

## 2006 LEGISLATION AFFECTING THE DEPARTMENT OF REVENUE

### Utility Services Use Tax

**HB 1001 (July 1, 2006) IC 6-2.3-3-11** is added to the utility receipts tax to provide that furnishing utility services to an end user in Indiana regardless of whether the utility services are delivered through the pipelines, transmission lines, or property of another person, the taxpayer providing the utility service is or is not a resident of Indiana, or transaction is subject to a deduction under the mobile telecommunications sourcing act.

**IC 6-2.3-5.5 (July 1, 2006)** is added to impose the utility services use tax on the consumption of utility services that are billed after June 30, 2006. The tax is measured by the gross consideration received by the seller from the sale of the utility services, and is imposed at the rate of 1.4%.

Transactions are exempt from the utility services use tax if the transaction is subject to the utility receipts tax, the gross receipts from the transaction are not taxable under the utility receipts tax, the services are consumed for an exempt purpose under the utility receipts tax, or the services were consumed for the purpose for which a deduction is granted.

A person is entitled to a credit against the utility services use tax imposed on the retail consumption of utility services equal to the amount of utility services use tax paid to another state.

The Department shall establish procedures for the collection of the utility services use tax from users, including deposit and reporting requirements deposit dates and reporting dates. Failure of a person to comply with the procedures is subject to the penalties imposed under IC 6-8.1.

Any seller of utility services may elect to register with the Department to collect utility services use tax on behalf of persons liable for the tax imposed. The person will pay the tax to the registered seller and the seller will collect the tax as an agent for the state. The seller upon request of the consumer will issue a receipt to the consumer for the tax collected. In all other cases the person liable for the tax shall pay the tax directly to the Department.

If the Department assesses the tax against a person for the person's consumption of utility services, and the person has already paid the tax to the seller, the person may avoid the tax if the person can produce a receipt or other evidence that the person paid the tax to the seller.

**IC 6-8.1-1-1 (July 1, 2006)** is amended so that the utility services use tax is considered a listed tax for tax administration purposes.

**SECTION 55 (Upon Passage)** provides that the Department shall adopt temporary rules to implement the provisions of the utility services use tax, and the home energy assistance program sales tax exemption.

## **Streamlined Sales Tax Conforming Amendments**

**SB 258 (July 1, 2006) IC 6-2.5-1-11.5** is added to define a bundled transaction as two or more products that are distinct, identifiable and sold for one non itemized price.

**IC 6-2.5-1-16.5 (July 1, 2006)** is added to define direct mail as printed material delivered by United States mail to a mass audience or addresses on a mailing list. The sourcing for direct mail transactions is already defined but the term itself was not defined.

**IC 6-2.5-1-20 (July 1, 2006)** is amended to clarify that tobacco and tobacco products are not food or food ingredients.

**IC 6-2.5-4-15 (July 1, 2006)** is added to provide that a bundled transaction is a retail transaction for transactions occurring after December 31, 2007.

**IC 6-2.5-6-1 (July 1, 2006)** is amended to provide that a Model 4 seller whose annual sales tax liability is less than \$1,000 only has to file and remit on one annual return.

**IC 6-2.5-13-1 (July 1, 2006)** is amended to provide that floral orders transmitted to another florist for delivery will be sourced to the florist that took the original order until January 1, 2008.

## **Fireworks Public Safety Fee**

**HB 1099 (June 1, 2006) IC 22-11-14-12** is added to provide a public safety user fee of five percent (5%) on the retail sale of fireworks to be collected by the Department of Revenue and deposited in the state general fund.

**IC 22-11-14-14 (June 1, 2006)** is added to provide that an individual who is an individual retailer and has a duty to remit the public safety fee holds the public safety fee in trust for the state and is personally liable for the payment of the fee.

**IC 22-11-14-15 (June 1, 2006)** is added to require the fire prevention and building safety commission and the Department shall adopt rules to carry out this act.

