# 2009 SYNOPSIS

# OF LEGISLATION

# AFFECTING THE

# INDIANA DEPARTMENT

# OF REVENUE

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# 2009 ENROLLED ACTS

## SENATE BILLS

**SB 344,** SECTION 2, IC 6-8.1-7-1 [EFFECTIVE UPON PASSAGE]—corrects conflicts in IC 6-8.1-7-1 that resulted from passage of multiple bills during the 2008 session.

**SB 346,** SECTION 14, IC 6-8.1-3-21 [EFFECTIVE JULY 1, 2009]—codifies previous non-code provision concerning the Department's membership in the Multistate Tax Commission.

**SB 478,** SECTION 1, IC 6-8.1-3-21.2 [EFFECTIVE JULY 1, 2009]—provides that after December 31, 2009, the Department shall cooperate with the Department of Labor, the Worker's Compensation Board, and the Department of Workforce Development concerning suspected improper classification by a contractor of an individual as an independent contractor. Requires that information shared between the agencies remain confidential.

# HOUSE BILLS

**HB 1001,** SECTION 174, IC 6-2.5-1-5 [EFFECTIVE UPON PASSAGE] – change the sales tax definition of gross retail income to coincide with SST Agreement.

SECTION 175, IC 6-2.5-3-6 [EFFECTIVE JULY 1, 2009] – makes watercraft that are documented vessels and registered with the Coast Guard subject to the use tax.

SECTION 176, IC 6-2.5-5-8 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] – aircraft lease revenue must equal 7.5% of the value of the aircraft. Lease of an aircraft predominately used in public transportation is exempt from the sales tax.

SECTION 177, IC 6-2.5-5-13 [EFFECTIVE JULY 1, 2009] – provides a sales tax exemption for cable equipment used at a headend facility operated by a person furnishing video services.

SECTIONS 178 and 179, IC 6-2.5-5-18 AND IC 6-2.5-5-19.5 [EFFECTIVE JULY 1, 2009] – provides a sales tax exemption for glucose-monitoring equipment and devices whether or not the items are prescribed.

SECTION 462, IC 6-2.5-5-41 [EFFECTIVE JULY 1, 2009] – repeals the sales tax exemption for media production expenditures.

SECTION 180, IC 6-2.5-6-1 [EFFECTIVE JANUARY 1, 2010] – requires retailers that register after December 31, 2009, to file returns and remit through INtax.

SECTION 181, IC 6-2.5-7-10 [EFFECTIVE JANUARY 1, 2010] – requires taxpayers that collect prepaid sales tax from motor fuel retailers to make their semi-monthly remittance and reporting through the Department's electronic filing system.

SECTION 182, IC 6-2.5-7-14 [EFFECTIVE JULY 1, 2010] – provides that the Department shall adjust the prepaid sales tax rate semi-annually, and more often than semi-annually if the average retail price of gasoline changes by more than 25% from the last determination. Provides that the calculation will be based on 80% of the average price instead of 90% of the average price of gasoline before all taxes.

SECTION 183, IC 6-2.5-11-10 [EFFECTIVE JULY 1, 2010] – requires notification of a sales tax rate change to be at least 30 days in advance, or the seller is not liable for failure to collect at the new rate, unless the seller fraudulently fails to collect at the new rate.

SECTION 184, IC 6-2.5-12-15 [EFFECTIVE JULY 1, 2009] – requires sourcing of Internet access and telecommunications ancillary services to the customer's place of primary use.

SECTION 185, IC 6-2.5-13-1 [EFFECTIVE JANUARY 1, 2010] – sources floral wire delivery orders to the florist that takes the original order and eliminates the sunset provision in the current statute.

SECTION 186, IC 6-3-1-3.5 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – provides add backs to the Indiana Code in areas where the Indiana Code is decoupled from the Internal Revenue Code. Items include the following add backs: Unemployment compensation excluded from federal gross income; the amount of income excluded from income for the discharge of debt on a qualified principal residence; income from the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008; income attributed to bonus depreciation for restaurant property and retail improvements; income excluded for qualified disaster assistance property; income attributable to Section 179C to expense costs for refinery property; income attributable to expensing film or television production; and income of any taxpayer that treated a loss from the sale or exchange of FANNIE MAE or FREDDIE MAC as an ordinary loss.

SECTION 187, IC 6-3-1-3.7 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – provides an income tax deduction for property taxes paid in 2009 that would have been payable in 2008 if the property tax bills had been issued in a timely manner.

SECTION 188, IC 6-3-1-11 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – defines the Internal Revenue Code for purposes of the Indiana Code to be the Internal Revenue Code in effect on February 17, 2009.

SECTION 189, IC 6-3-1-34.5 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] – provides that a listed property trust or other foreign REIT that is organized in a country that has a tax treaty with the United States Treasury governing the tax treatment of these trusts is not a captive real estate investment trust for purposes of the REIT add back. This is a technical change.

SECTION 190, IC 6-3-1-35 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE) – defines a pass-through entity for purposes of the adjusted gross income tax.

