

Adopted	Rejected
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## COMMITTEE REPORT

YES:	20
NO:	0

### MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1546, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 4, delete lines 7 through 13.
- 2 Page 16, delete lines 28 through 42, begin a new paragraph and
- 3 insert:
- 4 "SECTION 13. IC 6-4.1-1-4 IS REPEALED [EFFECTIVE JULY 1,
- 5 2013]. Sec. 4. "Federal death tax credit" means the maximum federal
- 6 estate tax credit provided, with respect to estate, inheritance, legacy, or
- 7 succession taxes, under Section 2011 or Section 2102 of the Internal
- 8 Revenue Code."
- 9 Page 17, delete lines 1 through 3.
- 10 Page 17, line 7, after "inheritance" insert "**tax**".
- 11 Page 17, line 8, after "tax" insert "**(paid before its repeal)**".
- 12 Page 17, between lines 35 and 36, begin a new paragraph and insert:
- 13 "SECTION 15. IC 6-4.1-10-4 IS AMENDED TO READ AS
- 14 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) A person who
- 15 files a claim for the refund of inheritance **tax** or Indiana estate tax

1 **(paid before its repeal)** may appeal any refund order which the  
 2 department of state revenue enters with respect to ~~his~~ **the person's**  
 3 claim. To initiate the appeal, the person must, within ninety (90) days  
 4 after the department enters the order, file a complaint in which the  
 5 department is named as the defendant.

6 (b) The court which has jurisdiction over an appeal initiated under  
 7 this section is:

8 (1) the probate court of the county in which administration of the  
 9 estate is pending, if the appeal involves either a resident or a  
 10 nonresident decedent's estate and administration of the estate is  
 11 pending;

12 (2) the probate court of the county in which the decedent was  
 13 domiciled at the time of ~~his~~ **the decedent's** death, if the appeal  
 14 involves a resident decedent's estate and no administration of the  
 15 estate is pending in Indiana; or

16 (3) the probate court of any county in which any of the decedent's  
 17 property was located at the time of ~~his~~ **the decedent's** death, if the  
 18 appeal involves a nonresident decedent's estate and no  
 19 administration of the estate is pending in Indiana.

20 SECTION 16. IC 6-4.1-11-0.1 IS REPEALED [EFFECTIVE JULY  
 21 1, 2013]. ~~Sec. 0.1. The following amendments to this chapter apply as~~  
 22 ~~follows:~~

23 (1) ~~The amendments made to section 2 of this chapter by~~  
 24 ~~P.L.78-1993 do not apply to individuals who die before July 1,~~  
 25 ~~1993.~~

26 (2) ~~The amendments made to section 3 of this chapter by~~  
 27 ~~P.L.252-2001 apply to the estate of an individual who dies after~~  
 28 ~~June 30, 2001.~~

29 SECTION 17. IC 6-4.1-11-1 IS REPEALED [EFFECTIVE JULY  
 30 1, 2013]. ~~Sec. 1. A tax to be known as the "Indiana estate tax" is~~  
 31 ~~imposed upon a resident or nonresident decedent's estate.~~

32 SECTION 18. IC 6-4.1-11-2 IS REPEALED [EFFECTIVE JULY  
 33 1, 2013]. ~~Sec. 2: (a) The Indiana estate tax is the amount determined in~~  
 34 ~~STEP FOUR of the following formula:~~

35 ~~STEP ONE: Divide:~~

36 ~~(A) the value of the decedent's Indiana gross estate; by~~

37 ~~(B) the value of the decedent's total gross estate for federal~~  
 38 ~~estate tax purposes.~~

- 1           STEP TWO: Multiply:
- 2           (A) the quotient determined under STEP ONE; by
- 3           (B) the federal state death tax credit allowable against the
- 4           decedent's federal estate tax:
- 5           The product is the Indiana portion of the federal state death tax
- 6           credit.
- 7           STEP THREE: Subtract:
- 8           (A) the amount of all Indiana inheritance taxes actually paid
- 9           as a result of the decedent's death; from
- 10          (B) the product determined under STEP TWO:
- 11          STEP FOUR: Determine the greater of the following:
- 12          (A) The remainder determined under STEP THREE:
- 13          (B) Zero (0):
- 14          (b) For purposes of this section, the value of a nonresident
- 15          decedent's Indiana gross estate equals the total fair market value on the
- 16          appraisal date of tangible personal property and real estate which had
- 17          an actual situs in Indiana at the time of the decedent's death and which
- 18          is included in the decedent's gross estate for federal estate tax purposes
- 19          under Sections 2031 through 2044 of the Internal Revenue Code:
- 20          (c) For purposes of this section, the value of a resident decedent's
- 21          Indiana gross estate equals the total fair market value on the appraisal
- 22          date of personal property and real estate that had an actual situs in
- 23          Indiana at the time of the decedent's death and all intangible personal
- 24          property wherever located that is included in the decedent's gross estate
- 25          for federal estate tax purposes:
- 26          (d) For purposes of this section, the value of a resident or
- 27          nonresident decedent's total gross estate for federal estate tax purposes
- 28          equals the total fair market value on the appraisal date of the property
- 29          included in the decedent's gross estate for federal estate tax purposes
- 30          under Sections 2031 through 2044 of the Internal Revenue Code:
- 31          (e) For purposes of determining the value of a decedent's Indiana
- 32          gross estate and the decedent's total gross estate, the appraisal date for
- 33          each property interest is the date on which the property interest is
- 34          valued for federal estate tax purposes:
- 35          (f) The estate tax does not apply to a property interest transfer made
- 36          by a resident decedent if the interest transferred is in:
- 37                (1) real property located outside Indiana; regardless of whether
- 38                the property is held in a trust or whether the trustee is required to

