



April 10, 2015

ENGROSSED

SENATE BILL No. 438

DIGEST OF SB 438 (Updated April 9, 2015 8:21 am - DI 58)

Citations Affected: IC 5-28; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-3.5; IC 6-5.5; IC 6-8.1; IC 27-1; noncode.

Synopsis: State and local tax issues. Provides that the fiscal body of a municipality may adopt a resolution renewing an enterprise zone for an additional five years and that all enterprise zones expire and must be phased out by December 31, 2020. Provides that the cutting of steel bars into billets is to be treated as processing of tangible personal property for purposes of the sales tax exemption for certain manufacturing activities. Modifies the sales tax exemption for receiving recycling materials. Adds recycling carts to the sales tax exemption for some recycling equipment. Adds changes concerning the withholding of income taxes for nonresident partners and shareholders. Establishes standards governing the date by which a taxpayer must notify the department of state revenue (department) of a modification of a taxpayer's federal income tax return or tax liability for a taxable year. Provides that "base amount" and "qualified research expense" for purposes of the state research expense income tax credit have the same meaning as those terms are defined under the Internal Revenue Code
(Continued next page)

Effective: Upon passage; July 1, 2015.

Hershman, Holdman, Broden

(HOUSE SPONSOR — BROWN T)

January 13, 2015, read first time and referred to Committee on Tax & Fiscal Policy.
February 12, 2015, amended, reported favorably — Do Pass.
February 16, 2015, read second time, ordered engrossed. Engrossed.
February 17, 2015, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 3, 2015, read first time and referred to Committee on Ways and Means.
April 9, 2015, amended, reported — Do Pass.

ES 438—LS 7415/DI 120



Digest Continued

and that the federal research and development credit used for purposes of calculating the Indiana research expense income tax credit is the same as the federal research and development credit allowed under the Internal Revenue Code. Requires the department to enter into an agreement with the fiscal officer of a capital improvement board of managers to provide the fiscal officer with certain information. Provides that the interest required to be paid on an overpayment of tax begins to accrue: (1) on the date the tax was due; or (2) the date the tax was paid; whichever is later. Amends the definition of "captive insurer" for insurance regulation and taxation purposes. Requires the department to: (1) study the department's current information systems; (2) develop a plan for modernizing the department's information systems; and (3) submit a report of the study and plan to the budget committee and the legislative council. Makes changes regarding sales or use tax collection and manufacturers that have meters exempt or partially exempt from sales and use tax. Provides that the department of state revenue may disclose to a power subsidiary or a public utility information regarding sales tax exemption certificates of a customer of the power subsidiary or public utility for the purpose of enforcing and collecting the sales or use tax. Permits Rush County to impose an income tax to provide for a county jail, related buildings, and parking facilities and for their operation.

ES 438—LS 7415/DI 120



April 10, 2015

First Regular Session 119th General Assembly (2015)

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

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

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

ENGROSSED SENATE BILL No. 438

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

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

1 SECTION 1. IC 5-28-15-10, AS AMENDED BY P.L.1-2010,
2 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 10. (a) Subject to subsection (b), an enterprise
4 zone expires ten (10) years after the day on which it is designated by
5 the board.
6 (b) ~~In the period beginning December 1, 2008, and ending~~
7 ~~December 31, 2014,~~ An enterprise zone does not expire under this
8 section if the fiscal body of the municipality in which the enterprise
9 zone is located adopts a resolution renewing the enterprise zone for an
10 additional five (5) years. An enterprise zone may be renewed under this
11 subsection regardless of the number of times the enterprise zone has
12 been renewed under subsections (c) and (d). A municipal fiscal body
13 may adopt a renewal resolution and submit a copy of the resolution to
14 the board
15 (†) before August 1, 2009; in the case of an enterprise zone that

ES 438—LS 7415/DI 120



1 expired after November 30, 2008; or is scheduled to expire before
 2 September 1, 2009; or
 3 (2) at least thirty (30) days before the expiration date of the
 4 enterprise zone. in the case of an enterprise zone scheduled to
 5 expire after August 31, 2009.

6 If an enterprise zone is renewed under this subsection after having been
 7 renewed under subsection (d), the enterprise zone may not be renewed
 8 after the expiration of this final five (5) year period:

9 (c) The two (2) year period immediately before the day on which the
 10 enterprise zone expires is the phaseout period. During the phaseout
 11 period, the board may review the success of the enterprise zone based
 12 on the following criteria and may, with the consent of the budget
 13 committee, renew the enterprise zone, including all provisions of this
 14 chapter, for five (5) years:

- 15 (1) Increases in capital investment in the zone.
- 16 (2) Retention of jobs and creation of jobs in the zone.
- 17 (3) Increases in employment opportunities for residents of the
 18 zone.

19 (d) If an enterprise zone is renewed under subsection (c), the two (2)
 20 year period immediately before the day on which the enterprise zone
 21 expires is another phaseout period. During the phaseout period, the
 22 board may review the success of the enterprise zone based on the
 23 criteria set forth in subsection (c) and, with the consent of the budget
 24 committee, may again renew the enterprise zone, including all
 25 provisions of this chapter, for a final period of five (5) years. The zone
 26 may not be renewed after the expiration of this final five (5) year
 27 period.

28 **(e) Notwithstanding any other provision of this section, an**
 29 **enterprise zone may not be renewed for a period that extends past**
 30 **December 31, 2020. Notwithstanding any other provision of this**
 31 **section, all phaseout periods shall be completed by December 31,**
 32 **2020.**

33 SECTION 2. IC 6-2.5-5-3, AS AMENDED BY P.L.211-2007,
 34 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2015]: Sec. 3. (a) For purposes of this section:

36 (1) the:

37 (A) retreading of tires; and

38 (B) cutting of steel bars into billets;

39 shall be treated as the processing of tangible personal property;
 40 and

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



1 (b) Except as provided in subsection (c), transactions involving
 2 manufacturing machinery, tools, and equipment are exempt from the
 3 state gross retail tax if the person acquiring that property acquires it for
 4 direct use in the direct production, manufacture, fabrication, assembly,
 5 extraction, mining, processing, refining, or finishing of other tangible
 6 personal property.

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

11 SECTION 3. IC 6-2.5-5-45.8, AS ADDED BY P.L.137-2012,
 12 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2015]: Sec. 45.8. (a) For purposes of this section,
 14 IC 6-2.5-4-5, and section 30 of this chapter, the following definitions
 15 apply:

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

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

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

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

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

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

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

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

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

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

40 (3) "Processing of recycling materials" means:

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



- 1 (B) creating a product for sale by changing the original form,
 2 use, or composition of the property (whether manually,
 3 mechanically, chemically, or otherwise) through weighing,
 4 sorting, grading, separating, shredding, crushing, compacting,
 5 breaking, cutting, baling, shearing, torching, wire-stripping, or
 6 other means.
- 7 **(4) "Occupationally engaged in the business of recycling"**
 8 **means to engage in recycling with the intention of doing so at**
 9 **a profit.**
- 10 **(5) "Recycling cart" means a manually propelled container**
 11 **with a capacity of not more than one hundred (100) gallons of**
 12 **recycling materials.**
- 13 (b) Transactions involving machinery, tools, and equipment are exempt
 14 from the state gross retail tax if:
- 15 (1) the person acquiring that property acquires it for direct use in
 16 the direct processing of recycling materials; and
- 17 (2) the person acquiring that property is occupationally engaged
 18 in recycling.
- 19 (c) **(b)** Transactions involving recycling materials and other tangible
 20 personal property to be consumed in the processing of recycling
 21 materials or to become a part of the product produced by the processing
 22 of recycling materials are exempt from the state gross retail tax if:
- 23 (1) the person acquiring that property acquires it for **the person's**
 24 direct use in the **direct** processing of recycling materials; and
- 25 (2) the person acquiring that property is occupationally engaged
 26 in **the business of** recycling.
- 27 **(c) Notwithstanding subsection (a)(1)(C), transactions involving**
 28 **a recycling cart are exempt from the state gross retail tax if the**
 29 **person acquiring the recycling cart is occupationally engaged in**
 30 **the business of recycling.**
- 31 SECTION 4. IC 6-2.5-8-8, AS AMENDED BY P.L.145-2007,
 32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2015]: Sec. 8. (a) A person, authorized under subsection (b),
 34 who makes a purchase in a transaction which is exempt from the state
 35 gross retail and use taxes, may issue an exemption certificate to the
 36 seller instead of paying the tax. The person shall issue the certificate on
 37 forms and in the manner prescribed by the department. A seller
 38 accepting a proper exemption certificate under this section has no duty
 39 to collect or remit the state gross retail or use tax on that purchase.
- 40 (b) The following are the only persons authorized to issue
 41 exemption certificates:
- 42 (1) Retail merchants, wholesalers, and manufacturers, who are



1 registered with the department under this chapter.

2 (2) Organizations which are exempt from the state gross retail tax
3 under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26 and which
4 are registered with the department under this chapter. ~~and~~

5 **(3) Persons who are exempt from the state gross retail tax**
6 **under IC 6-2.5-4-5 and who receive an exemption certificate**
7 **from the department.**

8 ~~(3)~~ **(4)** Other persons who are exempt from the state gross retail
9 tax with respect to any part of their purchases.

10 (c) The department may also allow a person to issue a blanket
11 exemption certificate to cover exempt purchases over a stated period
12 of time. The department may impose conditions on the use of the
13 blanket exemption certificate and restrictions on the kind or category
14 of purchases that are exempt.

15 (d) A seller that accepts an incomplete exemption certificate under
16 subsection (a) is not relieved of the duty to collect gross retail or use
17 tax on the sale unless the seller obtains:

18 (1) a fully completed exemption certificate; or

19 (2) the relevant data to complete the exemption certificate;

20 within ninety (90) days after the sale.

21 (e) If a seller has accepted an incomplete exemption certificate
22 under subsection (a) and the department requests that the seller
23 substantiate the exemption, within one hundred twenty (120) days after
24 the department makes the request the seller shall:

25 (1) obtain a fully completed exemption certificate; or

26 (2) prove by other means that the transaction was not subject to
27 state gross retail or use tax.