SECTION 191, IC 6-3-2-2 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – clarifies the treatment of pass-through income to a nonresident pass-through entity as if the person, corporation, or pass-through entity that receives the income has directly engaged in the income-producing activity.

SECTIONS 192 and 193, IC 6-3-2-2.5 and IC 6-3-2-2.6 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – provides that the federal provision for a corporation or person with a net operating loss that is carried back by a qualified small business shall be limited to 2 years instead of 5 years, and the carry back for a qualified disaster loss is limited to 5 years.

SECTION 194 & 197, IC 6-3-2-8 and IC 6-3-3-10 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – deletes the definition of pass-through entity for the enterprise zone employee tax deduction, and the enterprise zone employer tax credit because the term has been defined in SECTION 190.

SECTION 195, IC 6-3-2-5.3 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – provides an income tax deduction for a solar-powered roof vent or fan. The maximum deduction is $1,000 per taxpayer per taxable year.

SECTION 196, IC 6-3-2-10 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – requires an add back of the amount of unemployment compensation excluded from federal gross income when calculating the Indiana tax deduction for unemployment compensation.

SECTION 198, IC 6-3-3-12 [EFFECTIVE JANUARY 1, 2010] – defines the term contribution for purposes of the 529 education savings plan tax credit to exclude bonus points credited to the owner's account for purchases made, and also excludes money transferred from other qualified tuition programs under Section 529 of the Internal Revenue Code.

SECTION 199, IC 6-3-4-8.1 [EFFECTIVE JANUARY 1, 2010] – provides that an entity that registers to withhold employees' wages after December 31, 2009, is required to remit and report withholding payments through INtax.

SECTION 200, IC 6-3-4-8.2 [EFFECTIVE JULY 1, 2009] – imposes the same withholding requirements for winnings at a Racino as are in place for withholding on winnings at a riverboat.

SECTION 201, IC 6-3.1-4-2 [EFFECTIVE JANUARY 1, 2010] – provides a taxpayer with an alternative method of claiming the qualified research expense credit.

SECTION 202, IC 6-3.1-26-26 [EFFECTIVE JULY 1, 2009] – extends the Hoosier Business Investment Tax Credit to December 31, 2013. It currently expires on December 31, 2011.

SECTION 203 and 204, IC 6-3.1-29-19 and IC 6-3.1-29-20.7 [EFFECTIVE UPON PASSAGE] – authorizes the Indiana Finance Authority to purchase tax credits awarded to a taxpayer that has sold synthetic natural gas to the IFA. The IFA will pay the taxpayer for the credits over a 20 year period.

SECTION 205, IC 6-3.1-30.5 [EFFECTIVE JULY 1, 2009] – provides an income tax credit for contributions to a scholarship-granting organization for a school scholarship program. The total amount of credits that may be awarded in a fiscal year may not exceed $2,500,000. The credit applies to contributions made in taxable years beginning after December 31, 2009.

SECTION 206, IC 6-3.1-31.9-1 [EFFECTIVE UPON PASSAGE] – includes vehicles that operate on ultra-low sulfur diesel or biodiesel fuel for purposes of the Hoosier alternative fuel vehicle manufacturer income tax credit.

SECTION 207, IC 6-3.1-31.9-2 [EFFECTIVE UPON PASSAGE] – limits the credit for the manufacture of alternative fuel vehicles to passenger cars and light trucks with a gross vehicle weight of 8,500 pounds or less.

SECTION 208, IC 6-3.1-32-9 [EFFECTIVE JULY 1, 2009] – provides that the maximum amount of media production tax credits that may be allowed in a state fiscal year may not exceed $2,500,000.

SECTION 210 through 230, IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 [EFFECTIVE JANUARY 1, 2010] – provides that the budget agency shall certify the local option income tax distributions to counties instead of the Department of Revenue.

SECTION 482, Noncode [EFFECTIVE JULY 1, 2009] – provides that a county may in 2009 adopt an additional LOIT rate at any time before November 1, 2009.

SECTION 231, IC 6-4.1-8-1 [EFFECTIVE JULY 1, 2009] – extends the lien that attaches at the time of the decedent's death from 5 years to 10 years. The lien is released when the inheritance tax is paid or it is determined that no inheritance tax return is required to be filed.

SECTION 232, IC 6-4.1-10-1 [EFFECTIVE JULY 1, 2009] – adds a provision to provide that interest on an inheritance tax refund claim will not be paid until 90 days after the later of the date the refund claim is filed or the inheritance tax return is received by the Department. Current law requires interest to be paid 90 days after the refund claim is filed.

SECTION 233, IC 6-5.5-1-2 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – provides add backs to the definition of adjusted gross income for the financial institutions tax that correspond to decoupling from the Internal Revenue Code.

SECTION 234, IC 6-6-1.1-606.5 [EFFECTIVE JULY 1, 2009] – allows a gasoline transporter to divert from the represented destination state after the shipping paper has been issued by a terminal operator, and requires the Department to be notified of the diversion before it occurs. This is consistent with language in the special fuel tax.

