Indiana who is not a  
 2 distributor holding a registration certificate issued under the provisions  
 3 of IC 6-7-1.

4 (d) "Retailer" shall mean every person, other than a distributor, who  
 5 purchases, sells, offers for sale, or distributes cigarettes to consumers  
 6 or to any person for any purpose other than resale, irrespective of  
 7 quantity or amount or the number of sales.

8 (e) "Sell at retail", "sale at retail", and "retail sales" shall mean and  
 9 include any transfer of title to cigarettes for a valuable consideration  
 10 made in the ordinary course of trade or usual conduct of the seller's  
 11 business to the purchaser for consummation or use.

12 (f) "Sell at wholesale", "sale at wholesale", and "wholesale sales"  
 13 shall mean and include any transfer of title to cigarettes for a valuable  
 14 consideration made in the ordinary course of trade or usual conduct of  
 15 a distributor's business.

16 (g) "Basic cost of cigarettes" shall mean the invoice cost of  
 17 cigarettes to the retailer or distributor, as the case may be, or the  
 18 replacement cost of cigarettes to the retailer or distributor, as the case  
 19 may be, within thirty (30) days prior to the date of sale, in the quantity  
 20 last purchased, whichever is the lower, less all trade discounts and  
 21 customary discounts for cash, plus the cost at full face value of any  
 22 stamps which may be required by IC 6-7-1, if not included by the  
 23 manufacturer in his selling price to the distributor.

24 (h) "Department" shall mean the alcohol and tobacco commission  
 25 or its duly authorized assistants and employees.

26 (i) "Cost to the retailer" shall mean the basic cost of cigarettes to the  
 27 retailer, plus the cost of doing business by the retailer as evidenced by  
 28 the standards and methods of accounting regularly employed by him in  
 29 his allocation of overhead costs and expenses paid or incurred and must  
 30 include without limitation labor (including salaries of executives and  
 31 officers), rent, depreciation, selling costs, maintenance of equipment,  
 32 delivery costs, all types of licenses, taxes, insurance, and advertising;  
 33 however, any retailer who, in connection with the retailer's purchase,  
 34 receives not only the discounts ordinarily allowed upon purchases by  
 35 a retailer, but also, in whole or in part, discounts ordinarily allowed on  
 36 purchases by a distributor shall, in determining costs to the retailer  
 37 pursuant to this section, add the cost to the distributor, as defined in  
 38 paragraph (j), to the basic cost of cigarettes to said retailer as well as  
 39 the cost of doing business by the retailer. In the absence of proof of a  
 40 lesser or higher cost of doing business by the retailer making the sale,  
 41 the cost of doing business by the retailer shall be presumed to be ~~ten~~  
 42 **percent (10%) twelve percent (12%)** of the basic cost of cigarettes to



1 the retailer. In the absence of proof of a lesser or higher cost of doing  
 2 business, the cost of doing business by the retailer, who in connection  
 3 with the retailer's purchase receives not only the discounts ordinarily  
 4 allowed upon purchases by a retailer, but also, in whole or in part, the  
 5 discounts ordinarily allowed upon purchases by a distributor, shall be  
 6 presumed to be ~~ten percent (10%)~~ **twelve percent (12%)** of the sum of  
 7 the basic cost of cigarettes plus the cost of doing business by the  
 8 distributor.

9 (j) "Cost to the distributor" shall mean the basic cost of cigarettes to  
 10 the distributor, plus the cost of doing business by the distributor as  
 11 evidenced by the standards and methods of accounting regularly  
 12 employed by him in his allocation of overhead costs and expenses, paid  
 13 or incurred, and must include without limitation labor costs (including  
 14 salaries of executives and officers), rent, depreciation, selling costs,  
 15 maintenance of equipment, delivery costs, all types of licenses, taxes,  
 16 insurance, and advertising. In the absence of proof of a lesser or higher  
 17 cost of doing business by the distributor making the sale, the cost of  
 18 doing business by the wholesaler shall be presumed to be four percent  
 19 (4%) of the basic cost of cigarettes to the distributor, plus cartage to the  
 20 retail outlet, if performed or paid for by the distributor, which cartage  
 21 cost, in the absence of proof of a lesser or higher cost, shall be deemed  
 22 to be one-half of one percent (0.5%) of the basic cost of cigarettes to  
 23 the distributor.

24 (k) "Registration certificate" refers to the registration certificate  
 25 issued to cigarette distributors by the department of state revenue under  
 26 IC 6-7-1-16.

