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# HOUSE BILL No. 1156

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-10-45; IC 6-1.2; IC 6-1.6; IC 6-1.7; IC 6-1.8; IC 6-1.9; IC 6-2.5; IC 6-3-2-1; IC 6-8.1-1-1.

**Synopsis:** Elimination of property taxes. Eliminates all ad valorem property taxes. Provides for the implementation of a local residential income tax, a local fire and safety benefit tax, a state commercial activity tax, and a state employer payroll expense tax to replace revenue lost to political subdivisions from the elimination of property taxes. Increases the state gross retail and use tax. Reduces the state adjusted gross income tax rate. Makes other changes to the tax laws. Makes appropriations.

**Effective:** July 1, 2011; January 1, 2012.

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### Thompson

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January 10, 2011, read first time and referred to Committee on Ways and Means.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## HOUSE BILL No. 1156



A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

1 SECTION 1. IC 6-1.1-10-45 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2012]: **Sec. 45. After December 31, 2011, property is**  
4 **exempt from a fire and safety benefit tax imposed under IC 6-1.7**  
5 **to the same extent as the property would have been exempt from**  
6 **property taxes. A reference in this chapter or IC 6-1.1-11 to a**  
7 **property tax shall be treated after December 31, 2011, as a**  
8 **reference to fire and safety benefit taxes imposed under IC 6-1.7.**

9 SECTION 2. IC 6-1.1-20-12 IS ADDED TO THE INDIANA  
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2011]: **Sec. 12. Notwithstanding any other**  
12 **provision of this chapter, this chapter applies to bonds and leases**  
13 **for capital projects payable from any combination of a local**  
14 **resident income tax imposed under IC 6-1.6, a fire and safety**  
15 **benefit tax imposed under IC 6-1.7, a commercial activity tax**  
16 **imposed under IC 6-1.8, or an employer payroll expense tax**  
17 **imposed under IC 6-1.9.**



1 SECTION 3. IC 6-1.2 IS ADDED TO THE INDIANA CODE AS A  
2 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2011]:

4 ARTICLE 1.2. PROCEDURES FOR FIXING AND  
5 REVIEWING BUDGETS, TAX RATES, AND TAX LEVIES

6 Chapter 1. Purpose; Application

7 Sec. 1. This article applies to the following:

- 8 (1) Any political subdivision to which a law enacted before
- 9 January 1, 2011, grants authority to impose an ad valorem
- 10 property tax.
- 11 (2) Any political subdivision that is granted authority to enact
- 12 a tax under IC 6-1.6 or IC 6-1.7.
- 13 (3) A district with an allocation area.

14 Sec. 2. The purpose of this article, IC 6-1.6, IC 6-1.7, IC 6-1.8,  
15 and IC 6-1.9 is to replace ad valorem property taxes with the  
16 following alternative sources of tax revenue:

- 17 (1) Locally adopted residential income taxes distributable to
- 18 the political subdivisions providing services where a taxpayer
- 19 has the taxpayer's principal place of residence.
- 20 (2) Locally adopted fire and safety benefit taxes distributable
- 21 to the political subdivisions providing public services where
- 22 property is located.
- 23 (3) Statewide commercial activity taxes distributable to the
- 24 political subdivisions providing services where business
- 25 property is located.
- 26 (4) Statewide employer payroll expense taxes distributable to
- 27 the political subdivisions providing services where an
- 28 employer's employees have a principal place of business.

29 Sec. 3. Notwithstanding any other law, neither the state nor any  
30 political subdivision may impose an ad valorem property tax for an  
31 assessment date after January 15, 2011.

32 Sec. 4. Notwithstanding any other law, a county assessor or  
33 township assessor may not carry out an assessment of property for  
34 an assessment date after January 15, 2011. However, the county  
35 auditor and the county assessor shall maintain a description of the  
36 property in the county sufficient to impose taxes under IC 6-1.7.  
37 The county assessor shall provide property information to the  
38 department of state revenue in the form and in the manner  
39 prescribed by the department.

40 Sec. 5. The procedures set forth in this article apply to budget  
41 years beginning after December 31, 2011.

42 Chapter 2. Definitions

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1           **Sec. 1. The definitions in this chapter apply throughout this**  
2 **article.**  
3           **Sec. 2. "Allocation area" refers to an area that is established**  
4 **under the authority of any of the following statutes and in which**  
5 **tax increment revenues are collected:**  
6           (1) IC 6-1.1-39.  
7           (2) IC 8-22-3.5.  
8           (3) IC 36-7-14.  
9           (4) IC 36-7-14.5.  
10          (5) IC 36-7-15.1.  
11          (6) IC 36-7-30.  
12          (7) IC 36-7-30.5.  
13          **Sec. 3. "Budget year" means a calendar year.**  
14          **Sec. 4. "County board" refers to the county board of tax**  
15 **adjustment or the county auditor, if the county auditor is carrying**  
16 **out the statutory functions of the county board of tax adjustment.**  
17          **Sec. 5. "Department" refers to the department of state revenue.**  
18          **Sec. 6. "Impose" means the following:**  
19               (1) To establish a tax.  
20               (2) To set a tax rate for a tax.  
21               (3) To increase or decrease the tax rate for a tax.  
22               (4) To otherwise change the terms or conditions of a tax.  
23          **Sec. 7. "Political subdivision" has the meaning set forth in**  
24 **IC 36-1-2-13.**  
25          **Sec. 8. "Taxes" means taxes imposed or distributed to a political**  
26 **subdivision under any of the following:**  
27               (1) IC 6-1.6.  
28               (2) IC 6-1.7.  
29               (3) IC 6-1.8.  
30               (4) IC 6-1.9.  
31          **Sec. 9. "Tax increment revenues" means an allocation of:**  
32               (1) ad valorem property taxes under a law adopted before  
33               January 1, 2012, to an allocation area based on an increase in  
34               the assessed value, wages, sales, or other economic activity  
35               occurring in the allocation area; or  
36               (2) taxes to replace the revenue lost from the elimination of ad  
37               valorem property taxes.  
38          **Sec. 10. "Tax limit" refers to a limit on property tax rates or**  
39 **property tax levies imposed under IC 6-1.1-18.5 or any law other**  
40 **than IC 6-1.1-20.6.**  
41          **Sec. 11. "Taxing unit" means a political subdivision described**  
42 **in IC 6-1.2-1-1.**

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**Chapter 3. Adoption of Budgets, Tax Rates, and Tax Levies**

**Sec. 1. Except as otherwise provided in this chapter, the procedures set forth in IC 6-1.1-17 and IC 6-1.1-18 apply to the adoption of:**

**(1) the part of a budget or supplemental budgets payable from taxes; and**

**(2) the setting of tax rates and levies under IC 6-1.6 and IC 6-1.7;**

**to the same extent as if the taxes were ad valorem property taxes.**

**Sec. 2. Before August 2 in each year, the county fiscal officer shall send a certified statement containing the following information to the fiscal officer of each taxing unit in the county:**

**(1) An estimate of taxes and property tax levy amounts to be distributed to the taxing unit during the last six (6) months of the year.**

**(2) The average growth in adjusted gross income in the county over the preceding three (3) years.**

**(3) The amount available in the rainy day fund established under IC 6-1.2-7-1 to replace revenue shortfalls from a year before the ensuing year and to reduce tax rates in the ensuing year.**

**(4) Any other information at the disposal of the county fiscal officer that might affect the budget adoption process.**

**Sec. 3. In formulating budget estimates, a taxing unit's fiscal officer and fiscal body shall identify the tax needed for each fund for the budget year.**

**Sec. 4. In the notice required under IC 6-1.1-17-3, a taxing unit shall include the following information:**

**(1) The amount of the budget for each fund that the taxing unit proposes to fund from taxes and the estimated tax rate necessary to raise the amount.**

**(2) The amount of the budget that will be funded from a distribution of the taxing unit's reserve in the rainy day fund established under IC 6-1.2-7-1.**

**Sec. 5. Not later than the date on which the notice described in section 4 of this chapter is published, a taxing unit shall submit a copy of the notice to the county fiscal officer.**

**Sec. 6. In the hearing conducted under IC 6-1.1-17-3 and either IC 6-1.1-17-5 or IC 6-1.1-17-5.6, a taxing unit shall consider public testimony concerning the part of the budget that the taxing unit proposes to fund from taxes.**

**Sec. 7. Ten (10) or more individuals or entities that could be**

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1 subject to a tax may object to a taxing unit's budget in the same  
2 manner as an objection may be filed under IC 6-1.1-17-5. The  
3 taxing unit shall make findings concerning an objection filed under  
4 this section in the same manner as the taxing unit is required to  
5 make findings to an objection filed under IC 6-1.1-17-5.

6 **Sec. 8. A taxing unit's:**

7 (1) budget; and

8 (2) tax levies;

9 must be adopted in conformity with IC 6-1.1-17-5 or  
10 IC 6-1.1-17-5.6, as applicable. The ordinance or resolution in which  
11 the tax levies are adopted must estimate the tax rates necessary to  
12 raise the tax levies and must separately state the tax levies and tax  
13 rates that are attributable to an excessive levy appeal.

14 **Sec. 9. If a taxing unit's fiscal body does not fix a budget or**  
15 **specify the taxes needed to fund the budget before the date**  
16 **specified in IC 6-1.1-17-5 or IC 6-1.1-17-5.6 or any later date**  
17 **approved by the department of local government finance, the tax**  
18 **levy specified in the most recently adopted budget shall be treated**  
19 **as the tax levy adopted for the ensuing year. The department of**  
20 **local government finance shall compute the appropriate tax rate.**

21 **Sec. 10. Each year, at least two (2) days before the first meeting**  
22 **of the county board held under IC 6-1.1-29-4, a taxing unit shall**  
23 **file with the county auditor of each county in which the taxing unit**  
24 **is located:**

25 (1) a statement of each tax rate and levy fixed by the taxing  
26 unit for the ensuing budget year;

27 (2) two (2) copies of the budget adopted by the taxing unit for  
28 the ensuing budget year; and

29 (3) two (2) copies of any findings adopted under section 7 of  
30 this chapter.

31 The county auditor shall present these items to the county board at  
32 the board's first meeting. If a taxing unit is located in more than  
33 one (1) county, the county determined under IC 6-1.1-17-7 has  
34 jurisdiction over the taxing unit's budget, tax rates, and tax levies.

35 **Sec. 11. When a county board reviews budgets, tax levies, and**  
36 **tax rates under IC 6-1.1-17-6, the county board may accept, revise,**  
37 **reduce, or increase the taxes, tax rates, and part of the budget**  
38 **funded from taxes proposed by the taxing unit to enforce the tax**  
39 **limits imposed by law.**

40 **Sec. 12. A county board shall notify the fiscal officer of each**  
41 **taxing unit in the county of any action taken by the county board**  
42 **under section 11 of this chapter. The county board or county fiscal**

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1 officer shall issue its determination under section 11 of this chapter  
2 in the form of a written order. The written order shall be certified  
3 to the following:

- 4 (1) The affected taxing unit.
- 5 (2) The county fiscal officer for each county in which the  
6 taxing unit is located.

7 **Sec. 13.** In the notice required under IC 6-1.1-17-12, the county  
8 fiscal officer shall include the following information:

- 9 (1) The tax levy and estimated tax rate that will be in effect in  
10 the taxing unit for the following year.
- 11 (2) A statement briefly describing the actions that the  
12 department of local government finance is empowered to take  
13 with respect to the tax levies, tax rates, and budget of the  
14 taxing unit.

15 **Sec. 14.** The county fiscal officer shall forward a copy of the  
16 budget, tax rates, and tax levies for each taxing unit in the county  
17 to the department of local government finance along with notice of  
18 the actions taken by the county board under section 11 of this  
19 chapter.

20 **Sec. 15.** The department of local government finance shall  
21 certify a taxing unit's tax levies and tax rates for a year to:

- 22 (1) the affected taxing unit;
- 23 (2) the county fiscal officer for the county where taxes must be  
24 raised, if applicable;
- 25 (3) the department; and
- 26 (4) the auditor of state;

27 before December 2 or as soon as practicable after December 1 of  
28 the year that immediately precedes the year in which a tax or a tax  
29 increase will take effect.

30 **Sec. 16.** A tax rate certified under this chapter takes effect on  
31 the later of January 1 or thirty (30) days after the tax rate is  
32 certified by the county board.

33 **Sec. 17.** The total amount of taxes levied and the total amount  
34 budgeted for a taxing unit may not exceed the tax limits applicable  
35 to the taxing unit. Tax limits applicable to property taxes shall be  
36 treated as applying to revenues from taxes that must be budgeted  
37 under this article to the same extent as if they were property taxes.  
38 The county board may prescribe standards for converting a tax  
39 limit applicable to property taxes to a tax limit applicable to the  
40 revenues from taxes that must be budgeted under this article.

41 **Chapter 4. Anticipation Loans**

42 **Sec. 1.** The fiscal body for a taxing unit may (by ordinance, if the

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1 taxing unit is a county, city, or town, or otherwise by resolution)  
2 enter into temporary loans to meet the current running expenses  
3 of the taxing unit in anticipation of and not exceeding taxes  
4 imposed for a budget year.

5 Sec. 2. Temporary loans under this chapter must be evidenced  
6 by tax anticipation warrants of the taxing unit.

7 Sec. 3. An ordinance or resolution authorizing the issuance of  
8 tax anticipation warrants under this chapter must:

- 9 (1) state the total amount of the issue;
- 10 (2) state the denomination of the warrants;
- 11 (3) state the date, time, and place at which the warrants are  
12 payable;
- 13 (4) state the rate of interest;
- 14 (5) state the funds and revenues in anticipation of which the  
15 warrants are issued and out of which they are payable; and
- 16 (6) appropriate and pledge a sufficient amount of those  
17 revenues to the punctual payment of the warrants.

18 Sec. 4. Tax anticipation warrants issued under this chapter may  
19 be for a term that extends to any date after the close of a particular  
20 budget year on which taxes imposed for the budget year are  
21 reasonably expected to be collected.

22 Sec. 5. Tax anticipation warrants issued under this chapter are  
23 exempt from taxation for all purposes.

24 Chapter 5. Bond and Lease Obligations; Allocation Areas

25 Sec. 1. Notwithstanding any other law, if a taxing unit desires to  
26 issue obligations or enter into leases, payable wholly or in part  
27 from taxes, the obligations of the taxing unit or any lessor may be  
28 sold at a public sale in accordance with IC 5-1-11 or at a negotiated  
29 sale.