**SECTION 22 Non Code (Upon Passage)** is added to require the Department to carry out the provisions of the fireworks bill by issuing written guidelines

## **Biennial Renewal of the Retail Merchant's Certificate**

**SB 362 (January 1, 2007) IC 6-2.5-8-1** is amended to provide for the biennial renewal of the retail merchant's certificate. If the retail merchant is current in all his filings and remittances, the certificate will be renewed thirty (30) days before the expiration at no cost to the retail merchant.

If a retail merchant is delinquent in remitting sales or use tax, the Department shall notify the retail merchant at least sixty (60) days prior to the expiration of the certificate. The Department is prohibited from renewing the retail merchant's certificate if they are delinquent.

**Non Code SECTION 12 (July 1, 2006)** provides authority for the Department to adopt temporary rules to implement a staggered system of renewal for the retail merchant's certificate.

## **Use Tax Morton Buildings**

**IC 6-2.5-3-2 (July 1, 2006)** is amended to provide that the use tax applies to a person who manufactures, fabricates, or assembles tangible personal property from materials either within or outside Indiana, and uses, stores, distributes, or consumes tangible personal property in Indiana. It eliminates the requirement that there be a retail transaction in order for the use tax to apply.

## **Sales Tax Exemption Recreational Vehicles**

**SB 106 (July 1, 2006) IC 6-2.5-5-39** is amended to provide that in the case of a transaction involving a cargo trailer or recreational vehicle (RV), where the cargo trailer or RV will be titled or registered in a state or country that provides an exemption from sales, use, or similar taxes imposed on a cargo trailer or RV that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana. If the state or country does not provide the exemption for an Indiana resident the transaction in Indiana is not exempt from the sales tax.

The section also requires the Department to provide the information necessary to determine a purchaser's eligibility for the exemption claimed to retail merchants in the business of selling cargo trailers and RVs.

## **Sales Tax Exemption Home Heating Services**

**IC 6-2.5-4-5 (July 1, 2006)** is amended to provide that a utility is not a retail merchant making a retail transaction when the utility sells services or commodities used as the principal source of heating or cooling in residential dwellings from July 1, 2006 through June 30, 2007 through programs administered by the state to supply home energy through the Low Income Home Energy Assistance Block Grant.

**IC 6-2.5-5-16.5 (July 1, 2006)** is added to provide that home energy assistance is exempt from the sales tax if the person acquiring the home energy acquires it after June 30, 2006 and before July 1, 2007.

**SECTION 55 (Upon Passage)** provides that the Department shall adopt temporary rules to implement the provisions of the utility services use tax, and the home energy assistance program sales tax exemption.

**HB 1261 (July 1, 2006) IC 6-2.5-6-11** is amended to provide that a utility or other person who extends assistance to a heating assistance program may deduct from the retail merchant's sales tax payment an amount equal to the amount of assistance that was extended by the retail merchant to the heating assistance program.

## **Sales Tax Exemption for Motion Picture Equipment**

**HB 1380 (January 1, 2007) IC 6-2.5-5-41** is added to provide a sales tax exemption for tangible personal property directly used in production of a motion picture or television show. The exemption expires on December 31, 2008.

## **Sales Tax Bad Debt Deduction**

**IC 6-2.5-6-9 (January 1, 2007)** is amended to provide that the sales tax bad debt deduction is not assignable for transactions occurring after December 31, 2006. The bad debt deduction is still assignable if the entity is part of the same affiliated group as the assignor.

**HB 1327 (July 1, 2007) IC 6-2.5-6-9** is amended to provide that a sales tax bad debt deduction is not assignable unless the individual or entity is part of the same affiliated group as defined in Section 1504(a)(2) of the Internal Revenue Code (except that the ownership percentage shall be determined using fifty percent (50%) instead of eighty percent (80%). The exception also applies to two or more partnerships that have the same degree of ownership as the affiliated group.