27 SECTION 41. [EFFECTIVE JULY 1, 2015] (a) **IC 6-3-1-3.5,**  
 28 **IC 6-3-1-20, IC 6-3-2-2, IC 6-3-2-4, IC 6-3-2-14.1, IC 6-3-2-18,**  
 29 **IC 6-3-2-20, IC 6-3-2-25, and IC 6-5.5-1-2, all as amended by this**  
 30 **act, apply to taxable years beginning after December 31, 2015.**

31 (b) **IC 6-3-2-5, IC 6-3-2-5.3, IC 6-3-2-14.5, IC 6-3-2-17,**  
 32 **IC 6-3.5-1.1-7, IC 6-3.5-6-24, and IC 6-3.5-7-9, all as repealed by**  
 33 **this act, apply only to taxable years beginning before January 1,**  
 34 **2016.**

35 (c) **The legislative council shall provide for the preparation and**  
 36 **introduction of legislation in the 2016 session of the general**  
 37 **assembly to correct cross references and make other changes, as**  
 38 **necessary, to bring provisions that are not added or amended by**  
 39 **this act into conformity with this act.**

40 (d) **This SECTION expires July 1, 2018.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1349, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

- Page 1, delete lines 1 through 15.
- Delete pages 2 through 9.
- Page 10, delete lines 1 through 12.
- Page 13, line 4, after "(22)" insert "**(20)**".
- Page 13, line 4, reset in roman "Subtract income that is:".
- Page 13, reset in roman lines 5 through 7.
- Page 13, line 18, delete "(20)" and insert "**(21)**".
- Page 14, line 22, delete "(21)" and insert "**(22)**".
- Page 16, reset in roman lines 3 through 6.
- Page 16, line 7, reset in roman "(12)".
- Page 16, line 7, delete "(11)".
- Page 17, line 21, delete "(12)" and insert "**(13)**".
- Page 18, reset in roman lines 23 through 26.
- Page 18, line 27, reset in roman "(10)".
- Page 18, line 27, delete "(9)".
- Page 19, line 30, delete "(10)" and insert "**(11)**".
- Page 20, line 3, delete "(11)" and insert "**(12)**".
- Page 21, reset in roman lines 5 through 8.
- Page 21, line 9, reset in roman "(10)".
- Page 21, line 9, delete "(9)".
- Page 22, line 12, delete "(10)" and insert "**(11)**".
- Page 22, line 27, delete "(11)" and insert "**(12)**".
- Page 23, reset in roman lines 24 through 27.
- Page 23, line 28, reset in roman "(8)".
- Page 23, line 28, delete "(7)".
- Page 25, line 3, delete "(8)" and insert "**(9)**".
- Page 28, line 37, reset in roman "Receipts from".
- Page 28, reset in roman lines 38 through 39.
- Page 28, line 40, reset in roman "Indiana under section 2.2 of this chapter."
- Page 29, reset in roman lines 11 through 18.
- Page 29, delete lines 19 through 42.
- Page 30, delete lines 1 through 12.
- Page 33, between lines 31 and 32, begin a new paragraph and insert:  
**"(t) Sales of a broadcaster that arise from or relate to the broadcast or other distribution of film programming or radio**



programming by any means are in this state if the commercial domicile of the broadcaster's customer is in this state. Sales to which this subsection applies include income from advertising and licensing income from distributing film programming or radio programming. For purposes of this subsection, the following definitions apply:

(1) "Broadcaster" means a taxpayer that is a television or radio station licensed by the Federal Communications Commission, a television or radio broadcast network, a cable program network, or a television distribution company. The term "broadcaster" does not include a cable service provider or a direct broadcast satellite system.

(2) "Commercial domicile" has the meaning set forth in IC 6-3-1-22.

(3) "Customer" means a person, corporation, partnership, limited liability company, or other entity, such as an advertiser or licensee, that has a direct connection or contractual relationship with the broadcaster under which revenue is derived by the broadcaster. The term "customer" does not include an advertising agency placing advertising on behalf of its client. The client of such an advertising agency is the customer.

(4) "Film programming" means one (1) or more performances, events, or productions (or segments of performances, events, or productions) intended to be distributed for visual and auditory perception, including but not limited to news, entertainment, sporting events, plays, stories, or other literary, commercial, educational, or artistic works.

(5) "Radio programming" means one (1) or more performances, events, or productions (or segments of performances, events, or productions) intended to be distributed for auditory perception, including but not limited to news, entertainment, sporting events, plays, stories, or other literary, commercial, educational, or artistic works."

Page 35, delete lines 10 through 38.

Page 43, delete lines 17 through 42.

Delete page 44.

Page 45, delete lines 1 through 18.

Page 46, delete lines 14 through 42.

Delete pages 47 through 51.

Page 52, delete lines 1 through 20.