30 Sec. 2. A pledge of tax revenues is enforceable in accordance  
31 with IC 5-1-14.

32 Sec. 3. With respect to obligations for which a pledge has been  
33 made from taxes, the general assembly covenants with the taxing  
34 unit and the purchasers or owners of those obligations that the law  
35 governing the taxes will not be repealed or amended in any manner  
36 that will adversely affect the tax collected under the law as long as  
37 the principal of or interest on those obligations is unpaid.

38 Sec. 4. Political subdivisions must fully fund the payment of  
39 their debt service and lease obligations in an amount sufficient to  
40 pay any debt service or lease rentals on outstanding obligations,  
41 regardless of any reduction in tax collections or spending authority  
42 due to the application of any tax limit. Any reduction in collections

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1 or spending authority must be applied to the other funds of the  
2 political subdivision after debt service or lease rentals have been  
3 fully funded.

4 **Sec. 5. A pledge made by a political subdivision or the governing**  
5 **body of an allocation area before January 1, 2012, to pay:**

- 6 (1) any bonds, loans, other obligations, or lease rentals; or
  - 7 (2) any credit enhancement;
- 8 from ad valorem property taxes, including tax incentive revenues,  
9 shall be treated after December 31, 2011, as a pledge to make the  
10 payment from revenues from taxes.

11 **Sec. 6. The taxing units located in an area containing an**  
12 **allocation area shall raise an amount of revenue to distribute to the**  
13 **governing body of the allocation area sufficient to meet the**  
14 **obligations incurred by the governing body. However, the amounts**  
15 **distributed from the taxes imposed for a taxing unit may not**  
16 **exceed the amount of tax increment revenues attributable to the**  
17 **taxing unit that would have been distributed to the allocation area**  
18 **if property taxes had not been eliminated. The taxing limits that**  
19 **would otherwise apply to a taxing unit are increased to the extent**  
20 **and for the time necessary to comply with this section. The county**  
21 **board shall provide for the method of transferring taxes to an**  
22 **allocation area.**

23 **Chapter 6. Treatment of Taxes as Property Taxes**

24 **Sec. 1. For purposes of:**

- 25 (1) making distributions of revenues that are distributed to a
- 26 taxing unit based on the property tax levies imposed by the
- 27 taxing unit;
- 28 (2) determining the maximum permissible taxes that may be
- 29 imposed by taxing units; and
- 30 (3) all other purposes;

31 taxes shall be treated as ad valorem property taxes.

32 **Chapter 7. Rainy Day Fund**

33 **Sec. 1. A rainy day fund is established in each political**  
34 **subdivision that has not established a rainy day fund under**  
35 **IC 36-1-8-5.1.**

36 **Sec. 2. (a) A political subdivision annually shall determine an**  
37 **amount that equals five percent (5%) of the amount distributed to**  
38 **the political subdivision under this article and IC 6-1.6 in the**  
39 **immediately preceding year.**

40 **(b) A political subdivision shall deposit in the political**  
41 **subdivision's rainy day fund established under section 1 of this**  
42 **chapter, from distributions to the political subdivision under this**

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1 article and IC 6-1.6 during a period not exceeding three (3) years  
2 immediately after a five percent (5%) balance is determined under  
3 subsection (a), at least the amount necessary to provide or restore  
4 the amount determined under subsection (a).

5 **Sec. 3. Tax revenues:**

6 (1) received under IC 6-1.6, IC 6-1.7, IC 6-1.8, or IC 6-1.9 for  
7 any budget year in excess of the amount budgeted from taxes  
8 by a taxing unit for the budget year in a budget approved by  
9 the county board; or

10 (2) received under IC 6-1.7 for a budget year in excess of an  
11 amount of just and equitable taxes, as determined under  
12 IC 6-1.7-5-7;

13 shall be deposited in the taxing unit's rainy day fund. Money  
14 deposited in the rainy day fund under this section may be used only  
15 to reduce the tax rates that would otherwise be imposed under  
16 IC 6-1.6.

17 **Sec. 4. In addition to the uses permitted under IC 36-1-8-5.1,**  
18 **money in a political subdivision's rainy day fund may be used to:**

19 (1) make up a shortfall in estimated revenue under IC 6-1.1,  
20 this article, IC 6-1.6, or IC 6-1.7;

21 (2) provide a temporary loan to any fund for a budget year in  
22 anticipation of the collection of tax revenue for the budget  
23 year after the close of the budget year; or

24 (3) maintain tax rates lower than the tax rates that would  
25 otherwise apply under this article if money were not available  
26 in the rainy day fund.

27 **Chapter 8. Exchange of Information**

28 **Sec. 1. Forms, notices, ordinances, and resolutions required or**  
29 **permitted under this article must be prepared and used in the form**  
30 **and in the manner approved by the state board of accounts.**

31 **Sec. 2. The department shall establish a schedule for regularly**  
32 **providing information to a county board and a taxing unit**  
33 **concerning the following:**

34 (1) The amount of tax collections.

35 (2) The status of pending tax assessments, including  
36 information concerning proposed assessments and potential  
37 refunds.

38 (3) The amount of refunds made to taxpayers.

39 (4) The balance held by the state that is attributable to taxes  
40 imposed for the taxing unit.

41 (5) Transfers in and out of the taxing unit's account that are  
42 made to correct errors in the apportionment of taxes to the

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taxing unit.

(6) Other information that is necessary for the fiscal officer of the taxing unit and county board to verify the amount of tax revenue that will be available to the taxing unit.

Sec. 3. The department may enter into a confidentiality agreement with county boards and taxing units to share information under the terms determined by the department.

Sec. 4. The department, after reviewing the recommendations of the budget agency, shall establish a schedule to regularly provide revenue forecasts to county boards and taxing units.

Sec. 5. The department shall require employers and taxpayers to provide sufficient information to permit the department to allocate tax revenues to taxing units under this article, IC 6-1.6, and IC 6-1.7. The information may be consolidated with other returns in the manner prescribed by the department.

Sec. 6. The department shall conduct a program to provide employers and taxpayers with information adequate to enable employers or taxpayers to accurately report the information required under section 5 of this chapter.

SECTION 4. IC 6-1.6 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

**ARTICLE 1.6. LOCAL RESIDENT INCOME TAX**

**Chapter 1. Definitions**

Sec. 1. The definitions in IC 6-3 and this chapter apply throughout this article.

Sec. 2. "Adjusted gross income" has the meaning set forth in IC 6-3-1-3.5(a).

Sec. 3. "Allocation area" has the meaning set forth in IC 6-1.1-21.2-3.

Sec. 4. "Budget year" means a calendar year.

Sec. 5. "Impose" means the following:

- (1) To establish a tax.
- (2) To set a tax rate for a tax.
- (3) To increase or decrease the tax rate for a tax.
- (4) To otherwise change the terms or conditions of a tax.

Sec. 6. "Residency determination date" refers to the date in a taxpayer's taxable year on which the taxpayer's obligation to pay taxes imposed by a particular taxing unit is determined.

Sec. 7. "Resident" means an individual who is a resident of a taxing unit on the residency determination date in the individual's taxable year.

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1           **Sec. 8. "Tax"** refers to the local resident income tax imposed  
2 under this article.

3           **Sec. 9. "Tax area"** refers to a tax area determined under  
4 IC 6-1.6-2.

5           **Sec. 10. "Tax limit"** refers to a tax limit imposed under  
6 IC 6-1.1-18.5 or any other law that applies to a tax or property  
7 taxes.

8           **Sec. 11. "Taxing unit"** refers to the following:

9                   (1) Any political subdivision (as defined in IC 36-1-2-13) to  
10 which a law enacted before January 1, 2012, grants authority  
11 to impose an ad valorem property tax.

12                   (2) Any political subdivision (as defined in IC 36-1-2-13) that  
13 is granted authority to enact a tax under this article.

14           **Sec. 12. "Taxpayer"** refers to an individual who has tax liability  
15 under this article.

16           **Chapter 2. Determination of Tax Area**

17           **Sec. 1.** A tax levy for a taxing unit shall be imposed in the tax  
18 area determined under this chapter.

19           **Sec. 2.** The tax rate imposed by a taxing unit in the taxing unit's  
20 tax area shall be uniformly applied to the adjusted gross income of  
21 all taxpayers in the taxing area.

22           **Sec. 3. (a)** This section applies to a school corporation.

23                   (b) The taxing area for a school corporation is the area within  
24 the boundaries of the school corporation.

25           **Sec. 4. (a)** This section applies to the following:

26                   (1) A city or town.

27                   (2) Any taxing unit that has boundaries that do not extend  
28 beyond the boundaries of a particular city or town.

29                   (b) The taxing area of a taxing unit is the area served by the city  
30 or town.

31           **Sec. 5. (a)** This section applies to a taxing unit, other than a  
32 taxing unit described in section 3 or 4 of this chapter.

33                   (b) The taxing area of the taxing unit is the entire area of each  
34 county where the taxing unit provides services.

35           **Chapter 3. Imposition of Tax**

36           **Sec. 1.** The fiscal body of a taxing unit may impose a tax on the  
37 adjusted gross income of taxpayers in the taxing unit's tax area for  
38 taxable years beginning after December 31, 2011. The tax rate set  
39 by the taxing unit for a particular budget year may not exceed,  
40 after applying all other revenues from taxes that must be budgeted  
41 under IC 6-1.2, the lesser of the following:

42                   (1) The revenue necessary for the taxing unit to fund its

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budget for the budget year.  
(2) The amount that is permitted to be raised for the particular budget year under the tax limits that apply to the taxing unit.

**Sec. 2. The tax is imposed on the adjusted gross income of:**

(1) each individual who is a resident of the tax area on the residency determination date for the individual's taxable year; and

(2) each individual:

(A) who is not a resident of any tax area in Indiana on the residency determination date for the individual's taxable year; but

(B) whose principal place of business or employment is located in the tax area on the residency determination date for the individual's taxable year.

**Sec. 3. For purposes of this chapter, an individual shall be treated as a resident of:**

(1) the tax area in which the individual maintains a home, if the individual maintains only one (1) home in Indiana;

(2) if subdivision (1) does not apply, the tax area in which the individual is registered to vote;

(3) if subdivisions (1) and (2) do not apply, the tax area in which the individual registers the individual's personal automobile; or

(4) if subdivisions (1), (2), and (3) do not apply, the tax area in which the individual spends the majority of the individual's time in Indiana during the taxable year in question.

**Sec. 4. The residence of an individual is determined on January 1 of the year in which the individual's taxable year begins. If an individual changes the location of the individual's residence to another tax area in Indiana during a year, the individual's liability for the tax is not affected.**

**Sec. 5. If for any taxable year a taxpayer is subject to different tax rates for the tax imposed in a tax area, the taxpayer's tax rate for the tax area and that taxable year is the rate determined in STEP FOUR of the following STEPS:**

**STEP ONE: Multiply the number of months in the taxpayer's taxable year that precede July 1 by the rate in effect before the rate change.**

**STEP TWO: Multiply the number of months in the taxpayer's taxable year that follow June 30 by the rate in effect after the rate change.**

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1           **STEP THREE: Add the results determined under STEP ONE**  
2           **and STEP TWO.**

3           **STEP FOUR: Divide the STEP THREE result by twelve (12).**

4           **Sec. 6. If the tax is not in effect during a taxpayer's entire**  
5           **taxable year, the amount of tax that the taxpayer owes for that**  
6           **taxable year equals the product of:**

7                   (1) **the amount of tax the taxpayer would owe if the tax had**  
8                   **been imposed during the taxpayer's entire taxable year;**  
9                   **multiplied by**

10                   (2) **a fraction. The numerator of the fraction equals the**  
11                   **number of days in the taxpayer's taxable year during which**  
12                   **the tax was in effect. The denominator of the fraction equals**  
13                   **the total number of days in the taxpayer's taxable year.**

14           **Sec. 7. (a) Except as provided in subsection (b), if for a**  
15           **particular taxable year a resident is liable for an income tax**  
16           **imposed by a county, city, town, or other local governmental entity**  
17           **located outside Indiana, that resident is entitled to a credit against**  
18           **the taxpayer's total tax liability imposed under this article for that**  
19           **same taxable year. The amount of the credit equals the amount of**  
20           **tax imposed by the other governmental entity on income derived**  
21           **from sources outside Indiana and subject to the tax under this**  
22           **chapter. However, the credit provided by this section may not**  
23           **reduce a resident's tax liability under this article to an amount less**  
24           **than would have been owed if the income subject to taxation by the**  
25           **other governmental entity had been ignored.**

26                   (b) **The credit provided by this section does not apply to a**  
27                   **resident to the extent that the other governmental entity provides**  
28                   **for a credit to the resident for the amount of taxes owed under this**  
29                   **article.**

30                   (c) **To claim the credit provided by this section, a resident must**  
31                   **provide the department of state revenue with satisfactory evidence**  
32                   **that the taxpayer is entitled to the credit.**

33           **Sec. 8. (a) If for a particular taxable year a taxpayer is, or a**  
34           **taxpayer and the taxpayer's spouse who file a joint return are,**  
35           **allowed a credit for the elderly or totally disabled under Section 22**  
36           **of the Internal Revenue Code, the taxpayer is, or the taxpayer and**  
37           **the taxpayer's spouse are, entitled to a credit against the tax**  
38           **liability under this article for that same taxable year. The amount**  
39           **of the credit equals the lesser of the following:**

40                   (1) **The product of:**  
41                           (A) **the credit for the elderly or totally disabled for that**  
42                           **same taxable year; multiplied by**

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- (B) a fraction, the:**
  - (i) numerator of which is the tax rate imposed under this article against the taxpayer or the taxpayer and the taxpayer's spouse; and**
  - (ii) denominator of which is fifteen-hundredths (0.15).**
- (2) The amount of tax imposed on the taxpayer or the taxpayer and the taxpayer's spouse.**

**(b) If a taxpayer and the taxpayer's spouse file a joint return and are subject to different taxing unit tax rates for the same taxable year, the taxpayer and the taxpayer's spouse shall compute the credit under this section by using the formula provided under subsection (a), except that they shall use the average of the two (2) tax rates imposed against them as the numerator referred to in subsection (a)(1)(B)(i).**

**Sec. 9. Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:**

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

**apply to the imposition, collection, and administration of the tax imposed by this article.**

**Sec. 10. IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, IC 6-3-4-4.1(g), IC 6-3-4-8.1(f), and IC 6-3-5-1 do not apply to the tax imposed by this article.**

**Sec. 11. Each employer, including an employer making payments by electronic funds transfer, shall report to the department of state revenue for each reporting period the amount of tax withholdings attributable to each taxing area. The report must be made before the later of the following:**

- (1) The time that an employer that is not making an electronic funds transfer is required to pay to the department of state revenue amounts withheld during the reporting period.**
- (2) The date specified by the department of state revenue.**

**Sec. 12. A taxpayer required to file estimated or annual state adjusted gross income tax returns under IC 6-3-4-4.1, including**

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1 taxpayers making payments by electronic funds transfer, shall file  
2 estimated tax returns and make payments of the tax imposed by  
3 this article to the department of state revenue at the time or times  
4 and in the installments specified under IC 6-3-4-4.1 for making  
5 estimated state adjusted gross income tax returns by taxpayers not  
6 making an electronic funds transfer.