- 1 distribute the property in-kind; or
- 2 (2) real property located in Indiana; if:
  - 3 (A) the real property was transferred to an irrevocable trust
  - 4 during the decedent's lifetime;
  - 5 (B) the transfer to the trust was not made in contemplation of
  - 6 the transferor's death; as determined under IC 6-4.1-2-4; and
  - 7 (C) the decedent does not have a retained interest in the trust.

8 SECTION 19. IC 6-4.1-11-3 IS REPEALED [EFFECTIVE JULY  
 9 1, 2013]. Sec. 3: (a) The Indiana estate tax accrues at the time of the  
 10 decedent's death. Except as provided in subsection (b) of this section,  
 11 the Indiana estate tax is due twelve (12) months after the date of the  
 12 decedent's death:

13 (b) Any Indiana estate tax that results from a final change in the  
 14 amount of federal estate tax is due:

- 15 (1) eighteen (18) months after the date of the decedent's death; or
- 16 (2) one (1) month after final notice of the federal estate tax due is  
 17 given to the person liable for the tax;

18 whichever is later.

19 SECTION 20. IC 6-4.1-11-4 IS REPEALED [EFFECTIVE JULY  
 20 1, 2013]. Sec. 4: If Indiana estate tax is not paid on or before the due  
 21 date, the person liable for the tax shall pay interest on the delinquent  
 22 portion of the tax from the due date until it is paid at the rate of six  
 23 percent (6%) per year.

24 SECTION 21. IC 6-4.1-11-5 IS REPEALED [EFFECTIVE JULY  
 25 1, 2013]. Sec. 5: A person is entitled to claim the amount of Indiana  
 26 estate tax paid under this chapter as a credit against inheritance tax  
 27 imposed under this article if:

- 28 (1) the inheritance tax is imposed after the Indiana estate tax is  
 29 paid; and
- 30 (2) both taxes are imposed as a result of the same decedent's  
 31 death:".

32 Page 17, line 38, strike "(a) The department of state revenue shall".

33 Page 17, strike lines 39 through 42.

34 Page 18, line 1, strike "(b)" and insert "(a)".

35 Page 18, line 1, delete "(d)," and insert "(b),".

36 Run in page 17, line 38, through page 18, line 1.

37 Page 18, line 3, strike "(c)".

38 Page 18, line 3, after "(d)" insert "(b)".

- 1 Page 18, line 8, strike "(c)" and insert "(b)".
- 2 Page 19, line 10, delete "(d)" and insert "(c)".
- 3 Page 19, line 10, strike "(b)" and insert "(a)".
- 4 Page 19, between lines 12 and 13, begin a new paragraph and insert:
- 5 "SECTION 23. IC 6-4.1-11-7 IS REPEALED [EFFECTIVE JULY
- 6 1, 2013]. ~~Sec. 7. A probate court's final determination concerning the~~
- 7 ~~amount of Indiana estate tax owing under this chapter may be appealed~~
- 8 ~~to the tax court in accordance with the rules of appellate procedure.~~
- 9 SECTION 24. IC 6-4.1-11.5 IS REPEALED [EFFECTIVE JULY 1,
- 10 2013]. (Indiana Generation-Skipping Transfer Tax).".
- 11 Page 23, between lines 11 and 12, begin a new paragraph and insert:
- 12 "SECTION 23. IC 6-8-13 IS ADDED TO THE INDIANA CODE
- 13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 14 JULY 1, 2013]:
- 15 **Chapter 13. Disaster Recovery Exemptions**
- 16 **Sec. 1. As used in this chapter, "department" refers to the**
- 17 **department of state revenue.**
- 18 **Sec. 2. As used in this chapter, "disaster emergency" means the**
- 19 **following:**
- 20 (1) A disaster emergency declared under IC 10-14-3-12.
- 21 (2) A state of energy emergency declared under IC 10-14-3-13.
- 22 (3) A local disaster emergency declared under IC 10-14-3-29.
- 23 (4) A request by a registered business for disaster or
- 24 emergency assistance under a mutual assistance agreement.
- 25 **Sec. 3. As used in this chapter, "disaster period" means the**
- 26 **period:**
- 27 (1) beginning on the date ten (10) days before the day on
- 28 which a disaster emergency is declared; and
- 29 (2) ending sixty (60) days after the date on which the disaster
- 30 emergency declaration ends.
- 31 **Sec. 4. As used in this chapter, "disaster emergency related**
- 32 **work" means:**
- 33 (1) repairing, renovating, installing, or building; or
- 34 (2) rendering services or transacting other business activities
- 35 related to;
- 36 **infrastructure that is damaged, impaired, or destroyed by an event**
- 37 **that caused a disaster emergency to be declared.**
- 38 **Sec. 5. As used in this chapter, "registered business" means an**