SECTION 235, IC 6-6-4.1-12 [EFFECTIVE JULY 1, 2009] – provides that motor carriers are required to apply for their annual International Fuel Tax Agreement permits by September 1 to receive the permits by January 1.

SECTION 236, IC 6-6-4.1-13 [EFFECTIVE JULY 1, 2009] – provides that a person may obtain a repair and maintenance permit to move an unregistered motor vehicle from a quarry or mine to a maintenance or repair facility. The cost of the permit is $40 per year.

SECTION 238, IC 6-6-5.5-1 [EFFECTIVE JANUARY 1, 2010] – redefines base revenue to be the CVET collected in the fiscal year of the preceding calendar year. Includes a road tractor in the definition of commercial vehicle for purposes of the commercial vehicle excise tax (CVET).

SECTION 239, IC 6-6-5.5-7 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – provides that the annual CVET rate will be determined by multiplying the base revenue by 105%.

SECTION 240, IC 6-6-5.5-19 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] – provides that effective January 1, 2009, the CVET distribution will be based on the amount of tax collected during the previous fiscal year multiplied by a taxing unit's percentage.

SECTION 241, IC 6-6-5.5-20 [EFFECTIVE JANUARY 1, 2009 (REROACTIVE)] – provides that a county's distribution percentage multiplied by the amount of CVET deposited in the CVET fund in the preceding calendar year is the amount of CVET that a county will receive.

SECTION 243, IC 6-6-6.5-23 [EFFECTIVE JULY 1, 2009] – provides that an airport owner that is required to report the aircraft based at the airport is subject to a civil penalty of $100 for each aircraft that should have been, but was not, included on the report.

SECTION 244, IC 6-6-9.7-7 [EFFECTIVE JULY 1, 2009] – authorizes Marion County after January 1, 2013, and before March 1, 2013, to increase the supplemental auto rental excise tax by 2%, and deposit the revenue from the increase in the sports and convention facilities operating fund.

SECTION 246, IC 6-7-1-28.1 [EFFECTIVE JULY 1, 2009] – changes the distribution of the cigarette tax so that 5.74% goes to the state retiree health benefit trust fund and eliminates the amount used to reimburse the general fund for the tax credit for employer-provided health benefit plans. Increases the percentage of cigarette tax going to the general fund from 53.68% to 54.5%.

SECTION 247, IC 6-8.1-1-1 [EFFECTIVE JULY 1, 2009] – adds the regional transportation improvement income tax as a listed tax.

SECTION 248, IC 6-8.1-3-4 [EFFECTIVE JULY 1, 2009] – provides that the reporting of information in an electronic format is included in the Department's authority to furnish forms used in administering the listed taxes.

SECTION 249, IC 6-8.1-3-12 [EFFECTIVE JULY 1, 2009] – allows the Department to use statistical sampling when auditing taxpayers if both the taxpayer and the Department agree on the sampling method to be used.

SECTION 250, IC 6-8.1-3-16 [EFFECTIVE JANUARY 1, 2010] -- requires the Department to compile a list of retail merchants whose certificate has not been renewed or whose registration has been revoked by the Department and publish the list on the Department's Web site.

SECTION 251, IC 6-8.1-5-2 [EFFECTIVE JULY 1, 2009] -- if the Department issues a refund check erroneously, the refund may be recovered through the assessment procedures of the Department. The assessment must be issued within 2 years of the refund or within 5 years if the refund was obtained through fraud or misrepresentation by the taxpayer.

SECTION 252, IC 6-8.1-6-4.5 [EFFECTIVE JULY 1, 2009] -- provides that rounding to the nearest dollar on an income tax return is required instead of optional.

SECTION 253, IC 6-8.1-6-8 [EFFECTIVE JULY 1, 2009] -- provides that the DLGF, budget agency, and the Department shall determine the amount of adjusted gross income and the number of taxpayers that reside in a city or town. The reporting is required to begin January 1, 2011.

SECTION 254, IC 6-8.1-7-1 [EFFECTIVE JULY 1, 2009] – provides that the Department's confidentiality statute does not apply to the release of information concerning the beer excise tax including brand and package type information.

SECTION 255, IC 6-8.1-8-1.7 [EFFECTIVE JANUARY 1, 2010] -- the Department may require a person on a payment plan for sales and withholding taxes to make periodic payments by electronic funds transfer through an automatic withdrawal from the person's account at a financial institution.

SECTION 257, IC 6-8.1-9-2 [EFFECTIVE JULY 1, 2009] -- provides a credit over the next 10 years for income tax paid by nonresident shareholders during tax years 2005 through 2008. The credit will be applied against future liabilities of the taxpayer. Requires the taxpayer to prove under a penalty of perjury that they have reported income to their home state equal to the income attributable to the amount of credit or refund granted.

SECTION 258, IC 6-8.1-10-2.1 [EFFECTIVE JANUARY 1, 2010] -- clarifies that a partnership or trust that fails to withhold on nonresident shareholders will be subject to a penalty of 20%. This language currently exists for an S corporation.