7 Chapter 4. Distribution of Tax Revenue

8 Sec. 1. The department of state revenue shall separately account  
9 within the state general fund for the taxes imposed in each taxing  
10 area in a manner sufficient to provide each taxing unit in a taxing  
11 area, the taxpayers of the taxing unit, and a county board (as  
12 defined in IC 6-1.2-2-4) with jurisdiction over the taxing unit with  
13 an accounting of the amounts collected under this article in each of  
14 the taxing unit's taxing areas.

15 Sec. 2. The auditor of state shall distribute each month to a  
16 taxing unit the net amount collected in the immediately preceding  
17 month from the tax imposed by the taxing unit, after making  
18 refunds and other adjustments for the overpayment of taxes.

19 Sec. 3. The auditor of state shall distribute, as required by law,  
20 for deposit in the appropriate special fund, any tax revenue that is  
21 to be distributed to an allocation area.

22 Sec. 4. Distributions under this chapter must be made from the  
23 state general fund.

24 Sec. 5. (a) This section applies if:

- 25 (1) a taxing unit's legislative body adopts an ordinance (if the
- 26 taxing unit is a county, city, or town) or a resolution (if the
- 27 taxing unit is not a county, city, or town) authorizing the
- 28 distribution of part of the taxing unit's taxes to an assignee of
- 29 the taxing unit; and

- 30 (2) the assignment is permitted by law.

31 (b) The auditor of state shall reduce the amount of a distribution  
32 made to a taxing unit by the amount that the taxing unit directs the  
33 auditor of state to distribute to an assignee of the taxing unit.

34 (c) A distribution under this section must be made to the  
35 assignee designated in the ordinance or resolution at the assignee's  
36 last known address, as submitted to the auditor of state by the  
37 executive of the taxing unit before the cutoff date specified by the  
38 auditor of state or as otherwise determined by law.

39 (d) A distribution under this section may be made not more than  
40 one (1) time each month. The distribution may be made only in the  
41 months specified in the ordinance or resolution. The distribution  
42 for a month may not exceed the amount that the taxing unit would

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1 otherwise be entitled to receive as a distribution in the month after  
2 deducting all other distribution assignments.

3 **Sec. 6. The amount necessary to make the distributions required**  
4 **by this chapter is annually appropriated from the state general**  
5 **fund.**

6 SECTION 5. IC 6-1.7 IS ADDED TO THE INDIANA CODE AS A  
7 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
8 2011]:

9 **ARTICLE 1.7. FIRE AND SAFETY BENEFIT TAX**

10 **Chapter 1. Definitions**

11 **Sec. 1. The definitions in this chapter apply throughout this**  
12 **article.**

13 **Sec. 2. "Eligible entity" means a:**

- 14 (1) county, city, town, or township; or
- 15 (2) fire protection district;

16 that provides public safety services.

17 **Sec. 3. "Property" refers to property described in**  
18 **IC 6-1.7-2-1(2) that is subject to the tax imposed by this article and**  
19 **is not exempt from the tax under IC 6-1.1-10 or any other law.**

20 **Sec. 4. "Public safety services" refers to services described in**  
21 **IC 6-1.7-2-3.**

22 **Sec. 5. "Tax" refers to the fire and safety benefit tax imposed**  
23 **under this article.**

24 **Chapter 2. Application**

25 **Sec. 1. This article applies to:**

- 26 (1) all eligible entities; and
- 27 (2) the owner of each:
  - 28 (A) lot;
  - 29 (B) parcel of property; or
  - 30 (C) building or other real property improvement;

31 located in an eligible entity.

32 **Sec. 2. This article applies to an expenditure to establish,**  
33 **maintain, operate, provide facilities or equipment for, contract for,**  
34 **finance, or repay a judgment or other obligation related to any of**  
35 **the following:**

- 36 (1) A police and law enforcement system to preserve public  
37 peace and order.
- 38 (2) A firefighting and fire prevention system.
- 39 (3) Emergency ambulance services (as defined in  
40 IC 16-18-2-107), except as part of a levy for a county hospital  
41 under IC 16-22 or a municipal hospital under IC 16-23.
- 42 (4) Emergency medical services (as defined in

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1 IC 16-18-2-110), except as part of a levy for a county hospital  
2 under IC 16-22 or a municipal hospital under IC 16-23.

3 (5) Emergency action (as defined in IC 13-11-2-65).

4 Sec. 3. The activities and systems to which this article applies  
5 include the following:

6 (1) A communications system (as defined in IC 36-8-15-3) or  
7 an enhanced emergency telephone system (as defined in  
8 IC 36-8-16-2).

9 (2) Pension payments for any of the following:

10 (A) A member of a fire department (as defined in  
11 IC 36-8-1-8) or any other employee of a fire department.

12 (B) A member of a police department (as defined in  
13 IC 36-8-1-9), a police chief hired under a waiver under  
14 IC 36-8-4-6.5, or any other employee hired by a police  
15 department.

16 (C) A county sheriff or any other member of the office of  
17 the county sheriff.

18 (D) Other personnel employed to provide a service  
19 described in section 2 of this chapter.

20 (3) Operation of the following:

21 (A) A county jail.

22 (B) A juvenile detention center.

23 Sec. 4. This article does not apply to expenditures related to:

24 (1) a court;

25 (2) a probation department of a court; or

26 (3) confinement, supervision, community correction services,  
27 or other correctional services for a person who has been:

28 (A) diverted before a final hearing or trial under an  
29 agreement that:

30 (i) is between the prosecuting attorney and the person or  
31 the person's custodian, guardian, or parent; and

32 (ii) provides for confinement, supervision, community  
33 correction services, or other correctional services instead  
34 of a final action described in clause (B) or (C);

35 (B) convicted of a crime; or

36 (C) adjudicated as a delinquent child or a child in need of  
37 services in a facility;

38 except for expenditures related to the operation of a county jail or  
39 juvenile detention center.

40 Sec. 5. This section does not apply to an exemption granted  
41 under IC 6-1.1-10 or another law. A deduction from the assessed  
42 value of property subject to property taxation granted by

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1 IC 6-1.1-12, IC 6-1.1-12.1, or another law shall not be treated as a  
2 deduction or an exemption from a fire and safety benefit tax  
3 imposed under this article.

4 Chapter 3. Elimination of Property Tax Levies; Repayment of  
5 Prior Debt

6 Sec. 1. An eligible entity may not impose an ad valorem  
7 property tax levy to pay an expenditure under IC 6-1.7-2-2 or to  
8 fund the activities and systems referred to in IC 6-1.7-2-3.

9 Sec. 2. (a) This article does not prohibit:

- 10 (1) the consolidation of services payable from taxes; or
- 11 (2) the funding of emergency ambulance services or
- 12 emergency medical services with a user fee imposed under
- 13 another statute.

14 (b) The legislative body of an eligible entity delivering the  
15 consolidated services referred to in subsection (a)(1) shall allocate  
16 the cost payable from taxes based on the relative benefit of the  
17 consolidated services to:

- 18 (1) public safety services; and
- 19 (2) other purposes.

20 Sec. 3. Section 1 of this chapter does not release or extinguish a  
21 debt of an eligible entity that was incurred before January 1, 2012.  
22 However, to the extent permitted under the Constitution of the  
23 United States and the Constitution of the State of Indiana, a law  
24 entitling a holder of an obligation to enforce a right to repayment  
25 from property tax levies does not apply after December 31, 2011,  
26 to a holder of an obligation that was created before January 1,  
27 2012, but was incurred to finance an activity to which this article  
28 applies.

29 Sec. 4. If an agreement with an eligible entity entered into  
30 before January 1, 2012, or a judgment entered against an eligible  
31 entity before January 1, 2012, requires the eligible entity to make  
32 payments after December 31, 2011, from property tax levies that  
33 are prohibited by section 1 of this chapter, the holders of the  
34 obligations are entitled to payment from all other sources of  
35 receipts that are available to the eligible entity after December 31,  
36 2011, except receipts that by law or the terms of a grant are  
37 restricted to another use.

38 Chapter 4. Treatment of Distributions Based on Property Tax  
39 Levies

40 Sec. 1. Taxes imposed under this article shall be treated as ad  
41 valorem property taxes for the purpose of distributions under the  
42 following:

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1           (1) IC 6-3.5.  
2           (2) IC 6-5.5.  
3           (3) IC 6-6-5.  
4           (4) Any other law that computes a distribution on the assessed  
5           value of the tangible property in an eligible entity or on the  
6           property tax levy imposed by the eligible entity.  
7           Sec. 2. The department of state revenue shall provide the  
8           information for county auditors to make the distributions  
9           described in section 1 of this chapter for public safety services.  
10          Chapter 5. Imposition of Tax  
11          Sec. 1. An eligible entity may impose a tax on:  
12           (1) the owner of property in the eligible entity; and  
13           (2) if the eligible entity has entered into a contract to provide  
14           public safety services outside the eligible entity, the owner of  
15           property outside the eligible entity served under the contract;  
16          for any period beginning after December 31, 2011.  
17          Sec. 2. The tax for public safety services shall be determined  
18          based on any combination of the following:  
19           (1) The acreage or frontage of land.  
20           (2) The relative crime or fire risk of property, as determined  
21           by insurance ratings and other information available to the  
22           eligible entity.  
23           (3) The relative costs of purchasing or leasing special facilities  
24           or equipment to deliver public safety services to property.  
25          Sec. 3. The tax for public safety services does not have to be  
26          uniform throughout the eligible entity or for all users. The  
27          legislative body of an eligible entity may exercise reasonable  
28          discretion in:  
29           (1) adopting different tax schedules; or  
30           (2) making classifications in tax schedules:  
31           (A) based on variations in the costs, including capital  
32           expenditures required, of furnishing the services to various  
33           classes of users or to various locations in the eligible entity;  
34           or  
35           (B) where there are variations in the number of users in  
36           various locations in the eligible entity.  
37          Sec. 4. If public safety services will not be provided until after  
38          a capital improvement is completed, an eligible entity may bill and  
39          collect taxes for the services to be provided after the contract for  
40          construction of the capital improvement has been let and actual  
41          work commenced in an amount sufficient to meet the interest on  
42          the revenue bonds and other expenses payable before the

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1 completion of the capital improvement.

2 **Sec. 5. Unless the eligible entity finds and directs otherwise,**  
3 **public safety services are considered to benefit every:**

4 (1) lot;

5 (2) parcel of land; and

6 (3) building or other real property improvement;

7 in the eligible entity. The tax shall be billed and collected  
8 accordingly.

9 **Sec. 6. (a) The legislative body of an eligible entity shall, by**  
10 **ordinance, or, in the case of a township or fire protection district,**  
11 **by resolution, establish just and equitable tax schedules for public**  
12 **safety services provided by the eligible entity. The tax is payable by**  
13 **the owner of each lot, parcel of land, or building or other real**  
14 **property improvement that:**

15 (1) is in the eligible entity; or

16 (2) in any way uses or is served by the eligible entity.

17 (b) The legislative body of an eligible entity may periodically  
18 change and readjust the tax schedules as provided in this article.

19 **Sec. 7. (a) For purposes of this chapter, just and equitable taxes**  
20 **are those that produce sufficient revenue to provide revenue for**  
21 **not more than fifty percent (50%) of the following:**

22 (1) All expenses incident to the delivery of public safety  
23 services.

24 (2) A sinking fund for the liquidation of bonds or other  
25 evidence of indebtedness and reserves against default in the  
26 payment of interest and principal of bonds.

27 (3) Adequate money to be used as working capital and money  
28 for making improvements, additions, extensions, and  
29 replacements.

30 (b) Taxes too low to meet the financial requirements described  
31 in subsection (a) are unlawful. The initial taxes established after  
32 notice and hearing under this article are prima facie just and  
33 equitable.

34 **Sec. 8. The initial taxes may be established under this article**  
35 **only after a public hearing at which all the:**

36 (1) property owners to be served by the eligible entity; and

37 (2) others interested;

38 have an opportunity to be heard concerning the proposed taxes.

39 **Sec. 9. After introduction of the ordinance or resolution initially**  
40 **establishing taxes but before the ordinance or resolution is finally**  
41 **adopted, notice of the hearing setting forth the proposed schedule**  
42 **of the taxes must be given by publication one (1) time each week**

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1 for two (2) weeks in a newspaper of general circulation in the  
2 eligible entity. The last publication must be at least seven (7) days  
3 before the date fixed in the notice for the hearing. The hearing may  
4 be adjourned as necessary.

5 Sec. 10. (a) The ordinance or resolution establishing the initial  
6 taxes, either as:

- 7 (1) originally introduced; or
  - 8 (2) modified and amended;
- 9 must be passed and put into effect after the hearing.

10 (b) A copy of the schedule of the taxes established must be:  
11 (1) kept on file in the principal office of the eligible entity; and  
12 (2) open to public inspection.

13 Sec. 11. (a) The taxes established for a class of users of property  
14 served shall be extended to cover any additional property served  
15 after the taxes are established that are in the same class without the  
16 necessity of hearing or notice.

17 (b) A change or readjustment of the taxes may be made in the  
18 same manner as the taxes were originally established.

19 Sec. 12. Taxes imposed under this article that result in revenue  
20 exceeding the amount of just and equitable taxes permitted under  
21 section 7 of this chapter are not void. The excess shall be deposited  
22 in the political subdivision's rainy day fund and used as required  
23 under IC 6-1.2-7-3.

24 Chapter 6. Liens for Taxes

25 Sec. 1. The taxes made, assessed, or established under this  
26 article against:

- 27 (1) a lot;
- 28 (2) a parcel of land; or
- 29 (3) a building or other real property improvement;

30 in an eligible entity or served by an eligible entity are a lien against  
31 the lot, parcel of land, or building or other real property  
32 improvement.