1 entity that is registered with the department to do business in  
2 Indiana before a disaster emergency is declared.

3 Sec. 6. As used in this chapter, "entity" has the meaning set  
4 forth in IC 23-1-20-10.

5 Sec. 7. As used in this chapter, "infrastructure" means the  
6 following:

7 (1) Real or personal property or equipment owned or used by:

8 (A) a public utility (as defined in IC 8-1-2-1(a) or  
9 IC 8-1-8.5-1(a));

10 (B) a municipally owned utility (as defined in  
11 IC 8-1-2-1(h));

12 (C) a joint agency (as defined in IC 8-1-2.2-2(e)); or

13 (D) a communications service provider (as defined in  
14 IC 8-1-32.6-3).

15 (2) Public roads and bridges and related support facilities.

16 Sec. 7.5. As used in this chapter, "mutual assistance agreement"  
17 means an agreement to which one (1) or more registered businesses  
18 and one (1) or more out-of-state businesses are parties and under  
19 which a public utility, municipally owned utility, or joint agency  
20 owning, operating, or owning and operating infrastructure in  
21 Indiana may request and receive assistance from an out-of-state  
22 business to perform disaster or emergency related work during a  
23 disaster period.

24 Sec. 8. (a) As used in this chapter, "out-of-state business" means  
25 an entity that:

26 (1) is not:

27 (A) a registered business;

28 (B) incorporated in Indiana; or

29 (C) otherwise authorized to do business in Indiana;

30 on the date on which a disaster period begins; and

31 (2) does not maintain a physical presence in Indiana during  
32 the taxable year in which a disaster emergency is declared.

33 (b) The term includes the following:

34 (1) A business whose services are requested by a registered  
35 business or by a state or local government for performing  
36 disaster emergency related work in Indiana.

37 (2) A business entity that is affiliated with a registered  
38 business in Indiana solely through common ownership.

1           **Sec. 9. As used in this chapter, "out-of-state employee" means**  
2 **an individual who is:**

- 3           **(1) employed by an out-of-state business at any time during a**  
4 **disaster period; and**  
5           **(2) for purposes of section 14 of this chapter, not a resident of**  
6 **Indiana.**

7           **Sec. 10. (a) An out-of-state business that enters Indiana shall,**  
8 **upon request, provide the department a statement that the business**  
9 **is in Indiana for purposes of responding to a disaster emergency.**

10 **The statement must include:**

- 11           **(1) the name of the business;**  
12           **(2) the state in which the business is domiciled;**  
13           **(3) the principal business address of the business;**  
14           **(4) the federal tax identification number of the business;**  
15           **(5) the date the business entered Indiana; and**  
16           **(6) contact information for the business.**

17           **(b) A registered business shall, upon request, provide the**  
18 **information required by subsection (a) for any affiliate that enters**  
19 **Indiana as an out-of-state business. The notification must include**  
20 **contact information for the registered business.**

21           **Sec. 11. An out-of-state business that performs disaster**  
22 **emergency related work in Indiana during a disaster period is**  
23 **exempt from paying state or local income taxes during the disaster**  
24 **period, regardless of the manner in which the out-of-state business**  
25 **reports, files, or remits the taxes. For purposes of any state or local**  
26 **tax on or measured by, in whole or in part, gross or net income or**  
27 **receipts, all activity of the out-of-state business that is conducted**  
28 **in Indiana in accordance with this chapter is disregarded with**  
29 **respect to any filing requirement of the tax, including a filing**  
30 **requirement for a unitary or combined group of which the**  
31 **out-of-state business may be a part.**