## **Passive Investment Company (PIC) Add Back**

**IC 6-3-1-3.5 (July 1, 2006)** is amended to provide an add back of intangible expenses and any directly related intangible interest expenses that reduced the corporation's taxable income for federal income tax purposes. This provision applies for taxable years beginning after June 30, 2006.

**IC 6-3-2-20 (July 1, 2006)** is added to establish the guidelines and requirements for a taxpayer to add back the amount of any intangible expenses or directly related intangible interest expenses to the taxpayer's taxable income.

### **Definitions:**

"Affiliated group" has the meaning set forth in Section 1504 of the Internal Revenue Code, except that the ownership percentage is determined by using fifty percent (50%) instead of eighty percent (80%).

"Directly related intangible interest expenses" means interest expenses that are paid to, or accrued or incurred as a liability to, a recipient if the amounts represent income from making loans, and the funds loaned were originally received by the recipient from the payment of intangible expenses by the taxpayer, a member of the same affiliated group or a foreign corporation.

"Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and would be a member of the same affiliated group as the taxpayer if the corporation were organized under the laws of the United States.

"Intangible expenses" means the following amounts to the extent the amounts are allowed as deductions in determining taxable income under Section 63 of the Internal Revenue Code. Expenses, losses, and costs directly for, related to or in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other

disposition of intangible property. Also included in the term are royalty, patent, technical, copyright fees, licensing fees, and other substantially similar expenses and costs.

“Interest expenses” means amounts that are allowed as deductions under Section 163 of the Internal Revenue Code.

“Makes a disclosure” means a taxpayer provides the following information regarding a transaction with of member of the same affiliated group or a foreign corporation involving an intangible expense and any directly related intangible interest expense; the name of the recipient, the state of domicile and the amount paid the recipient, a copy of federal Form 851, Affiliation Schedule, and the information needed to determine the taxpayer’s status under the exceptions that are allowed.

“Recipient” means a member of the same affiliated group as the taxpayer to which is paid an item of income that corresponds to an intangible expense or any directly related intangible interest expense.

“Unrelated party” means a person that is not a member of the same affiliated group.

### **Add Back of Deduction:**

A corporation subject to the adjusted gross income tax is required to add to its taxable income intangible expenses and any directly related intangible interest expenses paid, accrued, or incurred within one or more members of the same affiliated group or with one or more foreign corporations.

### **Exceptions to the Add Back of the Deduction:**

There are eight (8) exceptions to the add back and are expressed as follows:

1. The taxpayer and the recipient are both included in the same consolidated return or in the same combined return.
2. The taxpayer and the Department agree in writing to the use of an alternative method of allocation or apportionment under the adjusted gross income tax statute.
3. Upon request by the taxpayer, the department determines that the adjustment otherwise required is unreasonable.

Other exceptions include that the taxpayer makes a disclosure, and can establish by a preponderance of the evidence that the following transactions did not have tax avoidance as a principal purpose:

1. The recipient regularly engages in transactions involving intangible property with one or more unrelated parties on terms substantially similar to those of the subject transaction.
2. The payment was received from a person or entity that is an unrelated party, and on behalf of that unrelated party, paid that amount to the recipient in an arm’s length transaction.
3. The recipient paid, accrued, or incurred a liability to an unrelated party during the taxable year for an equal or greater amount that was directly for, related to, or in connection with the same intangible property giving rise to the intangible expense.

The final two exceptions require the taxpayer to make a disclosure, establish by a preponderance of the evidence that the transaction did not have tax avoidance as a principal purpose, and that the transaction giving rise to the expenses were made at a commercially reasonable rate and at terms comparable to an arms length transaction.

1. The item of income corresponding to the intangible expenses and any directly related intangible interest expenses were included within the recipient's income that is subject to tax in another state or a country other than the United States that is the recipient's commercial domicile and that imposes a net income tax, a franchise tax measured by income, or a value added tax.
2. The recipient is engaged in substantial business activities from the acquisition, use, licensing, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property, or other substantial business activities separate and apart from the business activities described above as evidenced by the maintenance of a permanent office space and an adequate number of full-time, experienced employees.