33 Sec. 2. Except as provided in sections 5 and 6 of this chapter, a  
34 lien under section 1 of this chapter attaches at the time of the  
35 recording of the list in the county recorder's office as provided in  
36 IC 6-1.7-7. The lien:

- 37 (1) is superior to and takes precedence over all other liens  
38 except a lien for taxes; and
- 39 (2) shall be enforced under this article.

40 Sec. 3. If taxes are not paid within the time fixed by the eligible  
41 entity, the taxes become delinquent, and a penalty of ten percent  
42 (10%) of the amount of the taxes attaches to the taxes. The eligible

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1 entity may recover:

- 2 (1) the amount due;  
 3 (2) the penalty; and  
 4 (3) reasonable attorney's fees;

5 in a civil action in the name of the eligible entity.

6 Sec. 4. The taxes, together with the penalty, are collectible in the  
 7 manner provided by this article.

8 Sec. 5. (a) A tax is not enforceable as a lien against a subsequent  
 9 owner of property unless the lien for the tax was recorded with the  
 10 county recorder before the conveyance to the subsequent owner.

11 (b) If the property is conveyed before the lien can be filed, the  
 12 officer of the eligible entity who is charged with the collection of  
 13 the tax shall notify the person who owned the property at the time  
 14 the tax became payable. The notice must inform the person that  
 15 payment, including penalty fees for delinquencies, is due not less  
 16 than fifteen (15) days after the date of the notice. If payment is not  
 17 received before one hundred eighty (180) days after the date of the  
 18 notice have elapsed, the amount due may be expensed as a bad debt  
 19 loss.

20 Sec. 6. (a) This section applies whenever a property owner has  
 21 notified the eligible entity by certified mail with return receipt  
 22 requested of the address to which the owner's notice is to be sent.

23 (b) A lien does not attach against a lot, parcel of land, or  
 24 building or other real property improvement occupied by someone  
 25 other than the owner unless the officer of the eligible entity who is  
 26 charged with the collection of taxes notifies the owner of the  
 27 property after the taxes have become sixty (60) days delinquent.

28 Sec. 7. (a) The eligible entity shall release:

- 29 (1) liens filed with the county recorder after the recorded date  
 30 of conveyance of the property; and  
 31 (2) delinquent taxes incurred by the seller;

32 on receipt of a verified demand in writing from the purchaser.

33 (b) The demand must state the following:

- 34 (1) That the delinquent taxes were not incurred by the  
 35 purchaser as a user, lessee, or previous owner.  
 36 (2) That the purchaser has not been paid by the seller for the  
 37 delinquent taxes.

38 Chapter 7. Enforcement of Delinquencies

39 Sec. 1. This chapter applies only to taxes or penalties that have  
 40 been due and unpaid for at least ninety (90) days.

41 Sec. 2. The officer of the eligible entity who is charged with the  
 42 collection of the taxes shall enforce payment of the taxes. The

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1 officer shall, not more than two (2) times in a year, prepare a list  
2 of the delinquent taxes, including the amount of the penalty, that  
3 are enforceable under this chapter. The list must include the  
4 following:

- 5 (1) The name of each owner of each lot or parcel of real  
6 property on which the taxes have become delinquent.
- 7 (2) The description of the property as shown by the records of  
8 the office of the county auditor.
- 9 (3) The amount of the taxes, together with the amount of the  
10 penalty.

11 Sec. 3. (a) The officer of the eligible entity shall record a copy of  
12 the list prepared under section 2 of this chapter in the office of the  
13 county recorder.

14 (b) The county recorder shall charge a fee for recording the list  
15 in accordance with the fee schedule established in IC 36-2-7-10.

16 (c) After recording the list, the officer shall mail to each  
17 property owner on the list a notice stating that a lien against the  
18 owner's property has been recorded.

19 (d) This subsection applies only to a county that does not contain  
20 a consolidated city. A service charge of five dollars (\$5), which is  
21 in addition to the recording fee charged under this section and  
22 section 6 of this chapter, shall be added to each delinquent tax that  
23 is recorded.

24 Sec. 4. (a) This section applies only to a county containing a  
25 consolidated city.

26 (b) Using the lists prepared and recorded under sections 2 and  
27 3 of this chapter, the eligible entity shall certify to the county  
28 auditor a list of the liens that remain unpaid according to the  
29 following schedule:

- 30 (1) Liens recorded on or after August 1 of the preceding year  
31 and before February 1 of the current year shall be certified  
32 before March 1 of each year for collection in May of the same  
33 year.
- 34 (2) Liens recorded on or after February 1 of the current year  
35 and before August 1 of the current year shall be certified  
36 before September 1 of each year for collection in November  
37 of the same year.

38 (c) The county and the officers and employees of the county are  
39 not liable for any material error in the information on the list  
40 prepared under subsection (b).

41 Sec. 5. (a) This section applies only to a county that does not  
42 contain a consolidated city.

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1 (b) Using the lists prepared and recorded under sections 2 and  
2 3 of this chapter:

- 3 (1) after April 1 of the preceding year; and
- 4 (2) before April 1 of the current year;

5 the eligible entity shall, before June 1 of each year, certify to the  
6 county auditor a list of the liens that remain unpaid for collection  
7 in the next November.

8 (c) The county and the officers and employees of the county are  
9 not liable for any material error in the information on the list.

10 Sec. 6. (a) The eligible entity shall release a recorded lien when  
11 the:

- 12 (1) delinquent taxes;
- 13 (2) penalties;
- 14 (3) service charges; and
- 15 (4) recording fees;

16 have been fully paid.

17 (b) The county recorder shall charge a fee for releasing the lien  
18 in accordance with IC 36-2-7-10.

19 Sec. 7. (a) This subsection applies to a county that does not  
20 contain a consolidated city. On receipt of the list under section 5 of  
21 this chapter, the county auditor shall add a fifteen dollar (\$15)  
22 certification fee for each lot or parcel of real property on which  
23 taxes are delinquent. The certification fee is in addition to all other  
24 fees and taxes. The county auditor shall immediately enter on the  
25 tax duplicate for the municipality the:

- 26 (1) delinquent taxes;
- 27 (2) penalties;
- 28 (3) service charges;
- 29 (4) recording fees; and
- 30 (5) certification fees;

31 that are due not later than the due date of the next November  
32 installment of property taxes.

33 (b) This subsection applies to a county having a consolidated  
34 city. On receipt of the list under section 4 of this chapter, the  
35 county auditor shall enter on the tax duplicate the:

- 36 (1) delinquent taxes;
- 37 (2) penalties;
- 38 (3) service charges; and
- 39 (4) recording fees;

40 that are due not later than the due date of the next installment of  
41 property taxes.

42 (c) The county treasurer shall include any unpaid charges for

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- 1       **the:**
- 2           (1) delinquent tax;
- 3           (2) penalty;
- 4           (3) service charge;
- 5           (4) recording fee; and
- 6           (5) certification fee;
- 7       **for each owner of each lot or parcel of property at the time the next**
- 8       **cycle's property tax installment is billed.**
- 9       **Sec. 8. (a) This section does not apply to a county containing a**
- 10       **consolidated city.**
- 11       **(b) After June 1 of each year, the officer of the eligible entity**
- 12       **may not collect or accept:**
- 13           (1) delinquent taxes;
- 14           (2) penalties;
- 15           (3) service charges;
- 16           (4) recording fees; or
- 17           (5) certification fees;
- 18       **from property owners whose property has been certified to the**
- 19       **county auditor.**
- 20       **Sec. 9. If a:**
- 21           (1) delinquent tax;
- 22           (2) penalty;
- 23           (3) service charge;
- 24           (4) recording fee; or
- 25           (5) certification fee;
- 26       **is not paid, the county treasurer shall collect the unpaid money in**
- 27       **the same way that delinquent property taxes are collected.**
- 28       **Sec. 10. (a) At the time of each semiannual tax settlement, the**
- 29       **county treasurer shall certify to the county auditor all:**
- 30           (1) taxes;
- 31           (2) fees and charges; and
- 32           (3) penalties;
- 33       **that have been collected.**
- 34       **(b) The county auditor shall:**
- 35           (1) deduct the service charges and certification fees collected
- 36           by the county treasurer; and
- 37           (2) pay to the officer of the eligible entity the remaining taxes
- 38           and penalties due the eligible entity.
- 39       **(c) The county treasurer shall:**
- 40           (1) retain the service charges and certification fees that have
- 41           been collected; and
- 42           (2) deposit the charges and taxes in the county general fund.

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1           **Sec. 11. (a) This section applies to a:**  
2           (1) tax;  
3           (2) penalty; or  
4           (3) service charge;  
5           **that was not recorded before a recorded conveyance.**  
6           **(b) The:**  
7           (1) tax;  
8           (2) penalty; or  
9           (3) service charge;  
10          **shall be removed from the tax roll for a purchaser who, in the**  
11          **manner prescribed by IC 6-1.7-6-7, files a verified demand with the**  
12          **county auditor.**  
13          **Chapter 8. Foreclosure of Liens**  
14          **Sec. 1. An eligible entity may, as an additional or alternative**  
15          **remedy, foreclose a lien established by this article as a means of**  
16          **collection of taxes, including the penalty on the taxes.**  
17          **Sec. 2. (a) In all actions brought to foreclose the liens, the**  
18          **eligible entity is entitled to recover the following:**  
19               (1) The amount of the taxes.  
20               (2) The penalty on the taxes.  
21               (3) Reasonable attorney's fees.  
22          **(b) The court shall order that the foreclosure be made without**  
23          **relief from valuation or appraisal statutes.**  
24          **Sec. 3. Except as otherwise provided by this article, the**  
25          **following apply in all actions to foreclose the liens:**  
26               (1) The laws concerning municipal public improvement  
27               assessments.  
28               (2) The rights, remedies, procedure, and relief granted the  
29               parties to the action.  
30          SECTION 6. IC 6-1.8 IS ADDED TO THE INDIANA CODE AS A  
31          NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
32          2011]:  
33          **ARTICLE 1.8. COMMERCIAL ACTIVITY TAX**  
34          **Chapter 1. Definitions**  
35          **Sec. 1. Except as provided in section 9 of this chapter, the**  
36          **definitions in this chapter apply throughout this article.**  
37          **Sec. 2. (a) "Person" means, but is not limited to, individuals,**  
38          **combinations of individuals of any form, receivers, assignees,**  
39          **trustees in bankruptcy, firms, companies, joint stock companies,**  
40          **business trusts, estates, partnerships, limited liability partnerships,**  
41          **limited liability companies, associations, joint ventures, clubs,**  
42          **societies, for-profit corporations, S corporations, qualified**

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1 subarticle S subsidiaries, qualified subarticle S trusts, trusts,  
2 entities that are disregarded for federal income tax purposes, and  
3 any other entities.

4 (b) The term does not include nonprofit organizations or the  
5 state, its agencies, its instrumentalities, and its political  
6 subdivisions.

7 Sec. 3. "Consolidated elected taxpayer" means a group of two  
8 (2) or more persons treated as a single taxpayer for purposes of  
9 this article as the result of an election made under this article.

10 Sec. 4. "Combined taxpayer" means a group of two (2) or more  
11 persons treated as a single taxpayer for purposes of this article.

12 Sec. 5. "Fund" refers to the local government distribution fund  
13 established by IC 6-1.8-8-1.

14 Sec. 6. (a) "Taxpayer" means any person, or any group of  
15 persons in the case of a consolidated elected taxpayer or combined  
16 taxpayer treated as one (1) taxpayer, required to register or pay  
17 tax under this article.

18 (b) The term does not include a person excluded from a group  
19 filing a combined return under IC 6-1.8-2-1.

20 Sec. 7. (a) Except as otherwise provided in this article, "gross  
21 receipts" means the total amount realized by a person, without  
22 deduction for the cost of goods sold or other expenses incurred,  
23 that contributes to the production of gross income of the person,  
24 including the fair market value of any property and any services  
25 received, and any debt transferred or forgiven as consideration.

26 (b) The following are examples of gross receipts:

- 27 (1) Amounts realized from the sale, exchange, or other  
28 disposition of a taxpayer's property to or with another.
- 29 (2) Amounts realized from a taxpayer's performance of  
30 services for another.
- 31 (3) Amounts realized from another's use or possession of a  
32 taxpayer's property or capital.
- 33 (4) Any combination of the foregoing amounts.

34 Sec. 8. "Gross receipts" excludes the following amounts:

- 35 (1) Interest income except interest on credit sales.
- 36 (2) Dividends and distributions from corporations, and  
37 distributive or proportionate shares of receipts and income  
38 from a pass through entity.
- 39 (3) Receipts from the sale, exchange, or other disposition of an  
40 asset described in Section 1221 or 1231 of the Internal  
41 Revenue Code, without regard to the length of time the person  
42 held the asset. Notwithstanding Section 1221 of the Internal

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Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to:

- (A) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations;
- (B) interest rate fluctuations; or
- (C) commodity price fluctuations.

As used in this subdivision, "hedging transaction" has the same meaning as used in Section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of Financial Accounting Standards number 133 of the Financial Accounting Standards Board. The actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(4) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument.

(5) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person.

(6) Contributions received by a trust, plan, or other arrangement, any of which is described in Section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Article 1, Subarticle (D) of the Internal Revenue Code applies.

(7) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or educational expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in Section 125 of the Internal Revenue Code, or any similar employee reimbursement.

(8) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock.

(9) Proceeds received on the account of payments from life insurance policies.