28 **(f) A power subsidiary (as defined in IC 6-2.5-4-5) or a person**
29 **selling the services or commodities listed in IC 6-2.5-4-5(b) who**
30 **accepts an exemption certificate issued by the department to a**
31 **person who is exempt from the state gross retail tax under**
32 **IC 6-2.5-4-5 is relieved from the duty to collect state gross retail or**
33 **use tax on the sale of the services or commodities listed in**
34 **IC 6-2.5-4-5(b) until notified by the department that the exemption**
35 **certificate has expired or has been revoked. If the department**
36 **notifies a power subsidiary or a person selling the services or**
37 **commodities listed in IC 6-2.5-4-5(b) that a person's exemption**
38 **certificate has expired or has been revoked, the power subsidiary**
39 **or person selling the services or commodities listed in**
40 **IC 6-2.5-4-5(b) shall begin collecting state gross retail tax on the**
41 **sale of the services or commodities listed in IC 6-2.5-4-5(b) to the**
42 **person whose exemption certificate has expired or been revoked**



1 not later than thirty (30) days after the date of the department's
 2 notice. An exemption certificate issued by the department to a
 3 person who is exempt from the state gross retail tax under
 4 IC 6-2.5-4-5 remains valid for that person regardless of any
 5 subsequent one (1) for one (1) meter number changes with respect
 6 to that person that are required, made, or initiated by a power
 7 subsidiary or a person selling the services or commodities listed in
 8 IC 6-2.5-4-5(b). Within thirty (30) days after the final day of each
 9 calendar year quarter, a power subsidiary or a person selling the
 10 services or commodities listed in IC 6-2.5-4-5(b) shall report to the
 11 department any meter number changes made during the
 12 immediately preceding calendar year quarter and distinguish
 13 between the one (1) for one (1) meter changes and the one (1) for
 14 multiple meter changes made during the calendar year quarter.
 15 Except for a person to whom a blanket utility exemption applies,
 16 any meter number changes not involving a one (1) to one (1)
 17 relationship will no longer be exempt and will require the person
 18 to submit a new utility exemption application for the new meters.
 19 Until an application for a new meter is approved, the new meter is
 20 subject to the state gross retail tax and the power subsidiary or the
 21 person selling the services or commodities listed in IC 6-2.5-4-5(b)
 22 is required to collect the state gross retail tax from the date of the
 23 meter change.

24 SECTION 5. IC 6-3-4-6, AS AMENDED BY P.L.172-2011,
 25 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2015]: Sec. 6. (a) Any taxpayer, upon request by the
 27 department, shall furnish to the department a true and correct copy of
 28 any tax return which the taxpayer has filed with the United States
 29 Internal Revenue Service which copy shall be certified to by the
 30 taxpayer under penalties of perjury.

31 (b) Each taxpayer shall notify the department of any modification as
 32 **provided in subsection (c)** of:

- 33 (1) a federal income tax return filed by the taxpayer after January
 34 1, 1978; or
 35 (2) the taxpayer's federal income tax liability for a taxable year
 36 which begins after December 31, 1977.

37 The taxpayer shall file the notice on the form prescribed by the
 38 department within one hundred twenty (120) days after the
 39 modification is made if the modification was made before January 1,
 40 2011, and one hundred eighty (180) days after the modification is made
 41 if the modification is made after December 31, 2010.

42 (c) **For purposes of subsection (b), a modification occurs on the**



- 1 **date on which a:**
- 2 **(1) taxpayer files an amended federal income tax return;**
- 3 **(2) final determination is made concerning an assessment of**
- 4 **deficiency;**
- 5 **(3) final determination is made concerning a claim for refund;**
- 6 **(4) taxpayer waives the restrictions on assessment and**
- 7 **collection of all, or any part, of an underpayment of federal**
- 8 **income tax by signing a federal Form 870, or any other Form**
- 9 **prescribed by the Internal Revenue Service for that purpose.**
- 10 **For purposes of this subdivision:**
- 11 **(A) a final determination does not occur with respect to**
- 12 **any part of the underpayment that is not covered by the**
- 13 **waiver; and**
- 14 **(B) if the signature of an authorized representative of the**
- 15 **Internal Revenue Service is required to execute a waiver,**
- 16 **the date of the final determination is the date of signing by**
- 17 **the authorized representative of the Internal Revenue**
- 18 **Service;**
- 19 **(5) taxpayer enters into a closing agreement with the Internal**
- 20 **Revenue Service concerning the taxpayer's tax liability under**
- 21 **Section 7121 of the Internal Revenue Code that is a final**
- 22 **determination. The date the taxpayer enters into a closing**
- 23 **agreement under this subdivision is the date the closing**
- 24 **agreement is signed by an authorized representative of the**
- 25 **Internal Revenue Service; or**
- 26 **(6) modification or alteration in an amount of tax is otherwise**
- 27 **made that is a final determination;**
- 28 **for a taxable year, regardless of whether a modification results in**
- 29 **an underpayment or overpayment of tax.**
- 30 **(d) For purposes of subsection (c)(2) through (c)(6), a final**
- 31 **determination means an action or decision by a taxpayer, the**
- 32 **Internal Revenue Service (including the Appeals Division), the**
- 33 **United States Tax Court, or any other United States federal court**
- 34 **concerning any disputed tax issue that:**
- 35 **(1) is final and conclusive; and**
- 36 **(2) cannot be reopened or appealed by a taxpayer or the**
- 37 **Internal Revenue Service as a matter of law.**
- 38 **(e) If the federal modification results in a change in the**
- 39 **taxpayer's federal or Indiana adjusted gross income, the taxpayer shall**
- 40 **file an Indiana amended return within one hundred twenty (120) days**
- 41 **after the modification is made if the modification was made before**
- 42 **January 1, 2011, and one hundred eighty (180) days after the**



1 modification is made if the modification is made after December 31,
2 2010.

3 SECTION 6. IC 6-3-4-12, AS AMENDED BY P.L.293-2013(ts),
4 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2015]: Sec. 12. (a) Every partnership shall, at the time that the
6 partnership pays or credits amounts to any of its nonresident partners
7 on account of their distributive shares of partnership income, for a
8 taxable year of the partnership, deduct and retain therefrom the amount
9 prescribed in the withholding instructions referred to in section 8 of
10 this chapter. Such partnership so paying or crediting any nonresident
11 partner:

12 (1) shall be liable to the state of Indiana for the payment of the tax
13 required to be deducted and retained under this section and shall
14 not be liable to such partner for the amount deducted from such
15 payment or credit and paid over in compliance or intended
16 compliance with this section; and

17 (2) shall make return of and payment to the department monthly
18 whenever the amount of tax due under IC 6-3 and IC 6-3.5
19 exceeds an aggregate amount of fifty dollars (\$50) per month with
20 such payment due on the thirtieth day of the following month,
21 unless an earlier date is specified by section 8.1 of this chapter.

22 Where the aggregate amount due under IC 6-3 and IC 6-3.5 does not
23 exceed fifty dollars (\$50) per month, then such partnership shall make
24 return and payment to the department quarterly, on such dates and in
25 such manner as the department shall prescribe, of the amount of tax
26 which, under IC 6-3 and IC 6-3.5, it is required to withhold.

27 (b) Every partnership shall, at the time of each payment made by it
28 to the department pursuant to this section, deliver to the department a
29 return upon such form as shall be prescribed by the department
30 showing the total amounts paid or credited to its nonresident partners,
31 the amount deducted therefrom in accordance with the provisions of
32 this section, and such other information as the department may require.
33 Every partnership making the deduction and retention provided in this
34 section shall furnish to its nonresident partners annually, but not later
35 than the fifteenth day of the third month after the end of its taxable
36 year, a record of the amount of tax deducted and retained from such
37 partners on forms to be prescribed by the department.

38 (c) All money deducted and retained by the partnership, as provided
39 in this section, shall immediately upon such deduction be the money of
40 the state of Indiana and every partnership which deducts and retains
41 any amount of money under the provisions of IC 6-3 shall hold the
42 same in trust for the state of Indiana and for payment thereof to the



1 department in the manner and at the times provided in IC 6-3. Any
 2 partnership may be required to post a surety bond in such sum as the
 3 department shall determine to be appropriate to protect the state of
 4 Indiana with respect to money deducted and retained pursuant to this
 5 section.

6 (d) The provisions of IC 6-8.1 relating to additions to tax in case of
 7 delinquency and penalties shall apply to partnerships subject to the
 8 provisions of this section, and for these purposes any amount deducted,
 9 or required to be deducted and remitted to the department under this
 10 section, shall be considered to be the tax of the partnership, and with
 11 respect to such amount it shall be considered the taxpayer.

12 (e) Amounts deducted from payments or credits to a nonresident
 13 partner during any taxable year of the partnership in accordance with
 14 the provisions of this section shall be considered to be in part payment
 15 of the tax imposed on such nonresident partner for the nonresident
 16 partner's taxable year within or with which the partnership's taxable
 17 year ends. A return made by the partnership under subsection (b) shall
 18 be accepted by the department as evidence in favor of the nonresident
 19 partner of the amount so deducted for the nonresident partner's
 20 distributive share.

21 (f) This section shall in no way relieve any nonresident partner from
 22 the nonresident partner's obligations of filing a return or returns at the
 23 time required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid
 24 at the time prescribed by section 5 of this chapter.

25 (g) Instead of the reporting periods required under subsection (a),
 26 the department may permit a partnership to file one (1) return and
 27 payment each year if the partnership pays or credits amounts to its
 28 nonresident partners only one (1) time each year. The return and
 29 payment are due on or before the fifteenth day of the fourth month after
 30 the end of the year. **However, if a partnership is permitted an**
 31 **extension to file its income tax return under IC 6-8.1-6-1, the**
 32 **return and payment due under this subsection shall be allowed the**
 33 **same treatment as an extended income tax return with respect to**
 34 **due dates, interest, and penalties under IC 6-8.1-6-1.**

35 (h) A partnership shall file a composite adjusted gross income tax
 36 return on behalf of all nonresident ~~individual~~ partners. The composite
 37 return must include each nonresident ~~individual~~ partner regardless of
 38 whether or not the nonresident ~~individual~~ partner has other Indiana
 39 source income.

40 (i) If a partnership does not include all nonresident partners in the
 41 composite return, the partnership is subject to the penalty imposed
 42 under IC 6-8.1-10-2.1(j).



1 (j) For taxable years beginning after December 31, 2013, the
 2 department may not impose a late payment penalty on a partnership for
 3 the failure to file a return, pay the full amount of the tax shown on the
 4 partnership's return, or pay the deficiency of the withholding taxes due
 5 under this section if the partnership pays the department **before the**
 6 **fifteenth day of the fourth month after the end of the partnership's**
 7 **taxable year** at least:

8 (1) eighty percent (80%) of the withholding tax due for the
 9 current year; or

10 (2) one hundred percent (100%) of the withholding tax due for the
 11 preceding year. ~~before the fifteenth day of the fourth month after~~
 12 ~~the end of the partnership's taxable year.~~

13 **(k) Notwithstanding subsection (a) or (h), a pass through entity**
 14 **is not required to withhold tax or file a composite adjusted gross**
 15 **income tax return for a nonresident member if the entity:**

16 (1) is a publicly traded partnership as defined by Section
 17 7704(b) of the Internal Revenue Code;

18 (2) meets the exception for partnerships under Section 7704(c)
 19 of the Internal Revenue Code; and

20 (3) has agreed to file an annual information return reporting
 21 the name, address, taxpayer identification number, and other
 22 information requested by the department of each unit holder.