Intangible expenses or directly related intangible interest expenses shall be considered to be at a commercially reasonable rate or at terms comparable to an arm's length transaction if the if the expenses meet the arm's length standards of United States Treasury Regulation 1.482-1(b).

If the expense is determined not to be at a commercially reasonable rate or at terms comparable to an arm's length transaction , the add back required shall be made only to the extent necessary to cause the expenses to be at a commercially reasonable rate or at terms comparable to an arm's length transaction.

Transactions between the taxpayer and the recipient shall be considered as having Indiana tax avoidance as the principal purpose if there is not one or more valid business purpose that substantially sustains the transaction notwithstanding any tax benefits associated with the transaction, and the principal purpose of tax avoidance exceeds any other valid business purpose.

**SECTION 53 (Upon Passage)** provides that the provision to require the add back of intangible expenses does not affect the legitimacy or illegitimacy of deductions claimed by the taxpayer for taxable years beginning before July 1, 2006. Provides that the Department may adopt temporary rules to implement the intangible expense add back provisions.

### **Internal Revenue Code Update**

**IC 6-3-1-3.5 (January 1, 2005)** is amended to provide that the additional \$1,500 dependent child exemption is determined by Section 151(c)(1)(B) as in effect on January 1, 2004.

**IC 6-3-1-11 (January 1, 2006)** is amended to provide that references in the Indiana Code to the Internal Revenue Code and related regulations refer to the law and regulations in effect on January 1, 2006.

### **Collections Procedure Changes**

**IC 6-3-4-8.1 (January 1, 2007)** is amended to provide that the Department can require a withholding agent to make periodic deposits of withholding taxes during the reporting period if the withholding agent is not withholding, reporting, or remitting the proper amount of tax.

**IC 6-8.1-5-1 (January 1, 2007)** is amended to provide that a letter of finding includes a supplemental letter of finding. Provide that a taxpayer has forty-five (45) days instead of sixty (60) days to protest a proposed assessment. Provide that a taxpayer who disagrees with a letter of finding may appeal the decision to the tax court. The taxpayer must appeal within sixty (60) days of the issuance of the letter of finding. Current law gives a taxpayer one hundred eighty (180) days to appeal to tax court.

**IC 6-8.1-8-2 (January 1, 2007)** is amended to require the Department to state on a demand notice the statutory authority for the Department to levy against a taxpayer's property held by a financial institution. Provide that the sheriff in a county where a warrant has been filed does not have the authority to release the warrant.

**IC 6-8.1-8-3 (January 1, 2007)** is amended to require a county sheriff to return a tax warrant to the Department even if a payment plan is established by the sheriff, unless the sheriff's electronic data base regarding tax warrants is compatible with the Department's data base.

**IC 6-8.1-8-14 (January 1, 2007)** is added to allow the Commissioner to declare an outstanding liability as uncollectible. However, any lien created by the outstanding liability remains in place.

**IC 6-8.1-8-15 (January 1, 2007)** is added to allow the Department to levy on the unclaimed property of the apparent owner by filing a claim with the attorney general in accordance with procedures described in IC 32-34-1-36.

**IC 6-8.1-9-2 (January 1, 2007)** is amended to provide that the Department will pay interest on a claim for refund or an amended return if the Department does not issue the refund within ninety (90) days of the date that the refund claim is filed. Current law provides that interest will be paid from the date the tax was paid or the date the return is due, whichever is later.

**IC 6-8.1-9-3 (January 1, 2007)** is amended to provide that IC 6-8.1-9 does apply to refund claims under the motor carrier fuel use tax.

### **Single Factor Sales Formula for AGI**

**IC 6-3-2-2 (January 1, 2007)** is amended to transition to a single factor formula based on sales for apportioning business income of corporations and non resident persons. The

single factor formula will be fully implemented for taxable years beginning after December 31, 2010.