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- 1           **(10) The following:**  
 2               **(A) Gifts or charitable contributions received, membership**  
 3               **dues received, and payments received for educational**  
 4               **courses, meetings, meals, or similar payments to a trade,**  
 5               **professional, or other similar association.**  
 6               **(B) Fundraising receipts received by any person when any**  
 7               **excess receipts are donated or used exclusively for**  
 8               **charitable purposes.**  
 9               **(C) Proceeds received by a religious or other nonprofit**  
 10              **organization, including proceeds realized with regard to**  
 11              **the organization's unrelated business taxable income.**  
 12           **(11) Damages received as the result of litigation that exceed**  
 13           **amounts that, if received without litigation, would be gross**  
 14           **receipts.**  
 15           **(12) Property, money, and other amounts received or**  
 16           **acquired by an agent on behalf of another that exceed the**  
 17           **agent's commission, fee, or other remuneration.**  
 18           **(13) Tax refunds, other tax benefit recoveries, and**  
 19           **reimbursements for the tax imposed under this article made**  
 20           **by entities that are part of the same combined taxpayer or**  
 21           **consolidated elected taxpayer group, and reimbursements**  
 22           **made by entities that are not members of a combined**  
 23           **taxpayer or consolidated elected taxpayer group that are**  
 24           **required to be made for economic parity among multiple**  
 25           **owners of an entity whose tax obligation under this article is**  
 26           **required to be reported and paid entirely by one (1) owner,**  
 27           **under the requirements of this article.**  
 28           **(14) Pension reversions.**  
 29           **(15) Contributions to capital.**  
 30           **(16) Sales or use taxes collected as a vendor or an out-of-state**  
 31           **seller on behalf of the taxing jurisdiction from a consumer or**  
 32           **other taxes the taxpayer is required by law to collect directly**  
 33           **from a purchaser and remit to a local, state, or federal tax**  
 34           **authority.**  
 35           **(17) In the case of receipts from the sale of cigarettes or**  
 36           **tobacco products by a wholesale dealer, retail dealer,**  
 37           **distributor, manufacturer, or seller, subject to IC 6-7, an**  
 38           **amount equal to the federal and state excise taxes paid by any**  
 39           **person on or for such cigarettes or tobacco products under**  
 40           **subtitle E of the Internal Revenue Code or IC 6-7.**  
 41           **(18) In the case of receipts from the sale of motor fuel,**  
 42           **gasoline, or special fuels by a person subject to IC 6-6-1.1,**

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**IC 6-6-2.1, or IC 6-6-4.1, an amount equal to federal and state excise taxes paid by any person on such motor fuel, gasoline, or special fuel under Section 4081 of the Internal Revenue Code, IC 6-6-1.1, IC 6-6-2.1, or IC 6-6-4.1.**

**(19) In the case of receipts from the sale of beer or intoxicating liquor subject to IC 7.1 by a person holding a permit issued under IC 7.1, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or IC 7.1.**

**(20) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, from the sale or other transfer of a motor vehicle, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle.**

**(21) Receipts from a financial institution subject to the financial institutions tax under IC 6-5.5 for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if the financial institution and the recipient of the receipts have at least fifty percent (50%) of their ownership interests owned or controlled, directly or constructively through related interests, by common owners.**

**(22) Receipts realized from administering antineoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer.**

**(23) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, under a table funding mortgage loan or warehouse lending mortgage loan. As used in this subdivision, "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table funding or warehouse lending mortgage loans that are first lien mortgage loans.**

**(24) Property, money, and other amounts received by a professional employer organization from a client employer that exceed the administrative fee charged by the professional employer organization to the client employer.**

**(25) In the case of amounts retained as commissions by a**

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1 permit holder under IC 4-31, an amount equal to the amounts  
2 specified under that article that must be paid to or collected  
3 as a tax and the amounts specified under that article to be  
4 used as purse money.

5 (26) Qualifying distribution center receipts.

6 (27) Any receipts for which the tax imposed by this article is  
7 prohibited by the Constitution or laws of the United States or  
8 the Constitution of the State of Indiana.

9 (28) Receipts subject to a financial institutions tax under  
10 IC 6-5.5 based on one (1) or more measurement periods that  
11 include the entire tax period under this article.

12 (29) Receipts subject to a utility receipts tax under IC 6-2.3.

13 (30) Receipts subject to an insurance premiums tax under  
14 IC 27-1-18-2 based on one (1) or more measurement periods  
15 that include the entire tax period under this article.

16 (31) Receipts of a person that solely facilitates or services one  
17 (1) or more securitizations or similar transactions for a  
18 taxpayer (as defined in IC 6-5.5-1-17). For purposes of this  
19 subdivision, "securitization" means transferring one (1) or  
20 more assets to one (1) or more persons and then issuing  
21 securities backed by the right to receive payment from the  
22 asset or assets so transferred.

23 **Sec. 9. (a) For purposes of this section and section 8(26) of this**  
24 **chapter, the following definitions apply:**

25 (1) "Qualifying distribution center receipts" means receipts  
26 of a supplier from qualified property that is delivered to a  
27 qualified distribution center, multiplied by a quantity that  
28 equals one (1) minus the Indiana delivery percentage.

29 (2) "Qualified property" means tangible personal property  
30 delivered to a qualified distribution center that is shipped to  
31 that qualified distribution center solely for further shipping  
32 by the qualified distribution center to another location in  
33 Indiana or elsewhere.

34 (3) "Further shipping" includes storing and repackaging  
35 qualified property into smaller or larger bundles, so long as  
36 the property is not subject to further manufacturing or  
37 processing.

38 (4) "Qualified distribution center" means a warehouse or  
39 other similar facility in Indiana that, for the qualifying year,  
40 is operated by a person that is not part of a combined  
41 taxpayer group and that has a qualifying certificate. However,  
42 all warehouses or other similar facilities that are operated by

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1 persons in the same taxpayer group and that are located  
 2 within one (1) mile of each other shall be treated as one (1)  
 3 qualified distribution center.  
 4 (5) "Qualifying year" means the calendar year to which the  
 5 qualifying certificate applies.  
 6 (6) "Qualifying period" means the period of July 1 of the  
 7 second year preceding the qualifying year through June 30 of  
 8 the year preceding the qualifying year.  
 9 (7) "Qualifying certificate" means an annual application  
 10 approved by the department from an operator of a  
 11 distribution center that has filed an application as prescribed  
 12 by the department.  
 13 (8) "Indiana delivery percentage" means the proportion of  
 14 the total property delivered to a destination inside Indiana  
 15 from the qualified distribution center during the qualifying  
 16 period compared with total deliveries from the qualified  
 17 distribution center everywhere during the qualifying period.  
 18 (b) An application for a qualifying certificate and annual fee  
 19 shall be filed and paid for each qualified distribution center. The  
 20 application and annual fee shall be filed on or before September 1  
 21 before the qualifying year or forty-five (45) days after the opening  
 22 of the distribution center, whichever is later. The applicant must  
 23 substantiate to the department's satisfaction that, for the  
 24 qualifying period, all persons operating the distribution center  
 25 have more than fifty percent (50%) of the cost of the qualified  
 26 property shipped to a location such that it would have a situs  
 27 outside Indiana under this article. The applicant must also  
 28 substantiate that the distribution center cumulatively had costs  
 29 from its suppliers equal to or exceeding five hundred million  
 30 dollars (\$500,000,000) during the qualifying period. For purposes  
 31 of this subsection, "supplier" excludes any person that is part of  
 32 the consolidated elected taxpayer group, if applicable, of the  
 33 operator of the qualified distribution center. The department may  
 34 require the applicant to have an independent certified public  
 35 accountant certify that the calculation of the minimum thresholds  
 36 required for a qualified distribution center by the operator of a  
 37 distribution center has been made in accordance with generally  
 38 accepted accounting principles. The department shall issue or deny  
 39 the issuance of a certificate not later than sixty (60) days after the  
 40 receipt of the application. A denial is subject to appeal under  
 41 IC 6-8.1. If the operator files a timely appeal, the operator shall be  
 42 granted a qualifying certificate; however, the operator is liable for

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1 any tax, interest, or penalty upon amounts claimed as qualifying  
2 distribution center receipts, other than those receipts exempt under  
3 this article, that would have otherwise not been owed by its  
4 suppliers if the qualifying certificate were valid.

5 (c) If the distribution center is new and was not open for the  
6 entire qualifying period, the operator of the distribution center  
7 may request that the department grant a qualifying certificate. If  
8 the certificate is granted and it is later determined that more than  
9 fifty percent (50%) of the qualified property during that year was  
10 not shipped to a location such that it would have a situs outside  
11 Indiana under this article or if it is later determined that the  
12 person that operates the distribution center had average monthly  
13 costs from its suppliers of less than forty million dollars  
14 (\$40,000,000) during that year, the operator of the distribution  
15 center is liable for any tax, interest, or penalty upon amounts  
16 claimed as qualifying distribution center receipts, other than those  
17 receipts exempt under this article that would have not otherwise  
18 been owed by its suppliers during the qualifying year if the  
19 qualifying certificate were valid. For purposes of this subsection,  
20 "supplier" excludes any person that is part of the consolidated  
21 elected taxpayer group, if applicable, of the operator of the  
22 qualified distribution center.

23 (d) When filing an application for a qualifying certificate under  
24 this section, the operator of a qualified distribution center also  
25 shall provide documentation, as the department requires, for the  
26 department to ascertain the Indiana delivery percentage. The  
27 department, upon issuing the qualifying certificate, also shall  
28 certify the Indiana delivery percentage. The operator of the  
29 qualified distribution center may appeal the department's  
30 certification of the Indiana delivery percentage in the same manner  
31 as an appeal is taken from the denial of a qualifying certificate  
32 under this section.

33 (e) Not later than thirty (30) days after all appeals have been  
34 exhausted, the operator of the qualified distribution center shall  
35 notify the affected suppliers of qualified property that the suppliers  
36 are required to file, not later than sixty (60) days after receiving  
37 notice from the operator of the qualified distribution center,  
38 amended reports for the affected calendar quarter or quarters or  
39 calendar year, whichever applies. Any additional tax liability or tax  
40 overpayment is subject to interest but is not subject to the  
41 imposition of any penalty so long as the amended returns are  
42 timely filed. The supplier of tangible personal property delivered

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1 to the qualified distribution center shall include in its report of  
 2 taxable gross receipts the receipts from the total sales of property  
 3 delivered to the qualified distribution center for the calendar  
 4 quarter or calendar year, whichever applies, multiplied by the  
 5 Indiana delivery percentage for the qualifying year. This section  
 6 shall not be construed as imposing liability on the operator of a  
 7 qualified distribution center for the tax imposed by this article  
 8 arising from any change to the Indiana delivery percentage.

9 (f) If a distribution center is new and not open for the entire  
 10 qualifying period, the operator shall make a good faith estimate of  
 11 an Indiana delivery percentage for use by suppliers in their reports  
 12 of taxable gross receipts for the remainder of the qualifying period.  
 13 The operator of the facility shall disclose to the suppliers that the  
 14 Indiana delivery percentage is an estimate and is subject to  
 15 recalculation. By the due date of the next application for a  
 16 qualifying certificate, the operator shall determine the actual  
 17 Indiana delivery percentage for the estimated qualifying period  
 18 and proceed as provided in this section with respect to the  
 19 calculation and recalculation of the Indiana delivery percentage.  
 20 The supplier shall file, not later than sixty (60) days after receiving  
 21 notice from the operator of the qualified distribution center,  
 22 amended reports for the affected calendar quarter or quarters or  
 23 calendar year, whichever applies. Any additional tax liability or tax  
 24 overpayment is subject to interest but is not subject to the  
 25 imposition of any penalty so long as the amended returns are  
 26 timely filed.

27 (g) Qualifying certificates and Indiana delivery percentages  
 28 issued by the department must be open to public inspection and  
 29 shall be timely published by the department. A supplier relying in  
 30 good faith on a certificate issued under this section is not subject to  
 31 tax on the qualifying distribution center receipts under this section.  
 32 If it is determined that a qualifying certificate should not have been  
 33 issued because the statutory requirements were in fact not met, a  
 34 person receiving the qualifying certificate is responsible for paying  
 35 the tax, interest, and penalty upon amounts claimed as qualifying  
 36 distribution center receipts that would not otherwise have been  
 37 owed by the supplier if the qualifying certificate were available.

38 (h) The annual fee for a qualifying certificate is one hundred  
 39 thousand dollars (\$100,000) for each qualified distribution center.  
 40 If a qualifying certificate is not issued, the annual fee is subject to  
 41 refund after the exhaustion of all appeals provided for by law. The  
 42 fee imposed under this subsection may be assessed in the same

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manner as the tax imposed under this article.

(i) The department may require that adequate security be posted by the operator of the distribution center on appeal when the department disagrees that the applicant has met the minimum thresholds for a qualified distribution center.

Sec. 10. In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the part of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker.

Sec. 11. (a) A taxpayer's method of accounting for gross receipts for a tax period must be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, the taxpayer's method of accounting for gross receipts under this article must be changed accordingly.

(b) In calculating gross receipts, the following shall be deducted to the extent included as a gross receipt in the current tax period or reported as taxable gross receipts in a prior tax period:

- (1) Cash discounts allowed and taken.
- (2) Returns and allowances.
- (3) Bad debts. For purposes of this subdivision, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six (6) months, and may be claimed as a deduction under Section 166 of the Internal Revenue Code and the regulations adopted under this section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include:
  - (A) uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid;
  - (B) expenses incurred in attempting to collect any account receivable or incurred for any part of a debt recovered; or
  - (C) the fair market value of repossessed property.
- (4) Any amount realized from the sale of an account receivable but only to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer.

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1           **Sec. 12. "Taxable gross receipts"** means gross receipts that have  
2 a situs in Indiana under this article.

3           **Sec. 13. A person has "substantial nexus with Indiana"** if the  
4 person qualifies under any of the following:

- 5           (1) Owns or uses a part or all of its capital in Indiana.
- 6           (2) Holds a certificate of compliance with the laws of Indiana  
7 authorizing the person to do business in Indiana.
- 8           (3) Has bright line presence in Indiana.
- 9           (4) Otherwise has nexus with Indiana to an extent that the  
10 person can be required to remit the tax imposed under this  
11 article under the Constitution of the United States.

12           **Sec. 14. A person has "bright line presence"** in Indiana for a  
13 reporting period and for the remaining part of the calendar year  
14 if the person meets any of the following:

- 15           (1) Has at any time during the calendar year property in  
16 Indiana with a total value of at least fifty thousand dollars  
17 (\$50,000). For the purpose of this subdivision, owned property  
18 is valued at original cost, and rented property is valued at  
19 eight (8) times the net annual rental charge.
- 20           (2) Has during the calendar year payroll in Indiana of at least  
21 fifty thousand dollars (\$50,000). Payroll in Indiana includes  
22 all of the following:
  - 23           (A) Any amount subject to withholding by the person  
24 under IC 6-3.
  - 25           (B) Any other amount the person pays as compensation to  
26 an individual under the supervision or control of the  
27 person for work done in Indiana.
  - 28           (C) Any amount the person pays for services performed in  
29 Indiana on its behalf by another.
- 30           (3) Has during the calendar year taxable gross receipts of at  
31 least five hundred thousand dollars (\$500,000).
- 32           (4) Has at any time during the calendar year within Indiana  
33 at least twenty-five percent (25%) of the person's total  
34 property, total payroll, or total gross receipts.
- 35           (5) Is domiciled in Indiana as an individual or for corporate,  
36 commercial, or other business purposes.