23 The department may issue written guidance explaining
 24 circumstances under which limited partnerships or limited liability
 25 companies owned by a publicly traded partnership may be
 26 excluded from the withholding requirements of this section.

27 (l) Notwithstanding subsection (k), a partnership is subject to a
 28 late payment penalty for the failure to file a return, pay the full
 29 amount of the tax shown on the partnership's return, or pay the
 30 deficiency of the withholding taxes due under this section for any
 31 amounts of withholding tax, including any interest under
 32 IC 6-8.1-10-1, reported or paid after the due date of the return, as
 33 adjusted by any extension under IC 6-8.1-6-1.

34 (m) For purposes of this section, a "nonresident partner" is:

35 (1) an individual who does not reside in Indiana;

36 (2) a trust that does not reside in Indiana;

37 (3) an estate that does not reside in Indiana;

38 (4) a partnership not domiciled in Indiana;

39 (5) a C corporation not domiciled in Indiana; or

40 (6) an S corporation not domiciled in Indiana.

41 SECTION 7. IC 6-3-4-13, AS AMENDED BY P.L.293-2013(ts),
 42 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2015]: Sec. 13. (a) Every corporation which is exempt from
2 tax under IC 6-3 pursuant to IC 6-3-2-2.8(2) shall, at the time that it
3 pays or credits amounts to any of its nonresident shareholders as
4 dividends or as their share of the corporation's undistributed taxable
5 income, withhold the amount prescribed by the department. Such
6 corporation so paying or crediting any nonresident shareholder:

7 (1) shall be liable to the state of Indiana for the payment of the tax
8 required to be withheld under this section and shall not be liable
9 to such shareholder for the amount withheld and paid over in
10 compliance or intended compliance with this section; and

11 (2) when the aggregate amount due under IC 6-3 and IC 6-3.5
12 exceeds one hundred fifty dollars (\$150) per quarter, then such
13 corporation shall make return and payment to the department
14 quarterly, on such dates and in such manner as the department
15 shall prescribe, of the amount of tax which, under IC 6-3 and
16 IC 6-3.5, it is required to withhold.

17 (b) Every corporation shall, at the time of each payment made by it
18 to the department pursuant to this section, deliver to the department a
19 return upon such form as shall be prescribed by the department
20 showing the total amounts paid or credited to its nonresident
21 shareholders, the amount withheld in accordance with the provisions
22 of this section, and such other information as the department may
23 require. Every corporation withholding as provided in this section shall
24 furnish to its nonresident shareholders annually, but not later than the
25 fifteenth day of the third month after the end of its taxable year, a
26 record of the amount of tax withheld on behalf of such shareholders on
27 forms to be prescribed by the department.

28 (c) All money withheld by a corporation, pursuant to this section,
29 shall immediately upon being withheld be the money of the state of
30 Indiana and every corporation which withholds any amount of money
31 under the provisions of this section shall hold the same in trust for the
32 state of Indiana and for payment thereof to the department in the
33 manner and at the times provided in IC 6-3. Any corporation may be
34 required to post a surety bond in such sum as the department shall
35 determine to be appropriate to protect the state of Indiana with respect
36 to money withheld pursuant to this section.

37 (d) The provisions of IC 6-8.1 relating to additions to tax in case of
38 delinquency and penalties shall apply to corporations subject to the
39 provisions of this section, and for these purposes any amount withheld,
40 or required to be withheld and remitted to the department under this
41 section, shall be considered to be the tax of the corporation, and with
42 respect to such amount it shall be considered the taxpayer.



1 (e) Amounts withheld from payments or credits to a nonresident
 2 shareholder during any taxable year of the corporation in accordance
 3 with the provisions of this section shall be considered to be a part
 4 payment of the tax imposed on such nonresident shareholder for the
 5 shareholder's taxable year within or with which the corporation's
 6 taxable year ends. A return made by the corporation under subsection
 7 (b) shall be accepted by the department as evidence in favor of the
 8 nonresident shareholder of the amount so withheld from the
 9 shareholder's distributive share.

10 (f) This section shall in no way relieve any nonresident shareholder
 11 from the shareholder's obligation of filing a return or returns at the time
 12 required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid at
 13 the time prescribed by section 5 of this chapter.

14 (g) Instead of the reporting periods required under subsection (a),
 15 the department may permit a corporation to file one (1) return and
 16 payment each year if the corporation pays or credits amounts to its
 17 nonresident shareholders only one (1) time each year. The withholding
 18 return and payment are due on or before the fifteenth day of the fourth
 19 month after the end of the taxable year of the corporation. **However,**
 20 **if a corporation is permitted an extension to file its income tax**
 21 **return under IC 6-8.1-6-1, the return and payment due under this**
 22 **subsection shall be allowed the same treatment as the extended**
 23 **income tax return with respect to the due dates, interest, and**
 24 **penalties under IC 6-8.1-6-1.**

25 (h) If a distribution will be made with property other than money or
 26 a gain is realized without the payment of money, the corporation shall
 27 not release the property or credit the gain until it has funds sufficient
 28 to enable it to pay the tax required to be withheld under this section. If
 29 necessary, the corporation shall obtain such funds from the
 30 shareholders.

31 (i) If a corporation fails to withhold and pay any amount of tax
 32 required to be withheld under this section and thereafter the tax is paid
 33 by the shareholders, such amount of tax as paid by the shareholders
 34 shall not be collected from the corporation but it shall not be relieved
 35 from liability for interest or penalty otherwise due in respect to such
 36 failure to withhold under IC 6-8.1-10.

37 (j) A corporation described in subsection (a) shall file a composite
 38 adjusted gross income tax return on behalf of all nonresident
 39 shareholders. The composite return must include each nonresident
 40 ~~individual~~ shareholder regardless of whether or not the nonresident
 41 ~~individual~~ shareholder has other Indiana source income.

42 (k) If a corporation described in subsection (a) does not include all



1 nonresident shareholders in the composite return, the corporation is
 2 subject to the penalty imposed under IC 6-8.1-10-2.1(j).

3 (l) For taxable years beginning after December 31, 2013, the
 4 department may not impose a late payment penalty on a corporation for
 5 the failure to file a return, pay the full amount of the tax shown on the
 6 corporation's return, or pay the deficiency of the withholding taxes due
 7 under this section if the corporation pays the department **before the**
 8 **fifteenth day of the fourth month after the end of the partnership's**
 9 **taxable year** at least:

10 (1) eighty percent (80%) of the withholding tax due for the
 11 current year; or

12 (2) one hundred percent (100%) of the withholding tax due for the
 13 preceding year. ~~before the fifteenth day of the fourth month after~~
 14 ~~the end of the corporation's taxable year.~~

15 **(m) Notwithstanding subsection (l), a corporation is subject to**
 16 **a late payment penalty for the failure to file a return, pay the full**
 17 **amount of the tax shown on the corporation's return, or pay the**
 18 **deficiency of the withholding taxes due under this section for any**
 19 **amounts of withholding tax, including any interest under**
 20 **IC 6-8.1-10-1, reported or paid after the due date of the return, as**
 21 **adjusted by any extension under IC 6-8.1-6-1.**

22 (n) For purposes of this section, a "nonresident shareholder" is:

23 (1) an individual who does not reside in Indiana;

24 (2) a trust that does not reside in Indiana; or

25 (3) an estate that does not reside in Indiana.

26 SECTION 8. IC 6-3-4-15 IS AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) A trust or estate shall, at the
 28 time that it distributes income (except income attributable to interest
 29 or dividends) to a nonresident beneficiary, deduct and retain therefrom
 30 the amount prescribed in the withholding instructions referred to in
 31 section 8 of this chapter. The trust or estate so distributing income to
 32 a nonresident beneficiary:

33 (1) is liable to this state for the tax which it is required to deduct
 34 and retain under this section and is not liable to the beneficiary for
 35 the amount deducted from the distribution and paid to the
 36 department in compliance, or intended compliance, with this
 37 section; and

38 (2) shall pay the amount deducted to the department before the
 39 thirtieth day of the month following the distribution, unless an
 40 earlier date is specified by section 8.1 of this chapter.

41 (b) A trust or estate shall, at the time that it makes a payment to the
 42 department under this section, deliver to the department a return which



1 shows the total amounts distributed to the trust's or estate's nonresident
2 beneficiaries, the amount deducted from the distributions under this
3 section, and any other information required by the department. The
4 trust or estate shall file the return on the form prescribed by the
5 department. A trust or estate which makes the deduction and retention
6 required by this section shall furnish to its nonresident beneficiaries
7 annually, but not later than thirty (30) days after the end of the trust's
8 or estate's taxable year, a record of the amount of tax deducted and
9 retained from the beneficiaries. The trust or estate shall furnish the
10 information on the form prescribed by the department.

11 (c) The money deducted and retained by a trust or estate under this
12 section is money of this state. Every trust or estate which deducts and
13 retains any money under this section shall hold the money in trust for
14 this state until it pays the money to the department in the manner and
15 at the time provided in this section. The department may require a trust
16 or estate to post a surety bond to protect this state with respect to
17 money deducted and retained by the trust or estate under this section.
18 The department shall determine the amount of the surety bond.

19 (d) The provisions of IC 6-8.1 relating to penalties or to additions to
20 tax in case of a delinquency apply to trusts and estates which are
21 subject to this section. For purposes of this subsection, any amount
22 deducted, or required to be deducted and remitted to the department,
23 under this section is considered the tax of the trust or estate, and with
24 respect to that amount, it is considered the taxpayer.

25 (e) Amounts deducted from distributions to nonresident
26 beneficiaries under this section during a taxable year of the trust or
27 estate are considered a partial payment of the tax imposed on the
28 nonresident beneficiary for his taxable year within or with which the
29 trust's or estate's taxable year ends. The department shall accept a
30 return made by the trust or estate under subsection (b) as evidence of
31 the amount of tax deducted from the income distributed to a
32 nonresident beneficiary.

33 (f) This section does not relieve a nonresident beneficiary of his
34 duty to file a return at the time required under IC 6-3. The nonresident
35 beneficiary shall pay any unpaid tax at the time prescribed by section
36 5 of this chapter.

37 **(g) A trust or estate shall file a composite adjusted gross income**
38 **tax return on behalf of all nonresident beneficiaries. The composite**
39 **return must include each nonresident beneficiary regardless of**
40 **whether the nonresident beneficiary has other Indiana source**
41 **income.**

42 (h) For purposes of this section, a "nonresident beneficiary" is:



- 1 (1) an individual who does not reside in Indiana;
 2 (2) a trust that does not reside in Indiana;
 3 (3) an estate that does not reside in Indiana;
 4 (4) a partnership that is not domiciled in Indiana;
 5 (5) a C corporation that is not domiciled in Indiana; or
 6 (6) an S corporation that is not domiciled in Indiana.