SECTION 259, IC 6-8.1-10-5 [EFFECTIVE JULY 1, 2009] -- provides that if a payment made to the Department cannot be collected in full by the Department, and the person is assessed a 100% bad check penalty, all future payments may be required to be remitted with guaranteed funds.

SECTION 260, IC 6-9-8-3 [EFFECTIVE JULY 1, 2009] -- authorizes Marion County to increase the innkeepers' tax by 1% and deposit the revenue in the sports and convention facilities operating fund.

SECTION 261, IC 6-9-13-2 [EFFECTIVE JULY 1, 2009] -- authorizes Marion County between January 1, 2013, and March 1, 2013, to increase the admissions tax by 4% and deposit the revenue in the sports and convention facilities operating fund.

SECTION 262, IC 6-9-42 [EFFECTIVE JULY 1, 2009] -- authorizes a city to impose an admissions tax of 5% to be used for funding infrastructure costs and payment of principal and interest on bonds issued by the city to finance infrastructure improvements. The tax is collected by the city imposing the tax.

SECTION 282, IC 8-24 [EFFECTIVE JULY 1, 2009] -- authorizes a regional transportation district income tax in LaPorte, Porter, Lake, and St. Joseph counties that may not exceed .25%.

SECTION 364, IC 20-51 [EFFECTIVE JULY 1, 2009] -- provides a school scholarship program that awards scholarships to students and provides for a tax credit when contributions are made to a scholarship-granting organization.

SECTION 487, Noncode [EFFECTIVE JULY 1, 2009] -- authorizes the Department to adopt emergency rules to implement the school scholarship program under IC 20-51.

SECTIONS 408 through 420, IC 36-7-31 [EFFECTIVE JULY 1, 2009] -- provides that an expansion of the Marion County PSDA will only include revenue from the sales tax, adjusted gross income tax, and county option income tax. The expanded area must be within the boundary of Illinois Street, Maryland Street, and Washington Street, and includes hotels, motels, or a multibrand complex. Tax revenue from the expanded area will be deposited in the sports and convention facilities operating fund.

SECTION 486, Noncode [EFFECTIVE OCTOBER 1, 2008 (RETROACTIVE)] -- removes the requirement for the Department to assist in administering the quality assessment fee on health facilities.

SECTION 495, Noncode [EFFECTIVE UPON PASSAGE] -- requires the Department to conduct a study of the feasibility of changing the design and method for verifying, tracking, and tracing cigarette stamps, and report to the Legislative Services Agency by November 1, 2009.

SECTION 504, Noncode [EFFECTIVE JULY 1, 2009] -- provides that a city or town that made estimated gross income tax payments at the same time that it paid the utility receipts tax is eligible for a refund of the estimated gross income tax payment that was made.

**HB 1130,** SECTION 7, IC 9-24-12-16 [EFFECTIVE JANUARY 1, 2010] – provides that if an individual is temporarily residing outside Indiana because of service in the armed forces of the United States, the individual's driver's license, including a commercial driver's license, remains valid for 90 days following the individual's discharge from service in the armed forces.

**HB 1198,** SECTIONS 47 THROUGH 61 [EFFECTIVE UPON PASSAGE] – corrects various provisions within Title 6 of the Indiana Code.

**HB 1271,** SECTION 1, IC 6-2.5-6-17 [EFFECTIVE JULY 1, 2009] – provides that a retail merchant that is a consignee is required to collect and remit the sales tax based on the gross retail income of the consignment sale.

**HB 1287,** SECTION 2, IC 6-4.1-8-5 [EFFECTIVE JULY 1, 2009] – requires the person making payment to an estate as a result of a personal injury occurring before the decedent's death to notify the Department within 10 days of the payment of the damages.

**HB 1398,** SECTION 2, IC 6-2.5-7-5 [EFFECTIVE JULY 1, 2009] – eliminates the $1,000,000 annual cap on the E85 deduction that may be claimed and provides that the cap is the amount determined by the budget agency. Requires the State Budget Agency, before August 1 of each year, to estimate whether there are sufficient funds available to provide the deduction and, if there are not, the program can be suspended for the subsequent calendar year. The E85 deduction will be granted only for retail sales occurring from January 1 through March 31 of a calendar

year. The State Budget Agency has authority to suspend the deduction during the reporting period if it is determined that sufficient funds are not available.

**HB 1432,** SECTION 1, IC 6-3.5-1.1-11.5 [EFFECTIVE UPON PASSAGE] – requires a county auditor to distribute CAGIT money no more than 10 days after the county treasurer receives the distribution from the state.

SECTION 2, IC 6-3.5-6-18.6 [EFFECTIVE UPON PASSAGE] – requires a county auditor to distribute COIT money no more than 10 days after the county treasurer receives the distribution from the state.

SECTIOIN 3, IC 6-3.5-7-16.5 [EFFECTIVE UPON PASSAGE] – requires a county auditor to distribute CEDIT money no more than 10 days after the county treasurer receives the distribution from the state.