### **Legislative Fix for Miller Brewing Decision**

**IC 6-3-2-2 (January 1, 2007)** is amended to provide that regardless of the f.o.b. point or other conditions of the sale, sales of tangible personal property are in this state if the property is delivered or shipped to a purchaser that is within Indiana.

### **Petition to Discontinue Filing Combined Return**

**IC 6-3-2-2 (January 1, 2007)** This section is amended to provide that a taxpayer filing a combined income tax return must petition the Department within thirty (30) days after the end of the taxpayer's taxable year to discontinue filing a combined income tax return.

### **Income Tax Deduction for Property Tax Paid**

**SB 355 (January 1, 2006) Non Code SECTION 22** is added to permit an additional deduction in 2006 against adjusted gross income for the payment of delayed property taxes payable in 2005. Delayed property taxes include the 2002, 2003, and 2004 assessment years where the taxpayer was not delinquent in remitting the property tax to the county treasurer when the property tax was paid in 2005.

### **EDGE for Retention Tax Credit**

**IC 6-3.1-13-15.5 (April 1, 2006)** is amended to provide that an employer must have at least thirty-five (35) employees to qualify for the EDGE for retention tax credit.

**IC 6-3.1-13-18 (April 1, 2006)** is amended to provide that the total amount of EDGE for retention credits that may be awarded in a year cannot exceed \$10,000,000.

### **Hoosier Business Investment Tax Credit**

**IC 6-3.1-26-8 (July 1, 2006)** is amended to remove the January 1, 2008 deadline for equipment used in motion pictures and audio productions to qualify for the Hoosier business investment tax credit.

**IC 6-3.1-26-26 (July 1, 2006)** is amended to extend the HBI tax credit until December 31, 2011.



### **Biodiesel and Ethanol Tax Incentives**

**IC 6-3.1-27-8 and IC 6-3.1-27-9 (Upon Passage and January 1, 2006)** are amended to imply that the credit awarded by the Indiana Economic Development Corporation for biodiesel production and the credit for blending biodiesel can be awarded at an amount that is less than the statutory limit.

**IC 6-3.1-27-9.5 (January 1, 2005)** is amended to increase the total amount of credits that may be awarded for biodiesel production, biodiesel blending and ethanol production from \$20,000,000 to \$50,000,000.

**IC 6-3.1-27-10 (January 1, 2006)** is amended to provide that the \$0.01 per gallon credit available for selling blended biodiesel at retail is extended until December 31, 2010.

**IC 6-3.1-28-11 (Upon Passage)** is amended to imply that the credit awarded by the Indiana Economic Development Corporation for ethanol production can be awarded at an amount that is less than the statutory limit. Increases the maximum amount of credits allowed for an ethanol production plant from \$3,000,000 to \$2,000,000 if the production is less than 60,000,000 gallons in a taxable year or \$3,000,000 if the production is greater than 60,000,000 gallons in a taxable year.

### **Coal Gasification Tax Incentives**

**IC 6-3.1-29-15 (January 1, 2006)** is amended to provide that an entity is qualified for the coal gasification income tax credit if the facility is dedicated to primarily serving Indiana retail electric utility consumers. This section also provides that the fluidized bed combustion technology tax credit is 7% of the taxpayer's qualified investment for the first \$500,000,000 invested, and 3% of the qualified taxpayer's investment that exceeds \$500,000,000.

**IC 6-3.1-29-19 (January 1, 2006)** is amended to provide that 75% of the coal used in a fluidized bed combustion unit must be Indiana coal if the unit is not dedicated primarily to serving Indiana retail electric utility consumers.

### **Headquarters Relocation Tax Credit**

**IC 6-3.1-30-2 (January 1, 2006)** is amended to provide that for a business to qualify for the headquarters relocation tax credit, the annual worldwide revenues had to be at least \$100,000,000 (prior provision was \$500,000,000).