7 (i) If a trust or estate is permitted an extension to file its income
 8 tax return under IC 6-8.1-6-1, then the return and payment due
 9 under this subsection shall be allowed the same treatment as the
 10 extended income tax return with respect to due dates, interest, and
 11 penalties under IC 6-8.1-6-1.

12 SECTION 9. IC 6-3.1-4-1, AS AMENDED BY P.L.193-2005,
 13 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2015]: Sec. 1. As used in this chapter:

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

- 19 (1) fixed base percentage; and
 20 (2) average annual gross receipts.

21 "Indiana qualified research expense" means qualified research
 22 expense that is incurred for research conducted in Indiana.

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

26 "Pass through entity" means:

- 27 (1) a corporation that is exempt from the adjusted gross income
 28 tax under IC 6-3-2-2.8(2);
 29 (2) a partnership;
 30 (3) a limited liability company; or
 31 (4) a limited liability partnership.

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

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

37 SECTION 10. IC 6-3.1-4-4 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The provisions of
 39 Section 41 of the Internal Revenue Code ~~as in effect on January 1,~~
 40 ~~2001~~; and the regulations promulgated in respect to those provisions
 41 ~~and in effect on January 1, 2001~~, are applicable to the interpretation
 42 and administration by the department of the credit provided by this



1 chapter, including the allocation and pass through of the credit to
 2 various taxpayers and the transitional rules for determination of the
 3 base period.

4 SECTION 11. IC 6-3.5-1.1-3.7 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE UPON PASSAGE]: **Sec. 3.7. (a) This section applies to
 7 Rush County.**

8 **(b) The county council may, by ordinance, determine that
 9 additional county adjusted gross income tax revenue is needed in
 10 the county to do the following:**

11 **(1) Finance, construct, acquire, improve, renovate, equip,
 12 operate, or maintain the county jail and related buildings and
 13 parking facilities, including costs related to the demolition of
 14 existing buildings, the acquisition of land, and any other
 15 reasonably related costs.**

16 **(2) Repay bonds issued or leases entered into for the purposes
 17 described in subdivision (1).**

18 **(3) Operate and maintain the facilities described in
 19 subdivision (1).**

20 **(c) If the county council makes the determination set forth in
 21 subsection (b), the county council may adopt an ordinance to
 22 impose the county adjusted gross income tax at a rate of:**

23 **(1) fifteen-hundredths percent (0.15%);**

24 **(2) two-tenths percent (0.2%);**

25 **(3) twenty-five hundredths percent (0.25%);**

26 **(4) three-tenths percent (0.3%);**

27 **(5) thirty-five hundredths percent (0.35%);**

28 **(6) four-tenths percent (0.4%);**

29 **(7) forty-five hundredths percent (0.45%);**

30 **(8) five-tenths percent (0.5%);**

31 **(9) fifty-five hundredths percent (0.55%); or**

32 **(10) six-tenths percent (0.6%);**

33 **on the adjusted gross income of county taxpayers that is in addition
 34 to the rates permitted by section 2 of this chapter. The tax rate may
 35 not be greater than the rate necessary to pay for the purposes
 36 described in subsection (b).**

37 **(d) The tax rate used to pay for the purposes described in
 38 subsection (b)(1) and (b)(2) may be imposed only until the latest of
 39 the following dates:**

40 **(1) The date on which the financing, construction, acquisition,
 41 improvement, and equipping of the facilities as described in
 42 subsection (b) are completed.**



- 1 (2) The date on which the last of any bonds issued (including
2 refunding bonds) or leases entered into to finance the
3 construction, acquisition, improvement, renovation, and
4 equipping of the facilities described in subsection (b) are fully
5 paid.
- 6 (3) The date on which an ordinance adopted under subsection
7 (c) is rescinded.
- 8 (e) If the county council imposes a tax under this section to pay
9 for the purposes described in subsection (b)(1) and (b)(2), when:
10 (1) the financing, construction, acquisition, improvement, and
11 equipping of the facilities as described in subsection (b) are
12 completed; and
13 (2) all bonds issued (including refunding bonds) or leases
14 entered into to finance the construction, acquisition,
15 improvement, renovation, and equipping of the facilities
16 described in subsection (b) are fully paid;
17 the county council shall by ordinance establish a tax rate at a rate
18 permitted under subsection (c) so that the revenue from the tax
19 does not exceed the costs of operating and maintaining the facilities
20 described in subsection (b). The tax rate under this subsection may
21 be imposed until the date on which an ordinance adopted under
22 this subsection is rescinded.
- 23 (f) The term of a bond issued (including any refunding bond) or
24 a lease entered into under subsection (b) may not exceed
25 twenty-five (25) years.
- 26 (g) The county treasurer shall establish a county jail revenue
27 fund to be used only for the purposes described in this section.
28 County adjusted gross income tax revenues derived from the tax
29 rate imposed under this section shall be deposited in the county jail
30 revenue fund before making a certified distribution under section
31 11 of this chapter.
- 32 (h) County adjusted gross income tax revenues derived from the
33 tax rate imposed under this section:
34 (1) may be used only for the purposes described in this
35 section;
36 (2) may not be considered by the department of local
37 government finance in determining the county's maximum
38 permissible property tax levy limit under IC 6-1.1-18.5; and
39 (3) may be pledged to the repayment of bonds issued or leases
40 entered into for the purposes described in subsection (b).
- 41 (i) Rush County possesses unique governmental and economic
42 development challenges due to the following:



- 1 **(1) Deficiencies in the current county jail, including the**
- 2 **following:**
- 3 **(A) Aging facilities that have not been significantly**
- 4 **improved or renovated since the original construction.**
- 5 **(B) Lack of recreation and medical facilities.**
- 6 **(C) Inadequate line of sight supervision of inmates due to**
- 7 **the configuration of the aging jail.**
- 8 **(D) Lack of adequate housing for an increasing female**
- 9 **inmate population and for inmates with special needs.**
- 10 **(E) Lack of adequate administrative space.**
- 11 **(F) Increasing maintenance demands and costs resulting**
- 12 **from having aging facilities.**
- 13 **(2) A limited industrial and commercial assessed valuation in**
- 14 **the county.**

15 **The use of county adjusted gross income tax revenues as provided**
 16 **in this chapter is necessary for the county to provide adequate jail**
 17 **capacity in the county and to maintain low property tax rates**
 18 **essential to economic development. The use of county adjusted**
 19 **gross income tax revenues as provided in this chapter to pay any**
 20 **bonds issued or leases entered into to finance the construction,**
 21 **acquisition, improvement, renovation, and equipping of the**
 22 **facilities described in subsection (b), rather than the use of**
 23 **property taxes, promotes those purposes.**

24 **(j) Notwithstanding any other law, funds accumulated from the**
 25 **county adjusted gross income tax imposed under this section after**
 26 **the termination of the tax under this section shall be transferred to**
 27 **the county rainy day fund under IC 36-1-8-5.1.**

28 SECTION 12. IC 6-5.5-6-6 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Each taxpayer
 30 shall notify the department in writing of any alteration or modification
 31 of a federal income tax return filed with the United States Internal
 32 Revenue Service for a taxable year that begins after December 31,
 33 1988, including any modification or alteration in the amount of tax,
 34 regardless of whether the modification or assessment results from an
 35 assessment.

36 (b) The taxpayer shall file the notice in the form required by the
 37 department within one hundred twenty (120) days after the alteration
 38 or modification is made by the taxpayer or finally determined,
 39 whichever occurs first.

40 (c) For purposes of this section, a modification or alteration
 41 occurs on the date on which a:

- 42 **(1) taxpayer files an amended federal income tax return;**



1 **(2) final determination is made concerning an assessment of**
 2 **deficiency;**

3 **(3) final determination is made concerning a claim for refund;**

4 **(4) taxpayer waives the restrictions on assessment and**
 5 **collection of all, or any part, of an underpayment of federal**
 6 **income tax by signing a federal Form 870, or any other Form**
 7 **prescribed by the Internal Revenue Service for that purpose.**

8 **For purposes of this subdivision:**

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

12 **(B) if the signature of an authorized representative of the**
 13 **Internal Revenue Service is required to execute a waiver,**
 14 **the date of the final determination is the date of signing by**
 15 **the authorized representative of the Internal Revenue**
 16 **Service;**

17 **(5) taxpayer enters into a closing agreement with the Internal**
 18 **Revenue Service concerning the taxpayer's tax liability under**
 19 **Section 7121 of the Internal Revenue Code that is a final**
 20 **determination. The date the taxpayer enters into a closing**
 21 **agreement under this subdivision is the date the closing**
 22 **agreement is signed by an authorized representative of the**
 23 **Internal Revenue Service; or**

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

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

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

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

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

36 **(e) Notwithstanding subsections (a) through (d), if a taxpayer**
 37 **files an amended federal income tax return for a taxable year, the**
 38 **taxpayer shall also file an amended Indiana financial institutions**
 39 **tax return (as required by the department) and a copy of the**
 40 **taxpayer's amended federal income tax return with the department**
 41 **not later than the date that is one hundred eighty (180) days after**
 42 **the date of the taxpayer's amended federal income tax return.**



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

3 SECTION 13. IC 6-8.1-3-7.1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. (a) "Fiscal officer"
5 has the meaning set forth in IC 36-1-2-7.

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

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

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

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

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

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

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

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

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

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

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

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

41 SECTION 14. IC 6-8.1-5-2, AS AMENDED BY P.L.182-2009(ss),
42 SECTION 251, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Except as otherwise provided
2 in this section, the department may not issue a proposed assessment
3 under section 1 of this chapter more than three (3) years after the latest
4 of the date the return is filed, or either of the following:

5 (1) The due date of the return.

6 (2) In the case of a return filed for the state gross retail or use tax,
7 the gasoline tax, the special fuel tax, the motor carrier fuel tax, the
8 oil inspection fee, or the petroleum severance tax, the end of the
9 calendar year which contains the taxable period for which the
10 return is filed.

11 (b) If a person files a utility receipts tax return (IC 6-2.3), an
12 adjusted gross income tax (IC 6-3), supplemental net income tax
13 (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1),
14 county option income tax (IC 6-3.5-6), or financial institutions tax
15 (IC 6-5.5) return that understates the person's income, as that term is
16 defined in the particular income tax law, by at least twenty-five percent
17 (25%), the proposed assessment limitation is six (6) years instead of the
18 three (3) years provided in subsection (a).

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

25 (d) In the case of the commercial vehicle excise tax imposed under
26 IC 6-6-5.5, the tax shall be assessed as provided in IC 6-6-5.5 and shall
27 include the penalties and interest due on all listed taxes not paid by the
28 due date. A person that fails to properly register a commercial vehicle
29 as required by IC 9-18 and pay the tax due under IC 6-6-5.5 is
30 considered to have failed to file a return for purposes of this article.