Page 53, line 30, delete "." and insert ", **except for expenditures that were approved by the Indiana economic development corporation before January 1, 2016.**".

Page 55, delete lines 13 through 30.

Page 56, line 31, delete "IC 6-3-3-5," and insert "**and IC 6-3-3-5**".

Page 56, line 32, reset in roman "do".

Page 56, line 32, delete "does".

Page 57, line 12, delete "IC 6-3-3-5," and insert "**and IC 6-3-3-5**".

Page 57, line 13, reset in roman "do".

Page 57, line 13, delete "does".

Page 59, line 3, delete "IC 6-3-3-5," and insert "**and IC 6-3-3-5**".

Page 59, line 4, reset in roman "do".

Page 59, line 4, delete "does".

Page 62, reset in roman lines 20 through 23.

Page 63, between lines 36 and 37, begin a new paragraph and insert:  
**"(e) For purposes of this section, if a taxpayer:**

**(1) claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code;**

**(2) made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year;**

**(3) made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year; or**

**(4) treated a loss from the sale or exchange of preferred stock in:**

**(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or**

**(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);**

**as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 for any taxable year beginning before January 1, 2015;**

**the taxpayer shall continue to add or subtract the amounts required under this section for the taxable years beginning after**



**December 31, 2014, as provided in this section as in effect on December 31, 2014. However, any amount otherwise allowable as a deduction but not deducted in a taxable year beginning before January 1, 2020, shall be deducted in the taxpayer's first taxable year beginning after December 31, 2019."**

Page 73, line 32, delete "IC 6-3-3-5," and insert "**and IC 6-3-3-5**".

Page 73, line 32, reset in roman "do".

Page 73, line 33, delete "does".

Page 73, delete lines 41 through 42.

Page 74, delete lines 1 through 6.

Page 74, line 9, delete "IC 6-3-2-21.7,".

Page 74, line 9, delete "IC 6-3-3-5, 6-3-3-5.1,".

Page 74, line 10, delete "IC 6-3-3-10,".

Page 74, line 12, delete "IC 6-3-2-8,".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1349 as introduced.)

BROWN T

Committee Vote: yeas 10, nays 6.

---

#### COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1349, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

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

"SECTION 1. IC 6-2.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 2. (a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for ~~his~~ **the person's** direct use in the direct production, extraction, harvesting, or processing of agricultural commodities (**including timber harvesting**), and **including material handling equipment purchased for the purpose of transporting materials into such activities from an onsite location.**

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

**EH 1349—LS 6858/DI 58**





- (1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;
- (2) the person acquiring the property is occupationally engaged in the production of food or commodities which ~~he~~ **the person** sells for human or animal consumption or uses for further food and food ingredients or commodity production; and
- (3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

SECTION 2. IC 6-2.5-5-3, AS AMENDED BY P.L.211-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 3. (a) For purposes of this section:

- (1) the retreading of tires shall be treated as the processing of tangible personal property; and
- (2) commercial printing shall be treated as the production and manufacture of tangible personal property.

(b) Except as provided in subsection (c), transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, **including material handling equipment purchased for the purpose of transporting materials into such activities from an onsite location.**

(c) The exemption provided in subsection (b) does not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity.

SECTION 3. IC 6-2.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 4. Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for ~~his~~ **the person's** direct use in the direct production of the machinery, tools, or equipment described in section 2 or 3 of this chapter, **including material handling equipment purchased for the purpose of transporting materials into such activities from an onsite location."**

Page 20, line 19, after "and" insert ":".

Page 20, line 20, reset in roman "(A)".

Page 20, line 20, after "government" delete "." and insert ";".

Page 20, line 20, reset in roman "or".

Page 20, reset in roman line 21.



Page 20, line 22, before "Gross" insert **"However, sales of tangible personal property are not in this state if the property is shipped from the location of a third party logistics services provider in this state."**

Page 24, between lines 10 and 11, begin a new paragraph and insert:

**"(t) For purposes of subsection (e), the following definitions apply:**

**(1) "Third party logistics provider" means a person, corporation, partnership, or other entity that provides logistics services to unrelated parties.**

**(2) "Logistics services" means the provision of warehousing, management, distribution, transportation, fulfillment, or other services by a third party logistics services provider on behalf of an unrelated party with respect to, but not taking title to, the property of the unrelated party.**

**(3) "Unrelated party" means a person, corporation, partnership, or other entity that is not related to the third party logistics provider within the meaning of Section 267 of the Internal Revenue Code."**

Page 24, delete lines 11 through 42.

Page 25, delete lines 1 through 5.

Page 25, delete lines 25 through 42.