**IC 6-3.1-30-8 (January 1, 2006)** is amended to provide that a business must have at least 75 employees in Indiana to qualify for the headquarters relocation tax credit.

**HB 1380 SECTION 17 (January 1, 2006)** provides that the entire chapter concerning the headquarters relocation tax credit takes effect on January 1, 2006 instead of January 1, 2007.

## Local Option Tax Provisions

**IC 6-3.5-1.1-2.3 (Upon Passage)** is added to permit Jasper County to impose an additional CAGIT rate of 0.25%. If an ordinance is adopted before June 1, 2006 the rate takes effect on July 1, 2006.

**IC 6-3.5-6-29 (Upon Passage)** is added to permit Scott County to impose an additional COIT rate of 0.25%. If an ordinance is adopted before June 1, 2006 the rate takes effect on July 1, 2006.

**IC 6-3.5-7-26 (Upon Passage)** is amended to provide that a county has until June 1, 2006 (instead of April 1, 2006) to adopt an ordinance to impose an additional CEDIT rate to offset the effects of the elimination of the property tax on inventory.

**IC 6-3.5-1.1-2.5 (July 1, 2006)** is amended to provide that the additional 0.1% that Jackson County is permitted to impose for the operation of jail and juvenile detention center is extended until June 30, 2011.

**IC 6-3.5-6-29 (Upon Passage)** is added to authorize Scott County to impose an additional COIT rate of 0.25% for financing and construction of jail facilities. The county income tax council has until June 1, 2006 to adopt an ordinance imposing the additional rate which would be effective July 1, 2006.

**IC 6-9-24-9 (July 1, 2006)** is amended to extend the Nashville food and beverage tax from January 1, 2007 until January 1, 2012.

## Farm Mutual Insurance Company Tax Option

**HB 1001 IC 27-5.1-2-8 (January 1, 2006)** is amended to provide that a farm mutual insurance company may elect to either pay the premium tax or the corporate adjusted gross income tax.

**HB 1380 IC 27-5.1-2-8 (January 1, 2006)** is amended to provide that a farm mutual insurance company may elect to either pay the premium tax or the corporate adjusted gross income tax.

## Toll Road Provisions (Major Moves)

**HB 1008 (Upon Passage) IC 8-15-3-23** is amended to provide that an operator under a public-private agreement purchasing tangible personal property for incorporation into a structure or facility becoming part of the land included in a toll way is exempt from the sales or use tax for the tangible personal property purchased.

**IC 8-15.5-8-2 (Upon Passage)** is added to provide that income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner as income received by other private entities. **(Indiana Toll Road)**

**IC 8-15.5-8-3 (Upon Passage)** is added to provide that an operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in the toll road project is not exempt from the sales tax with respect to such purchase. **(Indiana Toll Road)**

**IC 8-15.7-7-2 (Upon Passage)** is added to provide that an operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in a project is entitled to an exemption from the sales and use tax for that tangible personal property. **(I-69)**

**IC 8-15.7-7-3 (Upon Passage)** is added to provide that income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner as income received by other private entities. **(I-69)**

### **Out of State Winery Shipments**

**HB 1016 (July 1, 2006) IC 7.1-3-26-9** is added to allow out of state wineries to sell direct to the Indiana consumer. Requires the out of state winery to remit to the Department all alcoholic beverage taxes and sales taxes on a monthly basis.

### **Howard County Innkeepers' Tax**

**HB 1025 (July 1, 2006) IC 6-9-16-6** is amended to extend the Howard County innkeepers' tax at 5% until January 1, 2014. Current law has the rate being reduced to 4% on July 1, 2007.

### **College Choice Investment Tax Credit**

**HB 1029 (January 1, 2007) IC 6-3-3-12** is added to provide an individual adjusted gross income tax credit for an individual or a married couple for contributions to an Indiana college choice 529 investment plan in the amount of twenty percent (20%) of the contribution or \$1,000 whichever is less.