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

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



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

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

8 (h) If, before the end of the time within which the department may
 9 make an assessment, the department and the person agree to extend
 10 that assessment time period, the period may be extended according to
 11 the terms of a written agreement signed by both the department and the
 12 person. The agreement must contain:

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

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

18 (i) If a taxpayer's **federal taxable income, federal adjusted gross**
 19 **income, or** federal income tax liability for a taxable year is modified
 20 due to ~~the assessment of a federal deficiency or the filing of an~~
 21 ~~amended federal income tax return, a modification as provided under~~
 22 **IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted gross income tax),**
 23 **or a modification or alteration as provided under IC 6-5.5-6-6(c)**
 24 **and IC 6-5.5-6-6(d) (for the financial institutions tax),** then the date
 25 by which the department must issue a proposed assessment under
 26 section 1 of this chapter for tax imposed under IC 6-3 is extended to six
 27 (6) months after the date on which the notice of modification is filed
 28 with the department by the taxpayer.

29 SECTION 15. IC 6-8.1-7-1, AS AMENDED BY P.L.2-2014,
 30 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2015]: Sec. 1. (a) This subsection does not apply to the
 32 disclosure of information concerning a conviction on a tax evasion
 33 charge. Unless in accordance with a judicial order or as otherwise
 34 provided in this chapter, the department, its employees, former
 35 employees, counsel, agents, or any other person may not divulge the
 36 amount of tax paid by any taxpayer, terms of a settlement agreement
 37 executed between a taxpayer and the department, investigation records,
 38 investigation reports, or any other information disclosed by the reports
 39 filed under the provisions of the law relating to any of the listed taxes,
 40 including required information derived from a federal return, except to:

- 41 (1) members and employees of the department;
 42 (2) the governor;



1 (3) a member of the general assembly or an employee of the
 2 house of representatives or the senate when acting on behalf of a
 3 taxpayer located in the member's legislative district who has
 4 provided sufficient information to the member or employee for
 5 the department to determine that the member or employee is
 6 acting on behalf of the taxpayer;

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

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

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

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

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

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

21 (c) The information described in subsection (a) relating to a person
 22 on public welfare or a person who has made application for public
 23 welfare may be revealed to the director of the division of family
 24 resources, and to any director of a county office of the division of
 25 family resources located in Indiana, upon receipt of a written request
 26 from either director for the information. The information shall be
 27 treated as confidential by the directors. In addition, the information
 28 described in subsection (a) relating to a person who has been
 29 designated as an absent parent by the state Title IV-D agency shall be
 30 made available to the state Title IV-D agency upon request. The
 31 information shall be subject to the information safeguarding provisions
 32 of the state and federal Title IV-D programs.

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



- 1 the information to the institution.
- 2 (e) The information described in subsection (a) relating to reports
3 submitted under IC 6-6-1.1-502 concerning the number of gallons of
4 gasoline sold by a distributor and IC 6-6-2.5 concerning the number of
5 gallons of special fuel sold by a supplier and the number of gallons of
6 special fuel exported by a licensed exporter or imported by a licensed
7 transporter may be released by the commissioner upon receipt of a
8 written request for the information.
- 9 (f) The information described in subsection (a) may be revealed
10 upon the receipt of a written request from the administrative head of a
11 state agency of Indiana when:
- 12 (1) the state agency shows an official need for the information;
13 and
14 (2) the administrative head of the state agency agrees that any
15 information released will be kept confidential and will be used
16 solely for official purposes.
- 17 (g) The information described in subsection (a) may be revealed
18 upon the receipt of a written request from the chief law enforcement
19 officer of a state or local law enforcement agency in Indiana when it is
20 agreed that the information is to be confidential and to be used solely
21 for official purposes.
- 22 (h) The name and address of retail merchants, including township,
23 as specified in IC 6-2.5-8-1(k) may be released solely for tax collection
24 purposes to township assessors and county assessors.
- 25 (i) The department shall notify the appropriate ~~innkeepers'~~
26 **innkeeper's** tax board, bureau, or commission that a taxpayer is
27 delinquent in remitting innkeepers' taxes under IC 6-9.
- 28 (j) All information relating to the delinquency or evasion of the
29 motor vehicle excise tax may be disclosed to the bureau of motor
30 vehicles in Indiana and may be disclosed to another state, if the
31 information is disclosed for the purpose of the enforcement and
32 collection of the taxes imposed by IC 6-6-5.
- 33 (k) All information relating to the delinquency or evasion of
34 commercial vehicle excise taxes payable to the bureau of motor
35 vehicles in Indiana may be disclosed to the bureau and may be
36 disclosed to another state, if the information is disclosed for the
37 purpose of the enforcement and collection of the taxes imposed by
38 IC 6-6-5.5.
- 39 (l) All information relating to the delinquency or evasion of
40 commercial vehicle excise taxes payable under the International
41 Registration Plan may be disclosed to another state, if the information
42 is disclosed for the purpose of the enforcement and collection of the



- 1 taxes imposed by IC 6-6-5.5.
- 2 (m) All information relating to the delinquency or evasion of the
3 excise taxes imposed on recreational vehicles and truck campers that
4 are payable to the bureau of motor vehicles in Indiana may be disclosed
5 to the bureau and may be disclosed to another state if the information
6 is disclosed for the purpose of the enforcement and collection of the
7 taxes imposed by IC 6-6-5.1.
- 8 (n) This section does not apply to:
- 9 (1) the beer excise tax, including brand and packaged type
10 (IC 7.1-4-2);
- 11 (2) the liquor excise tax (IC 7.1-4-3);
- 12 (3) the wine excise tax (IC 7.1-4-4);
- 13 (4) the hard cider excise tax (IC 7.1-4-4.5);
- 14 (5) the malt excise tax (IC 7.1-4-5);
- 15 (6) the motor vehicle excise tax (IC 6-6-5);
- 16 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- 17 (8) the fees under IC 13-23.
- 18 (o) The name and business address of retail merchants within each
19 county that sell tobacco products may be released to the division of
20 mental health and addiction and the alcohol and tobacco commission
21 solely for the purpose of the list prepared under IC 6-2.5-6-14.2.
- 22 (p) The name and business address of a person licensed by the
23 department under IC 6-6 or IC 6-7 may be released for the purpose of
24 reporting the status of the person's license.
- 25 (q) The department may release information concerning total
26 incremental tax amounts under:
- 27 (1) IC 5-28-26;
- 28 (2) IC 36-7-13;
- 29 (3) IC 36-7-26;
- 30 (4) IC 36-7-27;
- 31 (5) IC 36-7-31;
- 32 (6) IC 36-7-31.3; or
- 33 (7) any other statute providing for the calculation of incremental
34 state taxes that will be distributed to or retained by a political
35 subdivision or other entity;
- 36 to the fiscal officer of the political subdivision or other entity that
37 established the district or area from which the incremental taxes were
38 received if that fiscal officer enters into an agreement with the
39 department specifying that the political subdivision or other entity will
40 use the information solely for official purposes.
- 41 (r) **The department may release the information as required in**
42 **IC 6-8.1-3-7.1 concerning:**



1 (1) an innkeeper's tax, a food and beverage tax, or an
2 admissions tax under IC 6-9;

3 (2) the supplemental auto rental excise tax under IC 6-6-9.7;
4 and

5 (3) the covered taxes allocated to a professional sports
6 development area fund, sports and convention facilities
7 operating fund, or other fund under IC 36-7-31 and
8 IC 36-7-31.3.

9 (s) Information concerning state gross retail tax exemption
10 certificates that relate to a person who is exempt from the state
11 gross retail tax under IC 6-2.5-4-5 may be disclosed to a power
12 subsidiary (as defined in IC 6-2.5-4-5) or a person selling the
13 services or commodities listed in IC 6-2.5-4-5(b) for the purpose of
14 enforcing and collecting the state gross retail and use taxes under
15 IC 6-2.5.

16 SECTION 16. IC 6-8.1-9-2, AS AMENDED BY P.L.293-2013(ts),
17 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2015]: Sec. 2. (a) If the department finds that a person has
19 paid more tax for a taxable year than is legally due, the department
20 shall apply the amount of the excess against any amount of that same
21 tax that is assessed and is currently due. The department may then
22 apply any remaining excess against any of the listed taxes that have
23 been assessed against the person and that are currently due. Subject to
24 subsection (c), if any excess remains after the department has applied
25 the overpayment against the person's tax liabilities, the department
26 shall either refund the amount to the person or, at the person's request,
27 credit the amount to the person's future tax liabilities.

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

31 (c) As used in this subsection, "pass through entity" means a
32 corporation that is exempt from the adjusted gross income tax under
33 IC 6-3-2-2.8(2), a partnership, a limited liability company, or a limited
34 liability partnership and "pass through income" means a person's
35 distributive share of adjusted gross income for a taxable year
36 attributable to the person's interest in a pass through entity. This
37 subsection applies to a person's overpayment of adjusted gross income
38 tax for a taxable year if:

39 (1) the person has filed a timely claim for refund with respect to
40 the overpayment under IC 6-8.1-9-1;

41 (2) the overpayment:

42 (A) is with respect to a taxable year beginning before January



- 1, 2009;
- (B) is attributable to amounts paid to the department by:
- (i) a nonresident shareholder, partner, or member of a pass through entity;
 - (ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member of the pass through entity; or
 - (iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member of another pass through entity; and
- (3) the overpayment arises from a determination by the department or a court that the person's pass through income is not includible in the person's adjusted gross income derived from sources within Indiana as a result of the application of IC 6-3-2-2(a)(5) and IC 6-3-2-2.2(g).
- The department shall apply the overpayment to the person's liability for taxes that have been assessed and are currently due as provided in subsection (a) and apply any remaining overpayment as a credit or credits in satisfaction of the person's liability for listed taxes in taxable years beginning after December 31, 2008. If the person, including any successor to the person's interest in the overpayment, does not have sufficient liability for listed taxes against which to credit all the remaining overpayment in a taxable year beginning after December 31, 2008, and ending before January 1, 2019, the taxpayer is not entitled for any taxable year ending after December 31, 2018, to have any part of the remaining overpayment applied, refunded, or credited to the person's liability for listed taxes. If an overpayment or part of an overpayment is required to be applied as a credit under this subsection to the person's liability for listed taxes for a taxable year beginning after December 31, 2008, and has not been determined by the department or a court to meet the conditions of subdivision (3) by the due date of the person's return for a listed tax for a taxable year beginning after December 31, 2008, the department shall refund to the person that part of the overpayment that should have been applied as a credit for such taxable year within ninety (90) days of the date that the department or a court makes the determination that the overpayment meets the conditions of subdivision (3). However, the department may establish a program to refund small overpayment amounts that do not exceed the threshold dollar value established by the department rather than crediting the amounts against tax liability accruing for a taxable year after December 31, 2008. A person that receives a refund or credit under this subsection shall file a report with the department in the form



1 and in the schedule specified by the department that identifies under
 2 penalties of perjury the home state or other jurisdiction where the
 3 income subject to the refund or credit was reported as income
 4 attributable to that state or jurisdiction.