37           **Sec. 15. "Calendar quarter"** means a three (3) month period  
38 ending on March 31, June 30, September 30, or December 31.

39           **Sec. 16. "Tax period"** means the period over which a taxpayer  
40 is required to pay the tax imposed under this article.

41           **Sec. 17. "Agent"** means a person authorized by another person  
42 to act on its behalf to undertake a transaction for the other,

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1 including any of the following:

2 (1) A person receiving a fee to sell financial instruments.

3 (2) A person retaining only a commission from a transaction  
4 with the other proceeds from the transaction being remitted  
5 to another person.

6 (3) A lottery sales agent holding a valid Indiana license.

7 **Sec. 18. "Received" includes amounts accrued under the accrual  
8 method of accounting.**

9 **Sec. 19. "Pass through entity" means:**

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

12 (2) a:

13 (A) partnership;

14 (B) trust;

15 (C) limited liability company; or

16 (D) limited liability partnership;

17 that is not treated as a corporation under IC 6-3.

18 **Sec. 20. "Department" refers to the department of state  
19 revenue.**

20 **Sec. 21. "Taxing unit" means a political subdivision described  
21 in IC 6-1.2-1-1.**

22 **Chapter 2. Combined Returns**

23 **Sec. 1. A group of two (2) or more persons may elect to be a  
24 consolidated elected taxpayer for purposes of this article if the  
25 group satisfies all of the following requirements:**

26 (1) The group elects to include all persons having at least fifty  
27 percent (50%) of the value of their ownership interests owned  
28 or controlled, directly or constructively through related  
29 interests, by common owners during all or any part of the tax  
30 period, together with the common owners. At the election of  
31 the group, all entities that are not incorporated or formed  
32 under the laws of a state or of the United States and that meet  
33 the elected ownership test must be included in the group or all  
34 must be excluded from the group. The group shall notify the  
35 department of the foregoing elections before the due date of  
36 the return in which the election is to become effective. If fifty  
37 percent (50%) of the value of a person's ownership interests  
38 is owned or controlled by each of two (2) consolidated elected  
39 taxpayer groups formed under the fifty percent (50%)  
40 ownership or control test, that person is a member of each  
41 group for purposes of this chapter, and each group shall  
42 include in the group's taxable gross receipts fifty percent

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(50%) of that person's taxable gross receipts. Otherwise, all of that person's taxable gross receipts must be included in the taxable gross receipts of the consolidated elected taxpayer group of which the person is a member. The ownership or control of fifty percent (50%) of the value of a person's ownership interests by two (2) otherwise unrelated groups never forms the basis for consolidating the groups into a single consolidated elected taxpayer group and never permits any exclusion under section 3 of this chapter of taxable gross receipts between members of the two (2) groups. Subdivision (3) applies with respect to the elections described in this subdivision.

(2) The group makes the election to be treated as a consolidated elected taxpayer in the manner prescribed under section 5 of this chapter.

(3) Subject to review and audit by the department, the group agrees that all of the following apply:

(A) The group shall file reports as a single taxpayer for at least the next eight (8) calendar quarters following the election so long as at least two (2) of the members of the group meet the requirements of this subdivision.

(B) Before the expiration of the eighth calendar quarter described in clause (A), the group shall notify the department if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the department, the election remains in effect for another eight (8) calendar quarters.

(C) If, at any time during any of the eight (8) calendar quarters following the election, a former member of the group no longer meets the requirements under subdivision (1), that member shall report and pay the tax imposed under this article separately, as a member of a combined taxpayer, or, if the former member satisfies the requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(D) The group agrees to the application of section 2 of this chapter.

**Sec. 2.** A group of persons making the election under this chapter shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with Indiana does not exist for one (1) or more persons in the group.

**Sec. 3. (a)** Members of a consolidated elected taxpayer group

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1 shall exclude gross receipts among persons included in the  
2 consolidated elected taxpayer group.

3 (b) As used in this section, "dealer transfer" means a transfer  
4 of property that satisfies both of the following:

5 (1) The property is directly transferred by any means from  
6 one (1) member of the group to another member of the group  
7 that is a dealer in intangibles.

8 (2) The property is subsequently delivered by the dealer in  
9 intangibles to a person that is not a member of the group.

10 (c) For a dealer transfer, a consolidated elected taxpayer group  
11 shall not exclude, under this section, gross receipts from the  
12 transfer described in subsection (b)(1).

13 Sec. 4. Gross receipts related to the sale or transmission of  
14 electricity through the use of an intermediary regional  
15 transmission organization approved by the Federal Energy  
16 Regulatory Commission shall be excluded from taxable gross  
17 receipts under section 3 of this chapter if all other requirements of  
18 that section are met, even if the receipts are from and to the same  
19 member of the group.

20 Sec. 5. (a) To make the election to be a consolidated elected  
21 taxpayer, a group of persons shall notify the department of the  
22 election in the manner prescribed by the department. The election  
23 shall be made before the beginning of the first calendar quarter to  
24 which the election applies.

25 (b) The election must be made on a form prescribed by the  
26 department for that purpose and shall be signed by one (1) or more  
27 individuals with authority, separately or together, to make a  
28 binding election on behalf of all persons in the group.

29 (c) Any person acquired or formed after the filing of the  
30 registration must be included in the group if the person meets the  
31 requirements of this chapter, and the group shall notify the  
32 department of any additions to the group with the next tax return  
33 it files with the department.

34 Sec. 6. Each member of a consolidated elected taxpayer is jointly  
35 and severally liable for the tax imposed by this article and any  
36 penalties or interest on the tax. The department may require one  
37 (1) person in the group to be the taxpayer for purposes of  
38 registration and remittance of the tax, but all members of the  
39 group are subject to assessment under IC 6-8.1.

40 Sec. 7. All persons, other than exempt persons, having more  
41 than fifty percent (50%) of the value of their ownership interest  
42 owned or controlled, directly or constructively through related

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1 interests, by common owners during all or any part of the tax  
2 period, together with the common owners, are members of a  
3 combined taxpayer if those persons are not members of a  
4 consolidated elected taxpayer under an election under this chapter.

5 Sec. 8. A combined taxpayer shall register, file returns, and pay  
6 taxes under this article as a single taxpayer.

7 Sec. 9. A combined taxpayer shall not exclude taxable gross  
8 receipts for transactions between its members or for transactions  
9 with others that are not members.

10 Sec. 10. (a) A combined taxpayer shall pay to the department a  
11 registration fee equal to the lesser of two hundred dollars (\$200) or  
12 twenty dollars (\$20) for each person in the group. An additional fee  
13 may not be imposed for the addition of new members to the group  
14 once the group has remitted a fee of two hundred dollars (\$200).  
15 The fee shall be timely paid before the beginning of the first  
16 calendar quarter.

17 (b) Any person acquired or formed after the filing of the  
18 registration must be included in the group if the person meets the  
19 requirements of section 1 of this chapter, and the group shall notify  
20 the department of any additions with the next quarterly tax return  
21 it files with the department.

22 Sec. 11. Each member of a combined taxpayer is jointly and  
23 severally liable for the tax imposed by this article and any penalties  
24 or interest on the tax. The department may require one (1) person  
25 in the group to be the taxpayer for purposes of registration and  
26 remittance of the tax, but all members of the group are subject to  
27 assessment under IC 6-8.1.

28 Chapter 3. Property Transferred Into Indiana

29 Sec. 1. Except as provided in this chapter, the following apply:

30 (1) A person shall include as taxable gross receipts the value  
31 of property the person transfers into Indiana for the person's  
32 own use within one (1) year after the person receives the  
33 property outside Indiana.

34 (2) In the case of an elected consolidated taxpayer or a  
35 combined taxpayer, the taxpayer shall include as taxable  
36 gross receipts the value of property that any of the taxpayer's  
37 members transferred into Indiana for the use of any of the  
38 taxpayer's members within one (1) year after the taxpayer  
39 receives the property outside Indiana.

40 Sec. 2. Property brought into Indiana not later than one (1) year  
41 after it is received outside Indiana by a person or group described  
42 in this chapter shall not be included as taxable gross receipts as

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1 required under section 1 of this chapter if the department  
 2 ascertains that the property's receipt outside Indiana by the person  
 3 or group followed by its transfer into Indiana not later than one (1)  
 4 year was not intended in whole or in part to avoid in whole or in  
 5 part the tax imposed under this article.

6 Sec. 3. The department may adopt rules under IC 4-22-2  
 7 necessary to administer this chapter.

8 Chapter 4. Imposition of Tax

9 Sec. 1. Beginning with the tax period that begins July 1, 2011,  
 10 and continuing for every tax period thereafter, there is levied a  
 11 commercial activity tax on each person with taxable gross receipts  
 12 for the privilege of doing business in Indiana. For purposes of this  
 13 article, "doing business" means engaging in any activity, whether  
 14 legal or illegal, that is conducted for, or results in, gain, profit, or  
 15 income, at any time during the calendar year. Persons on which the  
 16 commercial activity tax is levied include, but are not limited to,  
 17 persons with substantial nexus with Indiana. The tax imposed  
 18 under this section is not a transactional tax and is not subject to  
 19 P.L.86-272, 73 Stat. 555. The tax imposed under this section is in  
 20 addition to any other taxes or fees imposed by law. The tax levied  
 21 under this section is imposed on the person receiving the gross  
 22 receipts and is not a tax imposed directly on a purchaser. The tax  
 23 imposed by this section is an annual privilege tax for the calendar  
 24 year that, in the case of calendar year taxpayers, is the annual tax  
 25 period and, in the case of calendar quarter taxpayers, contains all  
 26 quarterly tax periods in the calendar year. A taxpayer is subject to  
 27 the annual privilege tax for doing business during any part of the  
 28 calendar year.

29 Sec. 2. The tax imposed by this chapter is a tax on the taxpayer  
 30 and shall not be billed or invoiced to another person. Even if the  
 31 tax or any part of the tax is billed or invoiced and separately  
 32 stated, the amounts remain part of the price for purposes of the  
 33 sales and use taxes levied under IC 6-2.5. This chapter does not  
 34 prohibit a person from including in the price charged for a good or  
 35 service an amount sufficient to recover the tax imposed by this  
 36 chapter.

37 Sec. 3. Except as provided in this article, the tax levied under  
 38 this chapter for each tax period is the product of twenty-five  
 39 hundredths of one percent (0.25%) multiplied by the gross receipts  
 40 of the taxpayer.

41 Sec. 4. A taxpayer is entitled to a deduction against the gross  
 42 receipts that are subject to taxation in a calendar year under this

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1 article. The amount of the deduction is equal to one thousand  
2 dollars (\$1,000).

3 Chapter 5. Situs of Gross Receipts to Indiana

4 Sec. 1. For purposes of this article, the determination that gross  
5 receipts have a situs in Indiana is made in the same manner that  
6 adjusted gross income is sourced to Indiana under IC 6-3-2.

7 Sec. 2. If the situs provisions of this chapter do not fairly  
8 represent the extent of a person's activity in Indiana, the person  
9 may request, or the department may require or permit, an  
10 alternative method. The request must be made within the  
11 applicable statute of limitations set forth in this article.

12 Sec. 3. The department may adopt rules under IC 4-22-2 to  
13 provide additional guidance to the application of this section, and  
14 provide alternative methods of determining the situs of gross  
15 receipts that apply to all persons, or subset of persons, that are  
16 engaged in similar business or trade activities.

17 Chapter 6. Registration With Department; Fee

18 Sec. 1. Not later than the later of October 1, 2011, or thirty (30)  
19 days before the end of the first calendar quarter in which the  
20 taxpayer has taxable gross receipts in a calendar year, each person  
21 subject to this article shall register with the department on the  
22 form prescribed by the department. However, the department shall  
23 prescribe procedures that exempt a person that is reasonably likely  
24 to have gross receipts of less than one thousand dollars (\$1,000) in  
25 any calendar year from registering under this chapter.

26 Sec. 2. The form must include the following:

- 27 (1) The person's name.
- 28 (2) If applicable, the name of the state or country under the
- 29 laws of which the person is incorporated.
- 30 (3) If applicable, the location of a person's principal office and
- 31 the name and address of the officer or agent of the
- 32 corporation in charge of the business.
- 33 (4) If applicable, the names of the person's president,
- 34 secretary, treasurer, and statutory agent designated under
- 35 IC 23, with the post office address of each.
- 36 (5) The kind of business in which the person is engaged,
- 37 including applicable business or industry codes.
- 38 (6) If required by the department, the date of the beginning of
- 39 the person's annual accounting period that includes January
- 40 1 of the taxable calendar year.
- 41 (7) If the person is not a corporation or a sole proprietor, the
- 42 names of the person's owners and officers, if required by the

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department.

(8) The person's federal employer identification number or numbers or, if those are not applicable, the person's Social Security number or equivalent.

(9) All other information that the department requires to administer and enforce this article.

Sec. 3. Except as otherwise provided in this chapter, a person registering with the department under this chapter may not be required to pay a fee.

Sec. 4. If a person that has registered under this chapter is no longer a taxpayer subject to this article, the person shall notify the department that the person's registration should be canceled.

Chapter 7. Filing

Sec. 1. (a) Not later than forty (40) days after the end of each calendar quarter, every taxpayer shall file with the department a tax return in a form the department prescribes. The return must include the amount of the taxpayer's taxable gross receipts for the calendar quarter and must indicate the amount of tax due for the calendar quarter.

(b) A taxpayer shall pay the tax imposed by this article on taxable gross receipts for a calendar quarter with the return filed under subsection (a).

(c) A tax return is not considered to be an incorrect reporting of taxable gross receipts for purposes of this chapter if the return reflects at least ninety-five percent (95%) and not more than one hundred five percent (105%) of the actual taxable gross receipts for the calendar quarter.

(d) The tax return filed for the fourth calendar quarter of a calendar year is the annual return for the privilege tax imposed by this article. The return must report any additional taxable gross receipts not previously reported in the calendar year and must adjust for any overreported taxable gross receipts in the calendar year. If the taxpayer ceases to be a taxpayer before the end of the calendar year, the last return the taxpayer is required to file is the annual return for the taxpayer, and the taxpayer shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any overreported taxable gross receipts in the calendar year.

Sec. 2. IC 6-8.1 applies to taxpayers under this article.

Sec. 3. (a) Any person remitting taxes exceeding ten thousand dollars (\$10,000) in any calendar quarter shall remit each tax payment and, if required by the department, file the tax return or

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the annual report electronically. The department may prescribe the means for taxpayers to file and remit the tax electronically.