### **Prepayment Calculation Sales Tax on Gasoline**

**HB 1214 (July 1, 2006) IC 6-2.5-7-1** is amended to change the definition of prepayment rate for calculating the sales tax on gasoline.

**IC 6-2.5-7-14 (July 1, 2006)** is amended to provide that the prepayment rate used in determining prepayment amounts of sales tax on gasoline may not exceed 125% of the prepayment rate used for the previous six month period.

### **Ethanol Fuel Sales Tax Incentive**

**SB 353 (July 1, 2006) IC 6-2.5-7-5** is amended to require retailers that sell gasoline through a metered pump to report the number of gallons of E85 sold during the reporting period. The section provides that the retailer can deduct \$0.10 per gallon of E85 sold

from the amount of sales tax on motor fuel that is due for the reporting period. The amendment also provides that the total amount of deductions claimed cannot exceed \$2,000,000 for all retail merchants in all reporting periods. If the Department determines that the total amount of deductions allowed will exceed the \$2,000,000 cap, the Department shall publish in the Indiana Register a notice that the deduction is terminated after the date specified in the notice and that no additional deductions will be granted for transactions occurring after the date in the notice.

### **Gasoline & Special Fuel Electronic Filing**

**IC 6-6-1.1-515 (July 1, 2006)** is added to provide that the administrator of the special tax division may require all reports required to be filed concerning the gasoline tax must be filed in an electronic format prescribed by the administrator.

**IC 6-6-2.5-72 (July 1, 2006)** is added to provide that the administrator may require special fuel tax reports to be filed in an electronic format.

### **Ethanol and Biodiesel Definitions**

**IC 6-6-1.1-103 (January 1, 2006)** is amended to define E85 as a fuel blend nominally consisting of 85% ethanol and 15% gasoline.

**IC 6-6-2.5-1 (July 1, 2006)** is amended to provide that biodiesel and blended biodiesel are not alternative fuels.

**IC 6-6-2.5-1.5 (July 1, 2006)** is amended to define biodiesel as a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats that meets American Society for Testing and Materials specifications D6751-03a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, as well as other fuels of the same derivation capable of use in the generation of power for the propulsion of a motor vehicle, airplane or motorboat. This section also defined blended biodiesel to be a blend of biodiesel with petroleum diesel fuel so that the volume percentage of biodiesel in the blend is at least two percent (2%).

**IC 6-6-2.5-3 (July 1, 2006)** is amended so that the term blending does not include biodiesel or blended biodiesel.

**IC 6-6-2.5-22 (July 1, 2006)** is amended so that biodiesel and blended biodiesel are included in the definition of special fuel.

### **Motor Carrier Services Changes**

**IC 6-6-4.1-4.8 (July 1, 2006)** is amended to provide that in order to claim a proportional use credit for motor carrier fuel use taxes, the claim for the credit must be filed by the due date of the quarterly return for which the credit is being claimed.

**IC 6-8.1-4-4 (July 1, 2006)** is amended to give the commissioner authority to deny any applications submitted by an operator of a commercial motor vehicle if the person has failed to file all returns and pay all taxes.

**IC 6-8.1-10-13 (July 1, 2006)** is added to provide penalties if a person operates without required credentials or operates with altered credentials.

**IC 8-2.1-22-29 (July 1, 2006)** is amended to provide the conditions where the Department or the state police department may impound a motor vehicle of a motor carrier that is not authorized to transport passengers for hire.

**IC 8-2.1-22-40 (July 1, 2006)** is amended to increase the fees that the motor carrier services division charges for various services.

**IC 8-2.1-24-20 (July 1, 2006)** is amended to provide that private intrastate carriers not hauling hazardous waste do not have to register under the single state registration system.

**IC 8-2.1-24-28 (July 1, 2006)** is amended to provide that the Department may not register a motor carrier if the motor carrier fails to comply with various federal regulations.