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

9 (1) the date the refund claim is filed, **if the refund claim is filed**
 10 **before July 1, 2015; or**

11 (2) **for a refund claim filed after June 30, 2015, the latest of:**

12 (A) **the date the tax payment was due;**

13 (B) **the date the tax was paid; or**

14 (C) **July 1, 2015;**

15 at the rate established under IC 6-8.1-10-1 until a date, determined by
 16 the department, that does not precede by more than thirty (30) days, the
 17 date on which the refund or credit is made. As used in this subsection,
 18 "refund claim" includes **a return and** an amended return that indicates
 19 an overpayment of tax. **For purposes of this subsection only, the due**
 20 **date for the payment of the state gross retail or use tax, the oil**
 21 **inspection fee, and the petroleum severance tax is December 31 of**
 22 **the calendar year that contains the taxable period for which the**
 23 **payment is remitted. Notwithstanding any other provision, no**
 24 **interest is due for any time before the filing of a tax return for the**
 25 **period and tax type for which a taxpayer files a refund claim.**

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

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

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

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

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

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

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

41 The credit may be claimed by subtracting the amount of the credit from
 42 the amount of the person's excise taxes reported on the person's



1 monthly excise tax returns filed under IC 7.1-4-6 with the department
 2 for taxes imposed under IC 7.1-4-3 or IC 7.1-4-4. The amount of the
 3 credit that may be taken monthly by the person on each monthly excise
 4 tax return may not exceed ten percent (10%) of the excise tax liability
 5 reported by the person on the monthly excise tax return. The credit may
 6 be claimed on not more than thirty-six (36) consecutive monthly excise
 7 tax returns beginning with the month in which credit is first claimed.

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

- 10 (1) expand employment; or
 11 (2) assist in retaining employment within Indiana.

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

14 SECTION 17. IC 27-1-2-2.3, AS ADDED BY P.L.129-2014,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2015]: Sec. 2.3. (a) As used in this section, "captive insurer"
 17 means a foreign company or an alien company:

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

- 22 (A) the parent entity described in subdivision (2);
 23 (B) affiliates of the parent entity; or
 24 (C) a controlled unaffiliated business;

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

- 30 **(A) owned or controlled by:**
 31 **(i) an Indiana body politic; or**
 32 **(ii) a state educational institution (as defined by**
 33 **IC 21-7-13-32); or**
 34 **(B) a company with a Section 831(b) of the Internal**
 35 **Revenue Code election in effect.**

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

- 38 (1) that:
 39 (A) is not an affiliate of; and
 40 (B) has a contractual relationship with;
 41 a parent entity described in subsection (a)(2) or an affiliate of the
 42 parent entity; and



- 1 (2) the risks of which are managed by a captive insurer.
 2 (c) Except as provided in this section, this article does not apply to
 3 a captive insurer.
 4 (d) A captive insurer that is doing business in Indiana:
 5 (1) is not required to obtain a certificate of authority in Indiana
 6 **under IC 27-1-6 for domestic formation or under IC 27-1-17**
 7 **for foreign company admission.**
 8 (2) shall register with the commissioner; and
 9 (3) shall, for each calendar year after 2012 in which the captive
 10 insurer is doing business in Indiana, pay into the treasury of this
 11 state a tax of two thousand five hundred dollars (\$2,500).
 12 (e) A captive insurer that is required to pay the tax imposed for a
 13 calendar year under subsection (d)(3) shall pay the tax as follows:
 14 (1) For a tax imposed under subsection (d)(3) for calendar year
 15 2013, the captive insurer shall pay the tax before July 1, 2014.
 16 (2) For a tax imposed under subsection (d)(3) for a calendar year
 17 after 2013, the captive insurer shall pay the tax before April 15 of
 18 the following calendar year.
 19 (f) The state and a political subdivision of the state shall not impose
 20 a license fee or privilege or other tax on a captive insurer, except the
 21 following:
 22 (1) The tax described in subsection (d)(3).
 23 (2) An applicable tax on real and tangible personal property of the
 24 captive insurer.
 25 SECTION 18. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
 26 **SECTION, "department" refers to the department of state**
 27 **revenue.**
 28 (b) **The department shall, not later than November 1, 2015:**
 29 (1) **conduct a study of the department's current information**
 30 **systems;**
 31 (2) **develop a plan for modernizing the department's**
 32 **information systems; and**
 33 (3) **submit a report of the study conducted under subdivision**
 34 **(1) and the plan developed under subdivision (2) to the budget**
 35 **committee and the legislative council.**
 36 (c) **The report submitted to the legislative council must be in an**
 37 **electronic format under IC 5-14-6.**
 38 (d) **This SECTION expires January 1, 2017.**
 39 SECTION 19. [EFFECTIVE UPON PASSAGE] (a)
 40 **Notwithstanding the effective date of the modification to**
 41 **IC 6-2.5-5-3, as amended by this act, the modification shall be**
 42 **applied beginning January 1, 2011, for any taxpayer who is**



1 **predominantly engaged in the business of cutting steel bars owned**
2 **by others into billets. However, a taxpayer is not entitled to a**
3 **refund of gross retail or use taxes paid before the effective date of**
4 **this SECTION based on a claim that applies the modification to**
5 **IC 6-2.5-5-3 made by this act.**

6 **(b) This SECTION expires January 1, 2018.**
7 **SECTION 20. An emergency is declared for this act.**



COMMITTEE REPORT

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

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

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

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

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

Page 2, delete lines 1 through 27.

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

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

Page 8, delete lines 12 through 13.

Page 8, delete lines 16 through 17.

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

Page 9, delete lines 1 through 30.

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

Page 20, reset in roman line 22.

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

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

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



Page 20, reset in roman lines 29 through 30.

Page 21, delete lines 7 through 12.

Page 22, delete lines 30 through 42.

Delete page 23.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

Page 26, delete line 36.

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

Delete page 29.

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

(n) This section does not apply to:

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

Page 33, line 29, delete "The".

Page 33, delete line 30.

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

Page 33, delete line 37.

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

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

Page 34, reset in roman lines 11 through 16.

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

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

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

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

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

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

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

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

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

Page 39, delete lines 2 through 42.

Delete page 40.

Page 41, delete lines 1 through 7.

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

(A) owned or controlled by:



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

Page 41, delete line 24.

Page 42, delete lines 14 through 42.

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

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

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

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

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

(d) This SECTION expires January 1, 2017.

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 438 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 9, Nays 1.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 438, 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 8.

Page 9, delete lines 1 through 9, begin a new paragraph and insert:

"SECTION 1. IC 5-28-15-10, AS AMENDED BY P.L.1-2010, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Subject to subsection (b), an enterprise zone expires ten (10) years after the day on which it is designated by the board.

(b) ~~In the period beginning December 1, 2008, and ending December 31, 2014,~~ An enterprise zone does not expire under this section if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution renewing the enterprise zone for an additional five (5) years. An enterprise zone may be renewed under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (c) and (d). A municipal fiscal body may adopt a renewal resolution and submit a copy of the resolution to the board

~~(1) before August 1, 2009, in the case of an enterprise zone that expired after November 30, 2008, or is scheduled to expire before September 1, 2009; or~~

~~(2) at least thirty (30) days before the expiration date of the enterprise zone. in the case of an enterprise zone scheduled to expire after August 31, 2009.~~

~~If an enterprise zone is renewed under this subsection after having been renewed under subsection (d), the enterprise zone may not be renewed after the expiration of this final five (5) year period.~~

(c) The two (2) year period immediately before the day on which the enterprise zone expires is the phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the following criteria and may, with the consent of the budget committee, renew the enterprise zone, including all provisions of this chapter, for five (5) years:

- (1) Increases in capital investment in the zone.
- (2) Retention of jobs and creation of jobs in the zone.
- (3) Increases in employment opportunities for residents of the zone.



(d) If an enterprise zone is renewed under subsection (c), the two (2) year period immediately before the day on which the enterprise zone expires is another phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the criteria set forth in subsection (c) and, with the consent of the budget committee, may again renew the enterprise zone, including all provisions of this chapter, for a final period of five (5) years. The zone may not be renewed after the expiration of this final five (5) year period.

(e) Notwithstanding any other provision of this section, an enterprise zone may not be renewed for a period that extends past December 31, 2020. Notwithstanding any other provision of this section, all phaseout periods shall be completed by December 31, 2020.

SECTION 2. IC 6-2.5-5-3, AS AMENDED BY P.L.211-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) For purposes of this section:

(1) the:

(A) retreading of tires; and

(B) cutting of steel bars into billets;

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.

(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."

Page 9, line 39, delete "means" and insert "means:".

Page 9, line 40, reset in roman "(A)".

Page 9, line 40, reset in roman "receiving".

Page 9, reset in roman line 41.

Page 9, line 42, reset in roman "(B)".

Page 10, line 7, delete "process recycling materials" and insert **"engage in recycling"**.

Page 10, line 8, delete "processing such materials" and insert **"doing"**



so".

Page 10, between lines 8 and 9, begin a new line block indented and insert:

"(5) "Recycling cart" means a manually propelled container with a capacity of not more than one hundred (100) gallons of recycling materials."

Page 10, strike lines 9 through 10.

Page 10, line 11, strike "(1) the person acquiring that property acquires it for".

Page 10, delete "the person's".

Page 10, line 12, strike "direct use".

Page 10, line 12, delete "or consumption".

Page 10, line 12, strike "in the".

Page 10, line 12, strike "processing of recycling".

Page 10, strike lines 13 through 14.

Page 10, line 15, strike "in".

Page 10, line 15, delete "the business of".

Page 10, line 15, strike "recycling".

Page 10, line 16, strike "(c)" and insert "(b)".

Page 10, line 17, strike "to be".

Page 10, line 17, delete "used or".

Page 10, line 17, strike "consumed in the processing of".

Page 10, strike line 18.

Page 10, line 19, strike "processing of recycling materials".

Page 10, line 22, delete "or consumption".

Page 10, between lines 25 and 26, begin a new paragraph and insert:

"(c) Notwithstanding subsection (a)(1)(C), transactions involving a recycling cart are exempt from the state gross retail tax if the person acquiring the recycling cart is occupationally engaged in the business of recycling."

Page 10, delete lines 26 through 42.

Delete pages 11 through 12.

Page 13, delete lines 1 through 24, begin a new paragraph and insert:

"SECTION 11. IC 6-2.5-8-8, AS AMENDED BY P.L.145-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) A person, authorized under subsection (b), who makes a purchase in a transaction which is exempt from the state gross retail and use taxes, may issue an exemption certificate to the seller instead of paying the tax. The person shall issue the certificate on forms and in the manner prescribed by the department. A seller accepting a proper exemption certificate under this section has no duty



to collect or remit the state gross retail or use tax on that purchase.