**HB 1514,** SECTION 21, IC 6-9-41 [EFFECTIVE UPON PASSAGE] – authorizes Monroe County to adopt an ordinance imposing a 1% food and beverage tax. The tax takes effect January 1, 2010, if an ordinance is adopted before December 1, 2009. The county auditor shall distribute the funds to the city or county from which they were collected.

SECTION 25, IC 36-1-12-4.9 [EFFECTIVE JULY 1, 2009] – provides that the maximum allocation to the Allen County professional sports development area will be $3,000,000 per year instead of $5 per person in the county.

SECTION 26, IC 36-7-31.3-10 [EFFECTIVE JULY 1, 2009] – provides that the first $2,600,000 shall be transferred to the county treasurer for deposit in the supplemental coliseum improvement fund. The remaining money shall be deposited in the joint county-city capital improvement board in the county.

# TAXES AFFECTED
## --BY CODE CITATION--

### SALES AND USE TAX (IC 6-2.5)

IC 6-2.5-1-5 [EFFECTIVE UPON PASSAGE] -- changes the sales tax definition of gross retail income to coincide with SST Agreement.

IC 6-2.5-3-6 [EFFECTIVE JULY 1, 2009] – makes watercraft that are documented vessels and registered with the Coast Guard subject to the use tax.

IC 6-2.5-5-8 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] -- aircraft lease revenue must equal 7.5% of the value of the aircraft. Lease of an aircraft predominately used in public transportation is exempt from the sales tax.

IC 6-2.5-5-13 [EFFECTIVE JULY 1, 2009] – provides a sales tax exemption for cable equipment used at a headend facility operated by a person furnishing video services.

IC 6-2.5-5-18 AND IC 6-2.5-5-19.5 [EFFECTIVE JULY 1, 2009] – provides a sales tax exemption for glucose-monitoring equipment and devices whether or not the items are prescribed.

IC 6-2.5-5-41 [EFFECTIVE JULY 1, 2009] – repeals the sales tax exemption for media production expenditures.

IC 6-2.5-6-1 [EFFECTIVE JANUARY 1, 2010] – requires retailers that register after December 31, 2009, to file returns and remit through INtax.

IC 6-2.5-6-17 [EFFECTIVE JULY 1, 2009] – provides that a retail merchant that is a consignee is required to collect and remit the sales tax based on the gross retail income of the consignment sale.

IC 6-2.5-7-5 [EFFECTIVE JULY 1, 2009] – eliminates the $1,000,000 annual cap on the E85 deduction that may be claimed, and provides that the cap is the amount determined by the budget agency. Requires the State Budget Agency, before August 1 of each year, to estimate whether there are sufficient funds available to provide the deduction and, if there are not, the program can be suspended for the subsequent calendar year. The E85 deduction will be granted only for retail sales occurring from January 1 through March 31 of a calendar year. The State Budget Agency

has authority to suspend the deduction during the reporting period if it is determined that sufficient funds are not available.

IC 6-2.5-7-10 [EFFECTIVE JANUARY 1, 2010] -- requires taxpayers that collect prepaid sales tax from motor fuel retailers to make their semi-monthly remittance and reporting through the department's electronic filing system.

IC 6-2.5-7-14 [EFFECTIVE JULY 1, 2010] -- provides that the Department shall adjust the prepaid sales tax rate semi-annually, and more often than semi-annually if the average retail price of gasoline changes by more than 25% from the last determination. Provides that the calculation will be based on 80% of the average price instead of 90% of the average price of gasoline before all taxes.

IC 6-2.5-11-10 [EFFECTIVE JULY 1, 2010] – requires notification of a sales tax rate change to be at least 30 days in advance, or the seller is not liable for failure to collect at the new rate, unless the seller fraudulently fails to collect at the new rate.

IC 6-2.5-12-15 [EFFECTIVE JULY 1, 2009] – requires sourcing of Internet access and telecommunications ancillary services to the customer's place of primary use.

IC 6-2.5-13-1 [EFFECTIVE JANUARY 1, 2010] -- sources floral wire delivery orders to the florist that takes the original order and eliminates the sunset provision in current statute.

## ADJUSTED GROSS INCOME TAX (IC 6-3)

IC 6-3-1-3.5 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- provides add backs to the Indiana Code in areas where the Indiana Code is decoupled from the Internal Revenue Code. Items include the following add backs: Unemployment compensation excluded from federal gross income; the amount of income excluded from income for the discharge of debt on a qualified principal residence; income from the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008; income attributed to bonus depreciation for restaurant property and retail improvements; income excluded for qualified disaster assistance property; income attributable to Section 179C to expense costs for refinery property; income attributable to expensing film or television production; and income of any taxpayer that treated a loss from the sale or exchange of FANNIE MAE or FREDDIE MAC as an ordinary loss.

IC 6-3-1-3.7 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- provides an income tax deduction for property taxes paid in 2009 that would have been payable in 2008 if the property tax bills had been issued in a timely manner.

IC 6-3-1-11 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- defines the Internal Revenue Code for purposes of the Indiana Code to be the Internal Revenue Code in effect on February 17, 2009.