(b) A person required by this section to remit taxes or file returns electronically may apply to the department, on the form prescribed by the department, to be excused from that requirement. The department may excuse a person from the requirements of this subsection for good cause.

(c) If a person required to remit taxes or file a return electronically under this section fails to do so, the department may impose a penalty not to exceed the following:

(1) For either of the first two (2) calendar quarters the person so fails, five percent (5%) of the amount of the payment that was required to be remitted.

(2) For the third and any subsequent calendar quarters the person so fails, ten percent (10%) of the amount of the payment that was required to be remitted.

(d) The penalty imposed under this section is in addition to any other penalty imposed under this article or IC 6-8.1 and is considered as revenue arising from the tax imposed under this article.

Sec. 4. (a) If any person liable for the tax imposed under this article sells the trade or business, disposes of in any manner other than in the regular course of business at least seventy-five percent (75%) of the assets of the trade or business, or quits the trade or business, any tax owed by the person becomes due and payable immediately, and the person shall pay the tax under this section, including any applicable penalties and interest, not later than forty-five (45) days after the date of selling or quitting the trade or business. The person's successor shall withhold a sufficient amount of the purchase money to cover the amount due and unpaid until the former owner produces a receipt from the department showing that the amounts are paid or a certificate indicating that no taxes are due. If a purchaser fails to withhold purchase money, that person is personally liable up to the purchase money amount, for the amounts that are unpaid during the operation of the business by the former owner.

(b) The department may adopt rules under IC 4-22-2 regarding the issuance of certificates under this section, including the waiver of the need for a certificate if certain criteria are met.

Sec. 5. (a) The department may prescribe requirements for the keeping of records and other pertinent documents, the filing of copies of federal income tax returns and determinations, and

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1       computations reconciling federal income tax returns with the  
 2       returns and reports required by IC 6-8.1. The department may  
 3       require any person, by rule or notice served on that person, to keep  
 4       those records that the department considers necessary to show  
 5       whether, and the extent to which, a person is subject to this article.  
 6       Those records and other documents must be open during business  
 7       hours to the inspection of the department and shall be preserved  
 8       for four (4) years unless the department, in writing, consents to  
 9       their destruction within that period or by order requires that they  
 10      be kept longer. If the records are normally kept by the person  
 11      electronically, the person shall provide the records to the  
 12      department electronically at the department's request.

13      (b) Any information required by the department under this  
 14      article is confidential. However, the department shall make public  
 15      an electronic list of all actively registered persons required to remit  
 16      the tax under this article, including legal names, trade names,  
 17      addresses, and account numbers. In addition, the list must include  
 18      all persons that canceled their registration at any time during the  
 19      preceding four (4) calendar years, including the date the  
 20      registration was canceled.

#### 21      Chapter 8. Deposits

22      Sec. 1. The local government distribution fund is established.  
 23      The department shall administer the fund.

24      Sec. 2. The treasurer of state may invest the money in the fund  
 25      not currently needed to meet the obligations of the fund in the same  
 26      manner as other public trust funds are invested. Interest that  
 27      accrues from the investments shall be allocated to and deposited in  
 28      the fund.

29      Sec. 3. Money in the fund at the end of a state fiscal year does  
 30      not revert to the state general fund.

31      Sec. 4. The net amount collected from the tax imposed under  
 32      this article, after making refunds and other adjustments for the  
 33      overpayment of taxes under this article, shall be deposited in the  
 34      local government distribution fund.

35      Sec. 5. After December 31, 2011, the department shall distribute  
 36      the balance in the fund at least monthly to taxing units.

37      Sec. 6. The amount to be distributed from the fund to a taxing  
 38      unit under this chapter is in proportion to the average value of  
 39      property used or held for a business purpose in the political  
 40      subdivision relative to the average value of property used or held  
 41      for a business purpose in all taxing units in Indiana. For purposes  
 42      of this section, the following apply:

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- 1           (1) The value of property is the value determined in the
- 2           manner prescribed in IC 6-3-2-2 for the determination of the
- 3           property factor applicable to determining a taxpayer's
- 4           adjusted gross income derived from sources within Indiana
- 5           and reported to the department under this article.
- 6           (2) If property is located in more than one (1) taxing unit, the
- 7           value of the property shall be assigned to each taxing unit.
- 8           (3) The value of indefinite situs property shall be allocated
- 9           among political subdivisions in the manner provided in
- 10          IC 6-1.1-8.

11          **Sec. 7. There is annually appropriated to the department from**  
 12 **the fund an amount sufficient to make the distributions required**  
 13 **by this chapter.**

14          SECTION 7. IC 6-1.9 IS ADDED TO THE INDIANA CODE AS A  
 15 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
 16 **2011]:**

17          **ARTICLE 1.9. EMPLOYER PAYROLL EXPENSE TAX**  
 18          **Chapter 1. Definitions**

19          **Sec. 1. The definitions in this chapter apply throughout this**  
 20 **article.**

21          **Sec. 2. (a) "Compensation" means wages, salaries, commissions,**  
 22 **and any other form of remuneration paid to employees for**  
 23 **personal services rendered in Indiana, including self-employment**  
 24 **income, as defined in Section 1402 of the Internal Revenue Code.**

- 25          **(b) The term does not include remuneration:**
  - 26               (1) excluded from the federal definition of wages set forth in
  - 27               Section 3401 of the Internal Revenue Code; or
  - 28               (2) paid to a team member (as defined in IC 6-3-2-2.7) who
  - 29               would not be subject to adjusted gross income tax if
  - 30               IC 6-3-2-2.7 were not in effect.

31          **Sec. 3. "Department" refers to the department of state revenue.**

32          **Sec. 4. "Employee" means the following:**

- 33               (1) An individual who is an employee (as defined in section
- 34               3401 of the Internal Revenue Code).
- 35               (2) An individual who earns self-employment income (as
- 36               defined in Section 1402 of the Internal Revenue Code).

37          **Sec. 5. (a) "Employer" means the following:**

- 38               (1) An employer (as defined in Section 3401 of the Internal
- 39               Revenue Code).
- 40               (2) An individual who earns self-employment income (as
- 41               defined in Section 1402 of the Internal Revenue Code).
- 42          **(b) The term does not include the following:**

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- 1 (1) The United States government.  
 2 (2) An agency or instrumentality of the United States  
 3 government.  
 4 (3) The state.  
 5 (4) A state agency (as defined in IC 34-6-2-141).  
 6 (5) A body corporate and politic created by statute.  
 7 (6) A political subdivision (as defined in IC 34-6-2-110).  
 8 (7) A state educational institution (as defined in  
 9 IC 21-7-13-32).  
 10 (8) A nonprofit college or university (as defined in  
 11 IC 21-17-1-10).  
 12 (9) An organization described in Section 501(c)(3) of the  
 13 Internal Revenue Code.  
 14 (10) Any other entity that is organized and operated  
 15 exclusively for religious, charitable, scientific, literary, or  
 16 educational purposes if no part of the entity's income is used  
 17 for the private benefit or gain of any member, trustee,  
 18 shareholder, employee, or associate of the entity. For  
 19 purposes of this subdivision, the term "private benefit or  
 20 gain" does not include reasonable compensation paid to an  
 21 employee for work or services actually performed.
- 22 Sec. 6. "Fund" refers to the local government payroll  
 23 distribution fund established by IC 6-1.9-4-1.
- 24 Sec. 7. "Tax" refers to the employer payroll expense tax  
 25 imposed under this article.
- 26 Sec. 8. "Tax district" means a geographic area within which  
 27 resident taxpayers are taxed under IC 6-1.6 by the same taxing  
 28 units and at the same total rate.
- 29 Sec. 9. "Taxing unit" means a political subdivision described in  
 30 IC 6-1.2-1-1.
- 31 Chapter 2. Imposition of Tax
- 32 Sec. 1. An employer payroll expense tax is imposed on each  
 33 employer that pays compensation to one (1) or more employees  
 34 who:
- 35 (1) are Indiana residents; or  
 36 (2) perform work or render services in whole or in part in  
 37 Indiana;
- 38 after December 31, 2011. The incidence of the tax is solely upon the  
 39 employer subject to the tax and may not be transferred directly or  
 40 indirectly to the employee.
- 41 Sec. 2. The amount of the employer payroll expense tax imposed  
 42 on an employer for a calendar year is determined under STEP

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1 TWO of the following formula:

2 STEP ONE: Determine the total amount of compensation  
3 paid by the employer to employees during the calendar year.

4 STEP TWO: Multiply the STEP ONE amount by twenty-five  
5 hundredths of one percent (0.25%).

6 Chapter 3. Returns and Remittances

7 Sec. 1. An employer who is subject to the tax imposed by this  
8 article shall file an annual return with the department on or before  
9 the thirtieth day following the close of the calendar year. An  
10 employer may take a credit on an annual return filed under this  
11 section for any taxes previously paid by the employer for that  
12 calendar year under section 2 or 3 of this chapter.

13 Sec. 2. (a) Except as provided by subsection (b) or section 3 of  
14 this chapter, an employer who is subject to the tax imposed by this  
15 article shall file returns with the department and make payments  
16 of the tax imposed by this article at the same time the employer  
17 files withholding returns under IC 6-3-4. The amount of tax to be  
18 paid by the employer with each withholding return is determined  
19 under STEP TWO of the following formula:

20 STEP ONE: Determine the total amount of compensation  
21 paid by the employer to employees during the period covered  
22 by the withholding return.

23 STEP TWO: Multiply the STEP ONE amount by twenty-five  
24 hundredths of one percent (0.25%).

25 (b) An employer who is required by IC 6-3-4-8.1 to remit  
26 monthly withholding taxes due by electronic funds transfer or by  
27 delivering a payment by cashier's check, certified check, or money  
28 order shall remit the monthly tax payments required by subsection  
29 (a) in the same manner and at the same time. If an employer's  
30 remittance of employer payroll expense taxes is made by electronic  
31 funds transfer, the employer is not required to file a monthly  
32 return for those taxes. However, the employer shall file a quarterly  
33 return before the twentieth day following the end of each calendar  
34 quarter.

35 Sec. 3. (a) Except as provided by subsection (b), an employer  
36 who is subject to the tax imposed by this article but is not required  
37 to file withholding returns under IC 6-3-4 shall file monthly  
38 returns with the department and make monthly payments of the  
39 tax imposed by this article. The amount of tax to be paid by the  
40 employer for each month is determined under STEP TWO of the  
41 following formula:

42 STEP ONE: Determine the total amount of compensation

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1           paid by the employer to employees during the month.  
2           **STEP TWO: Multiply the STEP ONE amount by twenty-five**  
3           **hundredths of one percent (0.25%).**  
4           **The employer shall pay taxes due under this section for a**  
5           **particular month to the department not later than thirty (30) days**  
6           **after the end of that month.**  
7           **(b) If the department determines that:**  
8               **(1) the employer's estimated monthly tax liability under this**  
9               **article for the current calendar year; or**  
10              **(2) the employer's average monthly tax liability under this**  
11              **article for the preceding calendar year;**  
12           **exceeds ten thousand dollars (\$10,000), the employer shall remit**  
13           **the monthly tax payments required by this section by electronic**  
14           **funds transfer (as defined in IC 4-8.1-2-7) or by delivering in**  
15           **person or by overnight courier a payment by cashier's check,**  
16           **certified check, or money order to the department. If an**  
17           **employer's remittance is made by electronic funds transfer, the**  
18           **employer is not required to file a monthly return for those taxes.**  
19           **However, the employer shall file a quarterly return before the**  
20           **twentieth day following the end of each calendar quarter.**  
21           **Sec. 4. The department shall require an employer to report the**  
22           **amount of each remittance of tax payments under this chapter that**  
23           **is attributable to each taxing district in which an employee of the**  
24           **employer has a principal place of business or employment, as**  
25           **determined at the beginning of the month in which the**  
26           **compensation was earned.**  
27           **Sec. 5. The department shall prescribe the procedures and**  
28           **forms for making returns and payments under this chapter,**  
29           **including a procedure for combining the returns required by this**  
30           **section with the withholding returns required by IC 6-3-4.**  
31           **Chapter 4. Administration and Deposit of Revenue**  
32           **Sec. 1. The local government payroll distribution fund is**  
33           **established. The department shall administer the fund.**  
34           **Sec. 2. The treasurer of state may invest the money in the fund**  
35           **not currently needed to meet the obligations of the fund in the same**  
36           **manner as other public trust funds are invested. Interest that**  
37           **accrues from the investments shall be allocated to and deposited in**  
38           **the fund.**  
39           **Sec. 3. Money in the fund at the end of a state fiscal year does**  
40           **not revert to the state general fund.**  
41           **Sec. 4. The net amount collected from the tax imposed under**  
42           **this article, after making refunds and other adjustments for the**

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overpayment of taxes under this article, shall be deposited in the fund.

Sec. 5. After December 31, 2011, the department shall distribute the balance in the fund at least monthly to taxing units.

Sec. 6. The amount to be distributed from the fund to a taxing unit is the amount determined under STEP TWO of the following formula:

STEP ONE: For each taxing district in which a taxing unit imposes a tax under IC 6-1.2, determine the total amount being distributed that is attributable to employees who have a principal place of business or employment in the taxing district.

STEP TWO: Multiply the STEP ONE amount by a fraction. The:

(A) numerator of the fraction is the amount of the budget for the taxing unit approved by the county board (as defined in IC 6-1.2-2-4) under IC 6-1.2 for the budget year in which the tax being distributed was imposed; and

(B) denominator of the fraction is the sum of the budgets approved by the county board (as defined in IC 6-1.2-2-4) under IC 6-1.2 for all of the taxing units permitted to impose a tax under IC 6-1.2 for the budget year in which the tax being distributed was imposed.

Sec. 7. There is annually appropriated to the department from the fund an amount sufficient to make the distributions required by this chapter.

SECTION 8. IC 6-2.5-2-2, AS AMENDED BY P.L.113-2010, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 2. (a) The state gross retail tax is measured by the gross retail income received by a retail merchant in a retail unitary transaction and is imposed at seven ~~and five-tenths~~ percent (~~7%~~) (7.5%) of that gross retail income.

(b) If the tax computed under subsection (a) carried to the third decimal place results in the numeral in the third decimal place being greater than four (4), the amount of the tax shall be rounded to the next additional cent.