(b) The following are the only persons authorized to issue exemption certificates:

- (1) Retail merchants, wholesalers, and manufacturers, who are registered with the department under this chapter.
- (2) Organizations which are exempt from the state gross retail tax under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26 and which are registered with the department under this chapter. ~~and~~
- (3) Persons who are exempt from the state gross retail tax under IC 6-2.5-4-5 and who receive an exemption certificate from the department.**
- ~~(3)~~ **(4) Other persons who are exempt from the state gross retail tax with respect to any part of their purchases.**

(c) The department may also allow a person to issue a blanket exemption certificate to cover exempt purchases over a stated period of time. The department may impose conditions on the use of the blanket exemption certificate and restrictions on the kind or category of purchases that are exempt.

(d) A seller that accepts an incomplete exemption certificate under subsection (a) is not relieved of the duty to collect gross retail or use tax on the sale unless the seller obtains:

- (1) a fully completed exemption certificate; or
- (2) the relevant data to complete the exemption certificate;

within ninety (90) days after the sale.

(e) If a seller has accepted an incomplete exemption certificate under subsection (a) and the department requests that the seller substantiate the exemption, within one hundred twenty (120) days after the department makes the request the seller shall:

- (1) obtain a fully completed exemption certificate; or
- (2) prove by other means that the transaction was not subject to state gross retail or use tax.

(f) A power subsidiary (as defined in IC 6-2.5-4-5) or a person selling the services or commodities listed in IC 6-2.5-4-5(b) who accepts an exemption certificate issued by the department to a person who is exempt from the state gross retail tax under IC 6-2.5-4-5 is relieved from the duty to collect state gross retail or use tax on the sale of the services or commodities listed in IC 6-2.5-4-5(b) until notified by the department that the exemption certificate has expired or has been revoked. If the department notifies a power subsidiary or a person selling the services or commodities listed in IC 6-2.5-4-5(b) that a person's exemption certificate has expired or has been revoked, the power subsidiary



or person selling the services or commodities listed in IC 6-2.5-4-5(b) shall begin collecting state gross retail tax on the sale of the services or commodities listed in IC 6-2.5-4-5(b) to the person whose exemption certificate has expired or been revoked not later than thirty (30) days after the date of the department's notice. An exemption certificate issued by the department to a person who is exempt from the state gross retail tax under IC 6-2.5-4-5 remains valid for that person regardless of any subsequent one (1) for one (1) meter number changes with respect to that person that are required, made, or initiated by a power subsidiary or a person selling the services or commodities listed in IC 6-2.5-4-5(b). Within thirty (30) days after the final day of each calendar year quarter, a power subsidiary or a person selling the services or commodities listed in IC 6-2.5-4-5(b) shall report to the department any meter number changes made during the immediately preceding calendar year quarter and distinguish between the one (1) for one (1) meter changes and the one (1) for multiple meter changes made during the calendar year quarter. Except for a person to whom a blanket utility exemption applies, any meter number changes not involving a one (1) to one (1) relationship will no longer be exempt and will require the person to submit a new utility exemption application for the new meters. Until an application for a new meter is approved, the new meter is subject to the state gross retail tax and the power subsidiary or the person selling the services or commodities listed in IC 6-2.5-4-5(b) is required to collect the state gross retail tax from the date of the meter change."

Page 15, delete lines 4 through 42.

Delete pages 16 through 17.

Page 18, delete lines 1 through 9, begin a new paragraph and insert:

"SECTION 13. IC 6-3-4-12, AS AMENDED BY P.L.293-2013(ts), SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) Every partnership shall, at the time that the partnership pays or credits amounts to any of its nonresident partners on account of their distributive shares of partnership income, for a taxable year of the partnership, deduct and retain therefrom the amount prescribed in the withholding instructions referred to in section 8 of this chapter. Such partnership so paying or crediting any nonresident partner:

(1) shall be liable to the state of Indiana for the payment of the tax required to be deducted and retained under this section and shall not be liable to such partner for the amount deducted from such



payment or credit and paid over in compliance or intended compliance with this section; and

(2) shall make return of and payment to the department monthly whenever the amount of tax due under IC 6-3 and IC 6-3.5 exceeds an aggregate amount of fifty dollars (\$50) per month with such payment due on the thirtieth day of the following month, unless an earlier date is specified by section 8.1 of this chapter.

Where the aggregate amount due under IC 6-3 and IC 6-3.5 does not exceed fifty dollars (\$50) per month, then such partnership shall make return and payment to the department quarterly, on such dates and in such manner as the department shall prescribe, of the amount of tax which, under IC 6-3 and IC 6-3.5, it is required to withhold.

(b) Every partnership shall, at the time of each payment made by it to the department pursuant to this section, deliver to the department a return upon such form as shall be prescribed by the department showing the total amounts paid or credited to its nonresident partners, the amount deducted therefrom in accordance with the provisions of this section, and such other information as the department may require. Every partnership making the deduction and retention provided in this section shall furnish to its nonresident partners annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax deducted and retained from such partners on forms to be prescribed by the department.

(c) All money deducted and retained by the partnership, as provided in this section, shall immediately upon such deduction be the money of the state of Indiana and every partnership which deducts and retains any amount of money under the provisions of IC 6-3 shall hold the same in trust for the state of Indiana and for payment thereof to the department in the manner and at the times provided in IC 6-3. Any partnership may be required to post a surety bond in such sum as the department shall determine to be appropriate to protect the state of Indiana with respect to money deducted and retained pursuant to this section.

(d) The provisions of IC 6-8.1 relating to additions to tax in case of delinquency and penalties shall apply to partnerships subject to the provisions of this section, and for these purposes any amount deducted, or required to be deducted and remitted to the department under this section, shall be considered to be the tax of the partnership, and with respect to such amount it shall be considered the taxpayer.

(e) Amounts deducted from payments or credits to a nonresident partner during any taxable year of the partnership in accordance with the provisions of this section shall be considered to be in part payment



of the tax imposed on such nonresident partner for the nonresident partner's taxable year within or with which the partnership's taxable year ends. A return made by the partnership under subsection (b) shall be accepted by the department as evidence in favor of the nonresident partner of the amount so deducted for the nonresident partner's distributive share.

(f) This section shall in no way relieve any nonresident partner from the nonresident partner's obligations of filing a return or returns at the time required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid at the time prescribed by section 5 of this chapter.

(g) Instead of the reporting periods required under subsection (a), the department may permit a partnership to file one (1) return and payment each year if the partnership pays or credits amounts to its nonresident partners only one (1) time each year. The return and payment are due on or before the fifteenth day of the fourth month after the end of the year. **However, if a partnership is permitted an extension to file its income tax return under IC 6-8.1-6-1, the return and payment due under this subsection shall be allowed the same treatment as an extended income tax return with respect to due dates, interest, and penalties under IC 6-8.1-6-1.**

(h) A partnership shall file a composite adjusted gross income tax return on behalf of all nonresident ~~individual~~ partners. The composite return must include each nonresident ~~individual~~ partner regardless of whether or not the nonresident ~~individual~~ partner has other Indiana source income.

(i) If a partnership does not include all nonresident partners in the composite return, the partnership is subject to the penalty imposed under IC 6-8.1-10-2.1(j).

(j) For taxable years beginning after December 31, 2013, the department may not impose a late payment penalty on a partnership for the failure to file a return, pay the full amount of the tax shown on the partnership's return, or pay the deficiency of the withholding taxes due under this section if the partnership pays the department **before the fifteenth day of the fourth month after the end of the partnership's taxable year** at least:

- (1) eighty percent (80%) of the withholding tax due for the current year; or
- (2) one hundred percent (100%) of the withholding tax due for the preceding year. ~~before the fifteenth day of the fourth month after the end of the partnership's taxable year.~~

(k) Notwithstanding subsection (a) or (h), a pass through entity is not required to withhold tax or file a composite adjusted gross



income tax return for a nonresident member if the entity:

- (1) is a publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code;**
- (2) meets the exception for partnerships under Section 7704(c) of the Internal Revenue Code; and**
- (3) has agreed to file an annual information return reporting the name, address, taxpayer identification number, and other information requested by the department of each unit holder.**

The department may issue written guidance explaining circumstances under which limited partnerships or limited liability companies owned by a publicly traded partnership may be excluded from the withholding requirements of this section.

(l) Notwithstanding subsection (k), a partnership is subject to a late payment penalty for the failure to file a return, pay the full amount of the tax shown on the partnership's return, or pay the deficiency of the withholding taxes due under this section for any amounts of withholding tax, including any interest under IC 6-8.1-10-1, reported or paid after the due date of the return, as adjusted by any extension under IC 6-8.1-6-1.

(m) For purposes of this section, a "nonresident partner" is:

- (1) an individual who does not reside in Indiana;**
- (2) a trust that does not reside in Indiana;**
- (3) an estate that does not reside in Indiana;**
- (4) a partnership not domiciled in Indiana;**
- (5) a C corporation not domiciled in Indiana; or**
- (6) an S corporation not domiciled in Indiana.**

SECTION 14. IC 6-3-4-13, AS AMENDED BY P.L.293-2013(ts), SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. (a) Every corporation which is exempt from tax under IC 6-3 pursuant to IC 6-3-2-2.8(2) shall, at the time that it pays or credits amounts to any of its nonresident shareholders as dividends or as their share of the corporation's undistributed taxable income, withhold the amount prescribed by the department. Such corporation so paying or crediting any nonresident shareholder:

- (1) shall be liable to the state of Indiana for the payment of the tax required to be withheld under this section and shall not be liable to such shareholder for the amount withheld and paid over in compliance or intended compliance with this section; and**
- (2) when the aggregate amount due under IC 6-3 and IC 6-3.5 exceeds one hundred fifty dollars (\$150) per quarter, then such corporation shall make return and payment to the department quarterly, on such dates and in such manner as the department**



shall prescribe, of the amount of tax which, under IC 6-3 and IC 6-3.5, it is required to withhold.

(b) Every corporation shall, at the time of each payment made by it to the department pursuant to this section, deliver to the department a return upon such form as shall be prescribed by the department showing the total amounts paid or credited to its nonresident shareholders, the amount withheld in accordance with the provisions of this section, and such other information as the department may require. Every corporation withholding as provided in this section shall furnish to its nonresident shareholders annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax withheld on behalf of such shareholders on forms to be prescribed by the department.

(c) All money withheld by a corporation, pursuant to this section, shall immediately upon being withheld be the money of the state of Indiana and every corporation which withholds any amount of money under the provisions of this section shall hold the same in trust for the state of Indiana and for payment thereof to the department in the manner and at the times provided in IC 6-3. Any corporation may be required to post a surety bond in such sum as the department shall determine to be appropriate to protect the state of Indiana with respect to money withheld pursuant to this section.

(d) The provisions of IC 6-8.1 relating to additions to tax in case of delinquency and penalties shall apply to corporations subject to the provisions of this section, and for these purposes any amount withheld, or required to be withheld and remitted to the department under this section, shall be considered to be the tax of the corporation, and with respect to such amount it shall be considered the taxpayer.