IC 6-3-1-34.5 [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] -- provides that a listed property trust or other foreign REIT that is organized in a country that has a tax treaty with the United States Treasury governing the tax treatment of these trusts is not a captive real estate investment trust for purposes of the REIT add back. This is a technical change.

IC 6-3-1-35 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE) --defines a pass-through entity for purposes of the adjusted gross income tax.

IC 6-3-2-2 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- clarifies the treatment of pass-through income to a nonresident pass-through entity as if the person, corporation or pass-through entity that receives the income has directly engaged in the income-producing activity.

IC 6-3-2-2.5 and IC 6-3-2-2.6 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- provides that the federal provision for a corporation or person with a net operating loss that is carried back by a qualified small business shall be limited to 2 years instead of 5 years, and the carry back for a qualified disaster loss is limited to 5 years.

IC 6-3-2-8 and IC 6-3-3-10 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- deletes the definition of pass-through entity for the enterprise zone employee tax deduction, and the enterprise zone employer tax credit because the term has been defined in SECTION 190.

IC 6-3-2-5.3 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- provides an income tax deduction for a solar-powered roof vent or fan. The maximum deduction is $1,000 per taxpayer per taxable year.

IC 6-3-2-10 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- requires an add back of the amount of unemployment compensation excluded from federal gross income when calculating the Indiana tax deduction for unemployment compensation.

IC 6-3-3-12 [EFFECTIVE JANUARY 1, 2010] -- defines the term contribution for purposes of the 529 education savings plan tax credit to exclude bonus points credited to the owner's account for purchases made, and also excludes money transferred from other qualified tuition programs under Section 529 of the Internal Revenue Code.

IC 6-3-4-8.1 [EFFECTIVE JANUARY 1, 2010] -- provides that an entity that registers to withhold employees' wages after December 31, 2009, is required to remit and report withholding payments through INtax.

IC 6-3-4-8.2 [EFFECTIVE JULY 1, 2009] -- impose the same withholding requirements for winnings at a Racino as are in place for withholding on winnings at a riverboat.

## INCOME TAX CREDITS (IC 6-3.1)

IC 6-3.1-4-2 [EFFECTIVE JANUARY 1, 2010] -- provides a taxpayer with an alternative method of claiming the qualified research expense credit.

IC 6-3.1-26-26 [EFFECTIVE JULY 1, 2009] -- extends the Hoosier Business Investment Tax Credit to December 31, 2013. It currently expires on December 31, 2011.

IC 6-3.1-29-19 and IC 6-3.1-29-20.7 [EFFECTIVE UPON PASSAGE] -- authorizes the Indiana Finance Authority to purchase tax credits awarded to a taxpayer that has sold synthetic natural gas to the IFA. The IFA will pay the taxpayer for the credits over a 20-year period.

IC 6-3.1-30.5 [EFFECTIVE JULY 1, 2009] -- provides an income tax credit for contributions to a scholarship-granting organization for a school scholarship program. The total amount of credits that may be awarded in a fiscal year may not exceed $2,500,000. The credit applies to contributions made in taxable years beginning after December 31, 2009.

IC 6-3.1-31.9-1 [EFFECTIVE UPON PASSAGE] -- includes vehicles that operate on ultra-low sulfur diesel or biodiesel fuel for purposes of the Hoosier alternative fuel vehicle manufacturer income tax credit.

IC 6-3.1-31.9-2 [EFFECTIVE UPON PASSAGE] -- limits the credit for the manufacture of alternative fuel vehicles to passenger cars and light trucks with a gross vehicle weight of 8,500 pounds or less.

IC 6-3.1-32-9 [EFFECTIVE JULY 1, 2009] -- provides that the maximum amount of media production tax credits that may be allowed in a state fiscal year may not exceed $2,500,000.

## LOCAL OPTION INCOME TAX (IC 6-3.5-1.1)

IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 [EFFECTIVE JANUARY 1, 2010] -- provides that the budget agency shall certify the local option income tax distributions to counties instead of the department of revenue.

Noncode [EFFECTIVE JULY 1, 2009] -- provides that a county may in 2009 adopt an additional LOIT rate at any time before November 1, 2009.

IC 6-3.5-1.1-11.5, IC 6-3.5-6-18.6 and IC 6-3.5-7-16.5 [EFFECTIVE UPON PASSAGE]— requires a county auditor to distribute CAGIT money no more than 10 days after the county treasurer receives the distribution from the state.

## INHERITANCE AND ESTATE TAX (IC 6-4.1)

IC 6-4.1-8-1 [EFFECTIVE JULY 1, 2009] -- extends the lien that attaches at the time of the decedent's death from 5 years to 10 years. The lien is released when the inheritance tax is paid or it is determined that no inheritance tax return is required to be filed.

IC 6-4.1-8-5 [EFFECTIVE JULY 1, 2009]—requires the person making payment to an estate as a result of a personal injury occurring before the decedent's death to notify the Department within 10 days of the payment of the damages.