**IC 9-20-18-14.5 (July 1, 2006)** is amended to provide penalties for violations of oversize and overweight permit provisions.

**SB 73 (July 1, 2006) IC 8-2.1-26** is added to provide that certain indemnity provisions contained in, collateral to, or affecting a motor carrier transportation contract are against public policy and are void and unenforceable.

**SB 133 (July 1, 2006) IC 9-20-6-2** is amended to require that a permit issued for transporting an oversized tractor-semi trailer to authorize its operation from thirty minutes before sunrise until thirty minutes after sunset.

### **Commercial Driver's License Changes**

**HB 1300 (Upon Passage) IC 9-13-2-78** is amended to provide that a person enrolled as a student truck driver of a truck driver training school, and has a legal residence in another state but is living in Indiana for the sole purpose of taking a course of study from a truck training school, and intends to return to his home state after completing his training will be considered an Indiana resident.

**IC 9-24-6-0.5** is added to provide for a commercial driver's learner's permit.

**IC 9-24-6-2.5** is added to provide for the bureau to issue a commercial driver's learning permit after the applicant completes an examination

**IC 9-24-6-4** is amended to provide that a person must be eighteen years old and have at least one year of driving experience to qualify for a commercial driver's learning permit.

**IC 9-24-6-5.3** is added to provide that the operator of a truck driver training school or a state educational institution must notify the bureau of a student's completion of the course, or the termination of the student's instruction in the truck driver training school. The school must retain records on each student for six years.

**IC 9-24-6-5.5** is added to provide that a student of a truck driver training school and a truck driver training school are subject to rules adopted by the Department.

### **Crane Military Base Business Tax Incentives**

**HB 1259 (July 1, 2006) IC 6-2.5-4-5** is amended to provide that a business located in a county where the Crane military base is located will be considered to be a military base enhancement area, and can receive a sales tax exemption for utility services.

**IC 6-3-2-1.5 (July 1, 2006)** is amended to provide that a corporation located in a county where the Crane military base is located is to be taxed on its income at a rate of five percent (5%) instead of eight and one-half percent (8.5%).

**IC 6-3.1-11.6-9 (July 1, 2006)** is amended to provide that a business located in a county where the Crane military base is located is eligible for the military base investment cost tax credit.

### **Charity Gaming Responsibilities Transferred to Gaming Commission**

**SB 100 (July 1, 2006) IC 4-32** is repealed. This transfers the license and regulation of charity gaming from the Department to the Indiana gaming commission.

**IC 6-8.1-3-18** is repealed. The section gave Department employees full police powers to enforce the charity gaming statutes.

### **Stadium Funding Procedures**

**SB 259 (July 1, 2006) IC 36-7-31-14.1** is amended to provide that the additional \$11,000,000 that the capital improvement board receives from the sales tax and withholding tax does not terminate until January 1 of the year after the year that no obligations are outstanding.

### **Health Care Facility Quality Care Fee Assessment**

**SB 169 (July 1, 2006) Non Code SECTION 1** extends until August 1, 2007, the quality care assessment fee levied on health care facilities.

### **Technical Changes**

**HB 1040 (Upon Passage)** makes technical corrections in several sections of the Indiana Code. **IC 6-3.1-9-1; IC 6-3.1-9-2; IC 6-3.1-9-4; IC 6-3.1-26-18; IC 6-3.1-29-8; IC 6-3.5-7-13.1; IC 6-6-10-7; IC 6-8.1-10-1; and IC 8-2.1-22-46.**

**HB 1134 (July 1, 2006)** changes several internal references as a result of the school finance recodification. **IC 6-2.5-5-23; IC 6-3.5-1.1-10; and IC 6-3.5-1.1-14.**

**SB 132 (July 1, 2006)** makes technical changes to the Indiana Code as a result of the 2005 Child Services Act. **IC 6-3.1-21-9; IC 6-4.1-12-12; IC 6-8.1-7-1; and IC 6-8.1-9.5-13.**