SECTION 9. IC 6-2.5-6-7, AS AMENDED BY P.L.146-2008, SECTION 311, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 7. Except as otherwise provided in IC 6-2.5-7 or in this chapter, a retail merchant shall pay to the department, for a particular reporting period, an amount equal to the product of:

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- 1 (1) seven **and five-tenths** percent (~~7%~~; **7.5%**); multiplied by
- 2 (2) the retail merchant's total gross retail income from taxable
- 3 transactions made during the reporting period.

4 The amount determined under this section is the retail merchant's state  
 5 gross retail and use tax liability regardless of the amount of tax the  
 6 retail merchant actually collects.

7 SECTION 10. IC 6-2.5-6-10, AS AMENDED BY P.L.146-2008,  
 8 SECTION 313, IS AMENDED TO READ AS FOLLOWS  
 9 [EFFECTIVE JANUARY 1, 2012]: Sec. 10. (a) In order to compensate  
 10 retail merchants for collecting and timely remitting the state gross retail  
 11 tax and the state use tax, every retail merchant, except a retail merchant  
 12 referred to in subsection (c), is entitled to deduct and retain from the  
 13 amount of those taxes otherwise required to be remitted under  
 14 IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's  
 15 collection allowance.

16 (b) The allowance equals a percentage of the retail merchant's state  
 17 gross retail and use tax liability accrued during a calendar year,  
 18 specified as follows:

19 (1) ~~Seventy-three~~ **Sixty-eight** hundredths percent (~~0.73%~~;  
 20 **0.68%**), if the retail merchant's state gross retail and use tax  
 21 liability accrued during the state fiscal year ending on June 30 of  
 22 the immediately preceding calendar year did not exceed sixty  
 23 thousand dollars (\$60,000).

24 (2) ~~Fifty-three hundredths~~ **Five-tenths** percent (~~0.53%~~; **0.5%**),  
 25 if the retail merchant's state gross retail and use tax liability  
 26 accrued during the state fiscal year ending on June 30 of the  
 27 immediately preceding calendar year:

- 28 (A) was greater than sixty thousand dollars (\$60,000); and
- 29 (B) did not exceed six hundred thousand dollars (\$600,000).

30 (3) ~~Twenty-six~~ **Twenty-four** hundredths percent (~~0.26%~~;  
 31 **0.24%**), if the retail merchant's state gross retail and use tax  
 32 liability accrued during the state fiscal year ending on June 30 of  
 33 the immediately preceding calendar year was greater than six  
 34 hundred thousand dollars (\$600,000).

35 (c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not  
 36 entitled to the allowance provided by this section.

37 SECTION 11. IC 6-2.5-7-3, AS AMENDED BY P.L.146-2008,  
 38 SECTION 314, IS AMENDED TO READ AS FOLLOWS  
 39 [EFFECTIVE JANUARY 1, 2012]: Sec. 3. (a) With respect to the sale  
 40 of gasoline which is dispensed from a metered pump, a retail merchant  
 41 shall collect, for each unit of gasoline sold, state gross retail tax in an  
 42 amount equal to the product, rounded to the nearest one-tenth of one

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- 1 cent (\$0.001), of:
- 2 (1) the price per unit before the addition of state and federal taxes;
- 3 multiplied by
- 4 (2) seven **and five-tenths** percent (~~7%~~): **(7.5%)**.

5 The retail merchant shall collect the state gross retail tax prescribed in  
 6 this section even if the transaction is exempt from taxation under  
 7 IC 6-2.5-5.

8 (b) With respect to the sale of special fuel or kerosene which is  
 9 dispensed from a metered pump, unless the purchaser provides an  
 10 exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant  
 11 shall collect, for each unit of special fuel or kerosene sold, state gross  
 12 retail tax in an amount equal to the product, rounded to the nearest  
 13 one-tenth of one cent (\$0.001), of:

- 14 (1) the price per unit before the addition of state and federal taxes;
- 15 multiplied by
- 16 (2) seven **and five-tenths** percent (~~7%~~): **(7.5%)**.

17 Unless the exemption certificate is provided, the retail merchant shall  
 18 collect the state gross retail tax prescribed in this section even if the  
 19 transaction is exempt from taxation under IC 6-2.5-5.

20 SECTION 12. IC 6-2.5-7-5, AS AMENDED BY P.L.148-2009,  
 21 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JANUARY 1, 2012]: Sec. 5. (a) Each retail merchant who dispenses  
 23 gasoline or special fuel from a metered pump shall, in the manner  
 24 prescribed in IC 6-2.5-6, report to the department the following  
 25 information:

- 26 (1) The total number of gallons of gasoline sold from a metered  
 27 pump during the period covered by the report.
- 28 (2) The total amount of money received from the sale of gasoline  
 29 described in subdivision (1) during the period covered by the  
 30 report.
- 31 (3) That portion of the amount described in subdivision (2) which  
 32 represents state and federal taxes imposed under this article,  
 33 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.
- 34 (4) The total number of gallons of special fuel sold from a  
 35 metered pump during the period covered by the report.
- 36 (5) The total amount of money received from the sale of special  
 37 fuel during the period covered by the report.
- 38 (6) That portion of the amount described in subdivision (5) that  
 39 represents state and federal taxes imposed under this article,  
 40 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.
- 41 (7) The total number of gallons of E85 sold from a metered pump  
 42 during the period covered by the report.

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1 (b) Concurrently with filing the report, the retail merchant shall  
 2 remit the state gross retail tax in an amount which equals six and  
 3 ~~fifty-four~~ **ninety-eight** hundredths percent (~~6.54%~~) (**6.98%**) of the  
 4 gross receipts, including state gross retail taxes but excluding Indiana  
 5 and federal gasoline and special fuel taxes, received by the retail  
 6 merchant from the sale of the gasoline and special fuel that is covered  
 7 by the report and on which the retail merchant was required to collect  
 8 state gross retail tax. The retail merchant shall remit that amount  
 9 regardless of the amount of state gross retail tax which the merchant  
 10 has actually collected under this chapter. However, the retail merchant  
 11 is entitled to deduct and retain the amounts prescribed in subsection  
 12 (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

13 (c) A retail merchant is entitled to deduct from the amount of state  
 14 gross retail tax required to be remitted under subsection (b) the amount  
 15 determined under STEP THREE of the following formula:

16 STEP ONE: Determine:

17 (A) the sum of the prepayment amounts made during the  
 18 period covered by the retail merchant's report; minus

19 (B) the sum of prepayment amounts collected by the retail  
 20 merchant, in the merchant's capacity as a qualified distributor,  
 21 during the period covered by the retail merchant's report.

22 STEP TWO: Subject to subsections (d) and (f), for qualified  
 23 reporting periods beginning after June 30, 2009, and ending  
 24 before July 1, 2020, determine the product of:

25 (A) eighteen cents (\$0.18); multiplied by

26 (B) the number of gallons of E85 sold at retail by the retail  
 27 merchant during the period covered by the retail merchant's  
 28 report.

29 STEP THREE: Add the amounts determined under STEPS ONE  
 30 and TWO.

31 For purposes of this section, a prepayment of the gross retail tax is  
 32 presumed to occur on the date on which it is invoiced.

33 (d) The total amount of deductions allowed under subsection (c)  
 34 STEP TWO may not exceed the amount of money that the budget  
 35 agency determines is available in the retail merchant E85 deduction  
 36 reimbursement fund established under IC 15-15-12-30.5 for the  
 37 deductions for all retail merchants in a particular qualified reporting  
 38 period. A retail merchant is not required to apply for an allocation of  
 39 deductions under subsection (c) STEP TWO. Before August 1 of each  
 40 year, the budget agency shall estimate whether the amount of  
 41 deductions from the immediately preceding qualified reporting period  
 42 that are subject to reimbursement under IC 15-15-12-30.5(f) and the

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1 deductions expected to be reported under subsection (c) STEP TWO  
 2 for the qualified reporting periods beginning after December 31 and  
 3 ending before April 1 of the following year will exceed the amount of  
 4 money available in the retail merchant E85 deduction reimbursement  
 5 fund for the deductions. If the budget agency determines that the  
 6 amount of money in the retail merchant E85 deduction reimbursement  
 7 fund is insufficient to cover the amount of the deductions expected to  
 8 be reported, the budget agency shall publish in the Indiana Register a  
 9 notice that the deduction program under subsection (c) STEP TWO is  
 10 suspended with respect to the qualified reporting periods occurring in  
 11 the following calendar year and that no deductions will be granted for  
 12 retail transactions occurring in the qualified reporting periods occurring  
 13 in the following calendar year.

14 (e) As used in this section, "qualified reporting period" refers to a  
 15 reporting period beginning after December 31 and ending before April  
 16 1 of each year.

17 (f) The budget agency may suspend the deduction program under  
 18 subsection (c) STEP TWO for a particular year at any time during a  
 19 qualified reporting period if the budget agency determines that the  
 20 amount of money in the retail merchant E85 deduction reimbursement  
 21 fund and the amount of money that will be transferred to the fund on  
 22 July 1 will not be sufficient to reimburse the deductions expected to  
 23 occur before the deduction program for the year ends on March 31. The  
 24 budget agency shall immediately provide notice to the participating  
 25 retail merchants of the decision to suspend the deduction program for  
 26 that year.

27 SECTION 13. IC 6-2.5-10-1, AS AMENDED BY P.L.146-2008,  
 28 SECTION 317, IS AMENDED TO READ AS FOLLOWS  
 29 [EFFECTIVE JANUARY 1, 2012]: Sec. 1. (a) The department shall  
 30 account for all state gross retail and use taxes that it collects.

31 (b) The department shall deposit those collections in the following  
 32 manner:

33 (1) Ninety-nine and ~~one two hundred seventy-eight~~ **twenty-five**  
 34 ~~thousandths~~ percent (~~99.178%~~) (**99.225%**) of the collections shall  
 35 be paid into the state general fund.

36 (2) ~~Sixty-seven hundredths~~ **Six hundred thirty-two thousandths**  
 37 ~~of one percent~~ (~~0.67%~~) (**0.632%**) of the collections shall be paid  
 38 into the public mass transportation fund established by  
 39 IC 8-23-3-8.

40 (3) ~~Twenty-nine~~ **Twenty-seven** thousandths of one percent  
 41 (~~0.029%~~) (**0.027%**) of the collections shall be deposited into the  
 42 industrial rail service fund established under IC 8-3-1.7-2.

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1 (4) One hundred ~~twenty-three~~ **sixteen** thousandths of one percent  
2 ~~(0.123%)~~ **(0.116%)** of the collections shall be deposited into the  
3 commuter rail service fund established under IC 8-3-1.5-20.5.

4 SECTION 14. IC 6-3-2-1 IS AMENDED TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2011] : Sec. 1. (a) Each taxable year, a tax at  
6 the rate of three ~~and four-tenths~~ percent ~~(3.4%)~~ **(3%)** of adjusted gross  
7 income is imposed upon the adjusted gross income of every resident  
8 person, and on that part of the adjusted gross income derived from  
9 sources within Indiana of every nonresident person.

10 (b) Except as provided in section 1.5 of this chapter, each taxable  
11 year, a tax at the rate of eight and five-tenths percent (8.5%) of adjusted  
12 gross income is imposed on that part of the adjusted gross income  
13 derived from sources within Indiana of every corporation.

14 SECTION 15. IC 6-8.1-1-1, AS AMENDED BY P.L.182-2009(ss),  
15 SECTION 247, IS AMENDED TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2011]: Sec. 1. "Listed taxes" or "taxes" includes  
17 only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the  
18 riverboat admissions tax (IC 4-33-12); the riverboat wagering tax  
19 (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II  
20 gambling game excise tax (IC 4-36-9); **the local resident income tax**  
21 **(IC 6-1.6); the fire and safety benefit tax (IC 6-1.7); the commercial**  
22 **activity tax (IC 6-1.8); the employer payroll expense tax (IC 6-1.9);**  
23 the gross income tax (IC 6-2.1) (repealed); the utility receipts and  
24 utility services use taxes (IC 6-2.3); the state gross retail and use taxes  
25 (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net  
26 income tax (IC 6-3-8) (repealed); the county adjusted gross income tax  
27 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county  
28 economic development income tax (IC 6-3.5-7); the auto rental excise  
29 tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax  
30 (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special  
31 fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor  
32 fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the  
33 motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax  
34 (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck  
35 campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6);  
36 the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor  
37 excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider  
38 excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the  
39 petroleum severance tax (IC 6-8-1); the various innkeeper's taxes  
40 (IC 6-9); the various food and beverage taxes (IC 6-9); the county  
41 admissions tax (IC 6-9-13 and IC 6-9-28); the regional transportation  
42 improvement income tax (IC 8-24-17); the oil inspection fee

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(IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 16. [EFFECTIVE JULY 1, 2011] (a) For purposes of:

- (1) IC 6-2.5-2-2, as amended by this act;
- (2) IC 6-2.5-6-7, as amended by this act;
- (3) IC 6-2.5-6-10, as amended by this act;
- (4) IC 6-2.5-7-3, as amended by this act; and
- (5) IC 6-2.5-7-5, as amended by this act;

all transactions, except the furnishing of public utility, telephone, or cable television services and commodities by retail merchants described in IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11 shall be considered as having occurred after December 31, 2011, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before January 1, 2012, to the extent that the agreement of the parties to the transaction was entered into before January 1, 2012, and payment for the property or services furnished in the transaction is made before January 1, 2012, notwithstanding the delivery of the property or services after December 31, 2011.

(b) With respect to a transaction constituting the furnishing of public utility, telephone, or cable television services and commodities, only transactions for which the charges are collected upon original statements and billings dated after October 31, 2011, shall be considered as having occurred after December 31, 2011.

(c) The legislative council shall provide for the preparation of legislation for introduction in the 2012 regular session of the general assembly to correct and revise statutes affected by this act.

(d) A taxpayer who is subject in a taxable year to different state adjusted gross income tax rates shall pay taxes at each rate equal to the product of:

- (1) the amount of taxes the taxpayer would owe if the tax rate had been imposed during the taxpayer's entire taxable year; multiplied by
- (2) a fraction:
  - (A) the numerator of which equals the number of days during the taxpayer's taxable year during which the tax

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1                   rate was in effect; and  
2                   **(B) the denominator of which equals the total number of**  
3                   **days in the taxpayer's taxable year.**  
4                   **The department of state revenue shall provide instructions to**  
5                   **employers and taxpayers to implement this subsection.**  
6                   **(e) The department of local government finance shall assist**  
7                   **political subdivisions and county boards of tax adjustment with the**  
8                   **implementation of this act.**  
9                   **(f) This SECTION expires January 1, 2013.**

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