IC 6-4.1-10-1 [EFFECTIVE JULY 1, 2009] -- adds a provision to provide that interest on an inheritance tax refund claim will not be paid until 90 days after the later of the date the refund claim is filed or the inheritance tax return is received by the Department. Current law requires interest to be paid 90 days after the refund claim is filed.

## FINANCIAL INSTITUTIONS TAX (IC 6-5.5)

IC 6-5.5-1-2 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- provides add backs to the definition of adjusted gross income for the financial institutions tax that correspond to decoupling from the Internal Revenue Code.

## GASOLINE TAX (IC 6-6-1.1)

IC 6-6-1.1-606.5 [EFFECTIVE JULY 1, 2009] -- allows a gasoline transporter to divert from the represented destination state after the shipping paper has been issued by a terminal operator, and requires the Department to be notified of the diversion before it occurs. This is consistent with language in the special fuel tax.

## MOTOR CARRIER FUEL USE TAX (IC 6-6-4.1)

IC 6-6-4.1-12 [EFFECTIVE JULY 1, 2009] -- provides that motor carriers are required to apply for their annual International Fuel Tax Agreement permits by September 1 to receive the permits by January 1.

IC 6-6-4.1-13 [EFFECTIVE JULY 1, 2009] -- provides that a person may obtain a repair and maintenance permit to move an unregistered motor vehicle from a quarry or mine to a maintenance or repair facility. The cost of the permit is $40 per year.

## COMMERCIAL VEHICLE EXCISE TAX (IC 6-6-5.5)

IC 6-6-5.5-1 [EFFECTIVE JANUARY 1, 2010] -- redefines base revenue to be the CVET collected in the fiscal year of the preceding calendar year. Includes a road tractor in the definition of commercial vehicle for purposes of the commercial vehicle excise tax (CVET).

IC 6-6-5.5-7 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- provides that the annual CVET rate will be determined by multiplying the base revenue times 105%.

IC 6-6-5.5-19 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] -- provides that effective January 1, 2009, the CVET distribution will be based on the amount of tax collected during the previous fiscal year multiplied by a taxing unit's percentage.

IC 6-6-5.5-20 [EFFECTIVE JANUARY 1, 2009 (REROACTIVE)] -- provides that a county's distribution percentage multiplied by the amount of CVET deposited in the CVET fund in the preceding calendar year is the amount of CVET that a county will receive.

## AIRCRAFT EXCISE TAX (IC 6-6-6.5)

IC 6-6-6.5-23 [EFFECTIVE JULY 1, 2009] – provides that an airport owner that is required to report the aircraft based at the airport is subject to a civil penalty of $100 for each aircraft that should have been, but was not included on the report.

## MARION COUNTY AUTO RENTAL TAX (IC 6-6-9.7-7)

IC 6-6-9.7-7 [EFFECTIVE JULY 1, 2009] -- authorizes Marion County after January 1, 2013, and before March 1, 2013, to increase the supplemental auto rental excise tax by 2%, and deposit the revenue from the increase in the sports and convention facilities operating fund.

## CIGARETTE TAX (IC 6-7)

IC 6-7-1-28.1 [EFFECTIVE JULY 1, 2009] -- changes the distribution of the cigarette tax so that 5.74% goes to the state retiree health benefit trust fund and eliminates the amount used to reimburse the general fund for the tax credit for employer-provided health benefit plans. Increases the percentage of cigarette tax going to the general fund from 53.68% to 54.5%.

## TAX ADMINISTRATION (IC 6-8.1)

IC 6-8.1-3-4 [EFFECTIVE JULY 1, 2009] -- provides that the reporting of information in an electronic format is included in the Department's authority to furnish forms used in administering the listed taxes.

IC 6-8.1-3-12 [EFFECTIVE JULY 1, 2009] -- allows the Department to use statistical sampling when auditing taxpayers if both the taxpayer and the Department agree on the sampling method to be used.

IC 6-8.1-3-16 [EFFECTIVE JANUARY 1, 2010] -- requires the Department to compile a list of retail merchants whose certificate has not been renewed or whose registration has been revoked by the Department and publish the list on the Department's Web site.

IC 6-8.1-3-21 [EFFECTIVE JULY 1, 2009] – codifies previous non-code provision concerning the Department's membership in the Multistate Tax Commission.

IC 6-8.1-3-21.2 [EFFECTIVE JULY 1, 2009] – provides that after December 31, 2009, the Department shall cooperate with the Department of Labor, the Worker's Compensation Board, and the Department of Workforce Development concerning suspected improper classification by

a contractor of an individual as an independent contractor. Requires that the information shared between the agencies remain confidential.

IC 6-8.1-5-2 [EFFECTIVE JULY 1, 2009] -- if the Department issues a refund check erroneously, the refund may be recovered through the assessment procedures of the Department. The assessment must be issued within 2 years of the refund or within 5 years if the refund was obtained through fraud or misrepresentation by the taxpayer.

SECTION 252, IC 6-8.1-6-4.5 [EFFECTIVE JULY 1, 2009] -- provides that rounding to the nearest dollar on an income tax return is required instead of optional.