(e) Amounts withheld from payments or credits to a nonresident shareholder during any taxable year of the corporation in accordance with the provisions of this section shall be considered to be a part payment of the tax imposed on such nonresident shareholder for the shareholder's taxable year within or with which the corporation's taxable year ends. A return made by the corporation under subsection (b) shall be accepted by the department as evidence in favor of the nonresident shareholder of the amount so withheld from the shareholder's distributive share.

(f) This section shall in no way relieve any nonresident shareholder from the shareholder's obligation of filing a return or returns at the time required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid at the time prescribed by section 5 of this chapter.

(g) Instead of the reporting periods required under subsection (a),



the department may permit a corporation to file one (1) return and payment each year if the corporation pays or credits amounts to its nonresident shareholders only one (1) time each year. The withholding return and payment are due on or before the fifteenth day of the fourth month after the end of the taxable year of the corporation. **However, if a corporation is permitted an extension to file its income tax return under IC 6-8.1-6-1, the return and payment due under this subsection shall be allowed the same treatment as the extended income tax return with respect to the due dates, interest, and penalties under IC 6-8.1-6-1.**

(h) If a distribution will be made with property other than money or a gain is realized without the payment of money, the corporation shall not release the property or credit the gain until it has funds sufficient to enable it to pay the tax required to be withheld under this section. If necessary, the corporation shall obtain such funds from the shareholders.

(i) If a corporation fails to withhold and pay any amount of tax required to be withheld under this section and thereafter the tax is paid by the shareholders, such amount of tax as paid by the shareholders shall not be collected from the corporation but it shall not be relieved from liability for interest or penalty otherwise due in respect to such failure to withhold under IC 6-8.1-10.

(j) A corporation described in subsection (a) shall file a composite adjusted gross income tax return on behalf of all nonresident shareholders. The composite return must include each nonresident ~~individual~~ shareholder regardless of whether or not the nonresident ~~individual~~ shareholder has other Indiana source income.

(k) If a corporation described in subsection (a) does not include all nonresident shareholders in the composite return, the corporation is subject to the penalty imposed under IC 6-8.1-10-2.1(j).

(l) For taxable years beginning after December 31, 2013, the department may not impose a late payment penalty on a corporation for the failure to file a return, pay the full amount of the tax shown on the corporation's return, or pay the deficiency of the withholding taxes due under this section if the corporation pays the department **before the fifteenth day of the fourth month after the end of the partnership's taxable year** at least:

- (1) eighty percent (80%) of the withholding tax due for the current year; or
- (2) one hundred percent (100%) of the withholding tax due for the preceding year. ~~before the fifteenth day of the fourth month after the end of the corporation's taxable year.~~



(m) Notwithstanding subsection (l), a corporation is subject to a late payment penalty for the failure to file a return, pay the full amount of the tax shown on the corporation's return, or pay the deficiency of the withholding taxes due under this section for any amounts of withholding tax, including any interest under IC 6-8.1-10-1, reported or paid after the due date of the return, as adjusted by any extension under IC 6-8.1-6-1.

(n) For purposes of this section, a "nonresident shareholder" is:

- (1) an individual who does not reside in Indiana;**
- (2) a trust that does not reside in Indiana; or**
- (3) an estate that does not reside in Indiana.**

SECTION 15. IC 6-3-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) A trust or estate shall, at the time that it distributes income (except income attributable to interest or dividends) to a nonresident beneficiary, deduct and retain therefrom the amount prescribed in the withholding instructions referred to in section 8 of this chapter. The trust or estate so distributing income to a nonresident beneficiary:

- (1) is liable to this state for the tax which it is required to deduct and retain under this section and is not liable to the beneficiary for the amount deducted from the distribution and paid to the department in compliance, or intended compliance, with this section; and
- (2) shall pay the amount deducted to the department before the thirtieth day of the month following the distribution, unless an earlier date is specified by section 8.1 of this chapter.

(b) A trust or estate shall, at the time that it makes a payment to the department under this section, deliver to the department a return which shows the total amounts distributed to the trust's or estate's nonresident beneficiaries, the amount deducted from the distributions under this section, and any other information required by the department. The trust or estate shall file the return on the form prescribed by the department. A trust or estate which makes the deduction and retention required by this section shall furnish to its nonresident beneficiaries annually, but not later than thirty (30) days after the end of the trust's or estate's taxable year, a record of the amount of tax deducted and retained from the beneficiaries. The trust or estate shall furnish the information on the form prescribed by the department.

(c) The money deducted and retained by a trust or estate under this section is money of this state. Every trust or estate which deducts and retains any money under this section shall hold the money in trust for this state until it pays the money to the department in the manner and



at the time provided in this section. The department may require a trust or estate to post a surety bond to protect this state with respect to money deducted and retained by the trust or estate under this section. The department shall determine the amount of the surety bond.

(d) The provisions of IC 6-8.1 relating to penalties or to additions to tax in case of a delinquency apply to trusts and estates which are subject to this section. For purposes of this subsection, any amount deducted, or required to be deducted and remitted to the department, under this section is considered the tax of the trust or estate, and with respect to that amount, it is considered the taxpayer.

(e) Amounts deducted from distributions to nonresident beneficiaries under this section during a taxable year of the trust or estate are considered a partial payment of the tax imposed on the nonresident beneficiary for his taxable year within or with which the trust's or estate's taxable year ends. The department shall accept a return made by the trust or estate under subsection (b) as evidence of the amount of tax deducted from the income distributed to a nonresident beneficiary.

(f) This section does not relieve a nonresident beneficiary of his duty to file a return at the time required under IC 6-3. The nonresident beneficiary shall pay any unpaid tax at the time prescribed by section 5 of this chapter.

(g) A trust or estate shall file a composite adjusted gross income tax return on behalf of all nonresident beneficiaries. The composite return must include each nonresident beneficiary regardless of whether the nonresident beneficiary has other Indiana source income.

(h) For purposes of this section, a "nonresident beneficiary" is:

- (1) an individual who does not reside in Indiana;**
- (2) a trust that does not reside in Indiana;**
- (3) an estate that does not reside in Indiana;**
- (4) a partnership that is not domiciled in Indiana;**
- (5) a C corporation that is not domiciled in Indiana; or**
- (6) an S corporation that is not domiciled in Indiana.**

(i) If a trust or estate is permitted an extension to file its income tax return under IC 6-8.1-6-1, then the return and payment due under this subsection shall be allowed the same treatment as the extended income tax return with respect to due dates, interest, and penalties under IC 6-8.1-6-1."

Page 19, delete lines 2 through 33, begin a new paragraph and insert:

"SECTION 17. IC 6-3.5-1.1-3.7 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.7. (a) This section applies to Rush County.**

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to do the following:

- (1) Finance, construct, acquire, improve, renovate, equip, operate, or maintain the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.**
- (2) Repay bonds issued or leases entered into for the purposes described in subdivision (1).**
- (3) Operate and maintain the facilities described in subdivision (1).**

(c) If the county council makes the determination set forth in subsection (b), the county council may adopt an ordinance to impose the county adjusted gross income tax at a rate of:

- (1) fifteen-hundredths percent (0.15%);**
- (2) two-tenths percent (0.2%);**
- (3) twenty-five hundredths percent (0.25%);**
- (4) three-tenths percent (0.3%);**
- (5) thirty-five hundredths percent (0.35%);**
- (6) four-tenths percent (0.4%);**
- (7) forty-five hundredths percent (0.45%);**
- (8) five-tenths percent (0.5%);**
- (9) fifty-five hundredths percent (0.55%); or**
- (10) six-tenths percent (0.6%);**

on the adjusted gross income of county taxpayers that is in addition to the rates permitted by section 2 of this chapter. The tax rate may not be greater than the rate necessary to pay for the purposes described in subsection (b).

(d) The tax rate used to pay for the purposes described in subsection (b)(1) and (b)(2) may be imposed only until the latest of the following dates:

- (1) The date on which the financing, construction, acquisition, improvement, and equipping of the facilities as described in subsection (b) are completed.**
- (2) The date on which the last of any bonds issued (including refunding bonds) or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (b) are fully**



paid.

(3) The date on which an ordinance adopted under subsection (c) is rescinded.

(e) If the county council imposes a tax under this section to pay for the purposes described in subsection (b)(1) and (b)(2), when:

(1) the financing, construction, acquisition, improvement, and equipping of the facilities as described in subsection (b) are completed; and

(2) all bonds issued (including refunding bonds) or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (b) are fully paid;

the county council shall by ordinance establish a tax rate at a rate permitted under subsection (c) so that the revenue from the tax does not exceed the costs of operating and maintaining the facilities described in subsection (b). The tax rate under this subsection may be imposed until the date on which an ordinance adopted under this subsection is rescinded.

(f) The term of a bond issued (including any refunding bond) or a lease entered into under subsection (b) may not exceed twenty-five (25) years.

(g) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 11 of this chapter.

(h) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

(1) may be used only for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

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

(i) Rush County possesses unique governmental and economic development challenges due to the following:

(1) Deficiencies in the current county jail, including the following:

(A) Aging facilities that have not been significantly improved or renovated since the original construction.



(B) Lack of recreation and medical facilities.

(C) Inadequate line of sight supervision of inmates due to the configuration of the aging jail.

(D) Lack of adequate housing for an increasing female inmate population and for inmates with special needs.

(E) Lack of adequate administrative space.

(F) Increasing maintenance demands and costs resulting from having aging facilities.

(2) A limited industrial and commercial assessed valuation in the county.

The use of county adjusted gross income tax revenues as provided in this chapter is necessary for the county to provide adequate jail capacity in the county and to maintain low property tax rates essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (b), rather than the use of property taxes, promotes those purposes.

(j) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after the termination of the tax under this section shall be transferred to the county rainy day fund under IC 36-1-8-5.1."

Page 21, delete lines 9 through 42.

Page 22, delete lines 1 through 2.

Page 22, delete lines 41 through 42.

Delete pages 23 through 25.

Page 26, delete lines 1 through 12.

Page 31, delete lines 23 through 25, begin a new paragraph and insert:

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

Page 31, delete lines 26 through 42.

Delete pages 32 through 37.

Page 38, delete lines 1 through 2.

Page 42, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 30. [EFFECTIVE UPON PASSAGE] (a)



Notwithstanding the effective date of the modification to IC 6-2.5-5-3, as amended by this act, the modification shall be applied beginning January 1, 2011, for any taxpayer who is predominantly engaged in the business of cutting steel bars owned by others into billets. However, a taxpayer is not entitled to a refund of gross retail or use taxes paid before the effective date of this SECTION based on a claim that applies the modification to IC 6-2.5-5-3 made by this act.

(b) This SECTION expires January 1, 2018."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 438 as printed February 13, 2015.)

BROWN T

Committee Vote: yeas 24, nays 0.