32           **Sec. 12. An out-of-state employee is not considered to have**  
33 **established residency or a presence in Indiana that would require**  
34 **the employee or the employee's employer to:**

- 35           **(1) file and pay state or local income taxes; or**  
36           **(2) become subject to income tax withholding;**  
37 **during a disaster period. This includes any related state or local**  
38 **employer withholding or remittance obligations.**

1           **Sec. 13. An out-of-state employee is exempt from state and local**  
 2 **licensing and registration requirements with respect to disaster**  
 3 **emergency work performed during a disaster period.**

4           **Sec. 14. Unless otherwise exempted during a disaster period, an**  
 5 **out-of-state business or an out-of-state employee shall pay**  
 6 **transaction taxes and fees, including:**

- 7           **(1) fuel taxes;**  
 8           **(2) gross retail taxes or use taxes;**  
 9           **(3) hotel taxes;**  
 10           **(4) car rental taxes; or**  
 11           **(5) other taxes or fees imposed upon the purchase of property**  
 12 **or services for use or consumption in Indiana during the**  
 13 **disaster period.**

14           **Sec. 15. An out-of-state business or out-of-state employee that**  
 15 **performs work or services or otherwise transacts business:**

- 16           **(1) unrelated to a disaster emergency during a disaster**  
 17 **period; or**  
 18           **(2) after the expiration of a disaster period;**

19 **establishes nexus with Indiana for purposes of all taxes, fees, and**  
 20 **other requirements or obligations attributable to the work,**  
 21 **services, or transactions.**

22           **SECTION 24. IC 6-8.1-3-11 IS AMENDED TO READ AS**  
 23 **FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) As used in this**  
 24 **section, "secure electronic delivery service" means a service that:**

- 25           **(1) employs security procedures to provide, send, deliver, or**  
 26 **otherwise communicate electronic records to the intended**  
 27 **recipient using:**

28           **(A) security methods such as passwords, encryption, and**  
 29 **matching electronic addresses to United States postal**  
 30 **addresses; or**

31           **(B) other security methods that are consistent with**  
 32 **applicable law or industry standards; and**

- 33           **(2) operates subject to the applicable requirements of the**  
 34 **Electronic Signatures in Global and National Commerce Act**  
 35 **(15 U.S.C. 7001 et seq.) or IC 5-24.**

36           **(a) (b) When a statute specifies that the department is required to**  
 37 **send a document by mail, and the particular statute is silent as to the**  
 38 **class or type of mailing to be used, the department satisfies the mailing**

1 requirement by mailing the document through the United States mail  
2 in any of the following methods:

- 3 (1) first-class mail;
- 4 (2) registered mail, return receipt requested;
- 5 (3) certified mail; ~~or~~
- 6 (4) certificate of mailing; **or**
- 7 **(5) a secure electronic delivery service, if the use of the secure**
- 8 **electronic delivery service is authorized under IC 6-8.1-6-7(b).**

9 **Subject to IC 6-8.1-6-7(b)**, the choice of the method is at the  
10 department's discretion.

11 ~~(b)~~ **(c)** The department may use any form of mailing in cases where  
12 a mailing is not required by statute.

13 SECTION 25. IC 6-8.1-6-7 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. **(a)** Notwithstanding  
15 any other provisions of this title, the commissioner may permit the  
16 filing of any return or document by electronic data submission.

17 **(b) This subsection applies to a taxpayer required to report and**  
18 **remit state gross retail taxes or amounts withheld under IC 6-3-4-8**  
19 **electronically. If the taxpayer provides written consent to the**  
20 **department, the department may provide the taxpayer with any**  
21 **documents that would otherwise require delivery by mail by using**  
22 **a secure electronic delivery service developed by the department**  
23 **under IC 6-8.1-3-11.**

24 **(c)** The department may adopt rules to establish procedures to  
25 implement this section."

26 Page 29, line 15, delete "subject to the" and insert "**identified on an**  
27 **applicable tax return.**".

28 Page 29, delete lines 16 through 42.

29 Page 30, delete lines 1 through 41.

30 Page 34, line 21, strike "a final determination on the protest is made  
31 by the".

32 Page 34, line 22, strike "department of state revenue." and insert  
33 **"the later of the following:**

34 **(1) The expiration of the period in which the applicant may**  
35 **appeal the listed tax to the tax court, in the case of an**  
36 **applicant who does not file a timely appeal of the listed tax.**

37 **(2) When a decision of the tax court concerning the**  
38 **applicant's appeal of the listed tax becomes final, in the case**

- 1           **of an applicant who files a timely appeal of the listed tax."**
- 2           Renumber all SECTIONS consecutively.  
              (Reference is to HB 1546 as introduced.)

**and when so amended that said bill do pass.**

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Representative Brown T