Page 26, delete lines 1 through 25.

Page 36, line 36, reset in roman "as it existed before being".

Page 36, reset in roman line 37.

Page 36, line 38, reset in roman "and Job Creation Act of 2010 (P.L. 111-312),".

Page 37, line 1, delete "." and reset in roman "as it existed before".

Page 37, reset in roman line 2.

Page 37, reset in roman line 3.

Page 56, between lines 34 and 35, begin a new paragraph and insert:

**"SECTION 42. IC 24-3-2-2, AS AMENDED BY P.L.172-2011, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. Unless the context in this chapter requires otherwise, the term:**

**(a) "Cigarette" shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material; provided the definition in this paragraph shall not be construed to include cigars.**

**(b) "Person" or the term "company", used in this chapter**



interchangeably, means and includes any individual, assignee, receiver, commissioner, fiduciary, trustee, executor, administrator, institution, bank, consignee, firm, partnership, limited liability company, joint vendor, pool, syndicate, bureau, association, cooperative association, society, club, fraternity, sorority, lodge, corporation, municipal corporation, or other political subdivision of the state engaged in private or proprietary activities or business, estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(c) "Distributor" shall mean and include every person who sells, barter, exchanges, or distributes cigarettes in the state of Indiana to retail dealers for the purpose of resale, or who purchases for resale cigarettes from a manufacturer of cigarettes or from a wholesaler, jobber, or distributor outside the state of Indiana who is not a distributor holding a registration certificate issued under the provisions of IC 6-7-1.

(d) "Retailer" shall mean every person, other than a distributor, who purchases, sells, offers for sale, or distributes cigarettes to consumers or to any person for any purpose other than resale, irrespective of quantity or amount or the number of sales.

(e) "Sell at retail", "sale at retail", and "retail sales" shall mean and include any transfer of title to cigarettes for a valuable consideration made in the ordinary course of trade or usual conduct of the seller's business to the purchaser for consummation or use.

(f) "Sell at wholesale", "sale at wholesale", and "wholesale sales" shall mean and include any transfer of title to cigarettes for a valuable consideration made in the ordinary course of trade or usual conduct of a distributor's business.

(g) "Basic cost of cigarettes" shall mean the invoice cost of cigarettes to the retailer or distributor, as the case may be, or the replacement cost of cigarettes to the retailer or distributor, as the case may be, within thirty (30) days prior to the date of sale, in the quantity last purchased, whichever is the lower, less all trade discounts and customary discounts for cash, plus the cost at full face value of any stamps which may be required by IC 6-7-1, if not included by the manufacturer in his selling price to the distributor.

(h) "Department" shall mean the alcohol and tobacco commission or its duly authorized assistants and employees.

(i) "Cost to the retailer" shall mean the basic cost of cigarettes to the retailer, plus the cost of doing business by the retailer as evidenced by the standards and methods of accounting regularly employed by him in



his allocation of overhead costs and expenses paid or incurred and must include without limitation labor (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising; however, any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, discounts ordinarily allowed on purchases by a distributor shall, in determining costs to the retailer pursuant to this section, add the cost to the distributor, as defined in paragraph (j), to the basic cost of cigarettes to said retailer as well as the cost of doing business by the retailer. In the absence of proof of a lesser or higher cost of doing business by the retailer making the sale, the cost of doing business by the retailer shall be presumed to be ~~ten percent (10%)~~ **twelve percent (12%)** of the basic cost of cigarettes to the retailer. In the absence of proof of a lesser or higher cost of doing business, the cost of doing business by the retailer, who in connection with the retailer's purchase receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, the discounts ordinarily allowed upon purchases by a distributor, shall be presumed to be ~~ten percent (10%)~~ **twelve percent (12%)** of the sum of the basic cost of cigarettes plus the cost of doing business by the distributor.

(j) "Cost to the distributor" shall mean the basic cost of cigarettes to the distributor, plus the cost of doing business by the distributor as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include without limitation labor costs (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. In the absence of proof of a lesser or higher cost of doing business by the distributor making the sale, the cost of doing business by the wholesaler shall be presumed to be four percent (4%) of the basic cost of cigarettes to the distributor, plus cartage to the retail outlet, if performed or paid for by the distributor, which cartage cost, in the absence of proof of a lesser or higher cost, shall be deemed to be one-half of one percent (0.5%) of the basic cost of cigarettes to the distributor.

(k) "Registration certificate" refers to the registration certificate



issued to cigarette distributors by the department of state revenue under IC 6-7-1-16."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1349 as printed February 17, 2015.)

HERSHMAN, Chairperson

Committee Vote: Yeas 8, Nays 4.