IC 6-8.1-6-8 [EFFECTIVE JULY 1, 2009] -- provides that the DLGF, budget agency and the Department shall determine the amount of adjusted gross income and the number of taxpayers that reside in a city or town. The reporting is required to begin January 1, 2011.

IC 6-8.1-7-1 [EFFECTIVE JULY 1, 2009] – provides that the Department's confidentiality statute does not apply to the release of information concerning the beer excise tax including brand and package type information.

IC 6-8.1-8-1.7 [EFFECTIVE JANUARY 1, 2010] -- the Department may require a person on a payment plan for sales and withholding taxes to make periodic payments by electronic funds transfer through an automatic withdrawal from the person's account at a financial institution.

IC 6-8.1-9-2 [EFFECTIVE JULY 1, 2009] -- provides a credit over the next 10 years for income tax paid by nonresident shareholders during tax years 2005 through 2008. The credit will be applied against future liabilities of the taxpayer. Requires the taxpayer to prove under a penalty of perjury that they have reported income to their home state equal to the income attributable to the amount of credit or refund granted.

IC 6-8.1-10-2.1 [EFFECTIVE JANUARY 1, 2010] -- clarifies that a partnership or trust that fails to withhold on nonresident shareholders will be subject to a penalty of 20%. This language currently exists for an S corporation.

IC 6-8.1-10-5 [EFFECTIVE JULY 1, 2009] -- provides that if a payment made to the Department cannot be collected in full by the Department, and the person is assessed a 100% bad check penalty, all future payments may be required to be remitted with guaranteed funds.

## INNKEEPERS' AND FOOD & BEVERAGE TAXES (IC 6-9)

IC 6-9-8-3 [EFFECTIVE JULY 1, 2009] -- authorizes Marion County to increase the innkeepers' tax by 1%, and deposit the revenue in the sports and convention facilities operating fund.

IC 6-9-13-2 [EFFECTIVE JULY 1, 2009] -- authorizes Marion County between January 1, 2013, and March 1, 2013, to increase the admissions tax by 4%, and deposit the revenue in the sports and convention facilities operating fund.

IC 6-9-41 [EFFECTIVE UPON PASSAGE] – authorizes Monroe County to adopt an ordinance imposing a 1% food and beverage tax. The tax takes effect January 1, 2010, if an ordinance is adopted before December 1, 2009. The county auditor shall distribute the funds to the city or county from which they were collected.

IC 6-9-42 [EFFECTIVE JULY 1, 2009] -- authorizes a city to impose an admissions tax of 5% to be used for funding infrastructure costs and payment of principal and interest on bonds issued by the city to finance infrastructure improvements. The tax is collected by the city imposing the tax.

## OTHER PROVISIONS

IC 8-24 [EFFECTIVE JULY 1, 2009] -- authorizes a regional transportation district income tax in LaPorte, Porter, Lake, and St. Joseph counties that may not exceed .25%.

IC 9-24-12-16 [EFFECTIVE JANUARY 1, 2010] – provides that if an individual is temporarily residing outside Indiana because of service in the armed forces of the United States, the individual's driver's license, including a commercial driver's license, remains valid for 90 days following the individual's discharge from service in the armed forces.

IC 20-51 [EFFECTIVE JULY 1, 2009] -- provides a school scholarship program that awards scholarships to students and provides for a tax credit when contributions are made to a scholarship-granting organization.

Noncode [EFFECTIVE JULY 1, 2009] -- authorizes the Department to adopt emergency rules to implement the school scholarship program under IC 20-51.

IC 36-1-12-4.9 [EFFECTIVE JULY 1, 2009] – provides that the maximum allocation to the Allen County professional sports development area will be $3,000,000 per year instead of $5 per person in the county.

IC 36-7-31 [EFFECTIVE JULY 1, 2009] -- provides that an expansion of the Marion County PSDA will only include revenue from the sales tax, adjusted gross income tax, and county option income tax. The expanded area must be within the boundary of Illinois Street, Maryland Street, and Washington Street, and includes hotels, motels, or a multibrand complex. Tax revenue from the expanded area will be deposited in the sports and convention facilities operating fund.

IC 36-7-31.3-10 [EFFECTIVE JULY 1, 2009] – requires the first $2,600,000 to be transferred to the county treasurer for deposit in the supplemental coliseum improvement fund. The remaining money shall be deposited in the joint county-city capital improvement board in the county.

Noncode [EFFECTIVE OCTOBER 1, 2008 (RETROACTIVE)] -- removes the requirement for the Department to assist in administering the quality assessment fee on health facilities.

Noncode [EFFECTIVE UPON PASSAGE] -- requires the Department to conduct a study of the feasibility of changing the design and method for verifying, tracking, and tracing cigarette stamps, and report to the Legislative Services Agency by November 1, 2009.

Noncode [EFFECTIVE JULY 1, 2009] -- provides that a city or town that made estimated gross income tax payments at the same time that it paid the utility receipts tax is eligible for a refund of the estimated gross income tax payment that was made.