

# PROPOSED AMENDMENT

## SB 243 # 4

### DIGEST

Penny phaseout. Provides rounding provisions for cash transactions.

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- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 5-36.5 IS ADDED TO THE INDIANA CODE AS  
4 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE  
5 JANUARY 1, 2027]:  
6           **ARTICLE 36.5. PENNY PHASEOUT**  
7           **Chapter 1. Payments to State and Local Units**  
8           **Sec. 1. (a) This chapter applies only to a cash transaction.**  
9           **(b) This chapter does not apply to retail transactions under**  
10 **IC 6-2.5.**  
11          **Sec. 2. As used in this chapter, "local unit" means any:**  
12           **(1) county;**  
13           **(2) township;**  
14           **(3) city;**  
15           **(4) town;**  
16           **(5) school corporation; or**  
17           **(6) special taxing district.**  
18          **Sec. 3. As used in this chapter, "state" means:**  
19           **(1) the state of Indiana;**  
20           **(2) any department of the state of Indiana;**  
21           **(3) any agency of the state of Indiana;**  
22           **(4) any state or local court;**  
23           **(5) the general assembly;**  
24           **(6) any state of Indiana task force, committee, board,**  
25           **commission, or council;**  
26           **(7) any body politic and corporate of the state of Indiana; or**  
27           **(8) any other instrumentality of the state of Indiana.**  
28          **Sec. 4. (a) For a tax, fine, fee, or any other amount payable to**

1 the state or a local unit, if the tax, fine, fee, or other amount has  
 2 one (1), two (2), three (3), four (4), six (6), seven (7), eight (8), or  
 3 nine (9) in the second decimal place, the state or local unit must  
 4 round the tax amount downward to the next amount divisible by  
 5 five cents (\$0.05).

6 (b) For a tax, fine, fee, or any other amount payable to the state  
 7 or local unit that is less than five cents (\$0.05), the state or local  
 8 unit must round the amount down to zero cents (\$0.00).

9 (c) Any tax, fine, fee, or other amount payable to the state or  
 10 local unit shall be calculated on the unrounded taxable total  
 11 transaction amount notwithstanding IC 23-15-13 and then rounded  
 12 as applicable under subsection (a) or (b).

13 SECTION 2. IC 6-2.5-1-5, AS AMENDED BY P.L.205-2025,  
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JANUARY 1, 2027]: Sec. 5. (a) Except as provided in subsection (b),  
 16 "gross retail income" means the total amount of consideration,  
 17 including cash, credit, property, and services, for which tangible  
 18 personal property is sold, leased, or rented, valued in money, whether  
 19 received in money or otherwise, without any deduction for:

- 20 (1) the seller's cost of the property sold;
- 21 (2) the cost of materials used, labor or service cost, interest,  
 22 losses, all costs of transportation to the seller, all taxes imposed  
 23 on the seller, and any other expense of the seller;
- 24 (3) charges by the seller for any services necessary to complete  
 25 the sale, other than delivery and installation charges;
- 26 (4) delivery charges; or
- 27 (5) consideration received by the seller from a third party if:
  - 28 (A) the seller actually receives consideration from a party  
 29 other than the purchaser and the consideration is directly  
 30 related to a price reduction or discount on the sale;
  - 31 (B) the seller has an obligation to pass the price reduction or  
 32 discount through to the purchaser;
  - 33 (C) the amount of the consideration attributable to the sale is  
 34 fixed and determinable by the seller at the time of the sale of  
 35 the item to the purchaser; and
  - 36 (D) the price reduction or discount is identified as a third party  
 37 price reduction or discount on the invoice received by the  
 38 purchaser or on a coupon, certificate, or other documentation  
 39 presented by the purchaser.

40 For purposes of subdivision (4), delivery charges are charges by the

1 seller for preparation and delivery of the property to a location  
 2 designated by the purchaser of property, including but not limited to  
 3 transportation, shipping, postage charges that are not separately stated  
 4 on the invoice, bill of sale, or similar document, handling, crating, and  
 5 packing. Delivery charges do not include postage charges that are  
 6 separately stated on the invoice, bill of sale, or similar document.

7 (b) "Gross retail income" does not include that part of the gross  
 8 receipts attributable to:

9 (1) the value of any tangible personal property received in a like  
 10 kind exchange in the retail transaction, if the value of the property  
 11 given in exchange is separately stated on the invoice, bill of sale,  
 12 or similar document given to the purchaser;

13 (2) the receipts received in a retail transaction which constitute  
 14 interest, finance charges, or insurance premiums on either a  
 15 promissory note or an installment sales contract;

16 (3) discounts, including cash, terms, or coupons that are not  
 17 reimbursed by a third party that are allowed by a seller and taken  
 18 by a purchaser on a sale;

19 (4) interest, financing, and carrying charges from credit extended  
 20 on the sale of personal property if the amount is separately stated  
 21 on the invoice, bill of sale, or similar document given to the  
 22 purchaser;

23 (5) any taxes legally imposed directly on the consumer that are  
 24 separately stated on the invoice, bill of sale, or similar document  
 25 given to the purchaser, including an excise tax imposed under  
 26 IC 6-6-15;

27 (6) installation charges that are separately stated on the invoice,  
 28 bill of sale, or similar document given to the purchaser;

29 (7) telecommunications nonrecurring charges;

30 (8) postage charges that are separately stated on the invoice, bill  
 31 of sale, or similar document; or

32 (9) charges for serving or delivering food and food ingredients  
 33 furnished, prepared, or served for consumption at a location, or on  
 34 equipment, provided by the retail merchant, to the extent that the  
 35 charges for the serving or delivery are stated separately from the  
 36 price of the food and food ingredients when the purchaser pays  
 37 the charges.

38 (c) Notwithstanding subsection (b)(5):

39 (1) in the case of retail sales of special fuel (as defined in  
 40 IC 6-6-2.5-22) or kerosene (as defined in IC 16-44-2-2), the gross

1 retail income is the total sales price of the special fuel or kerosene  
 2 minus the part of that price attributable to tax imposed under  
 3 IC 6-6-2.5 (in the case of special fuel) or Section 4041 or Section  
 4 4081 of the Internal Revenue Code (in the case of either special  
 5 fuel or kerosene);

6 (2) in the case of retail sales of cigarettes (as defined in  
 7 IC 6-7-1-2), the gross retail income is the total sales price of the  
 8 cigarettes including the tax imposed under IC 6-7-1; and

9 (3) in the case of retail sales of consumable material (as defined  
 10 in IC 6-7-4-2), vapor products (as defined in IC 6-7-4-8), and  
 11 closed system cartridges (as defined in IC 6-7-2-0.5) under the  
 12 closed system cartridge tax, the gross retail income received from  
 13 selling at retail is the total sales price of the consumable material  
 14 (as defined in IC 6-7-4-2), vapor products (as defined in  
 15 IC 6-7-4-8), and closed system cartridges (as defined in  
 16 IC 6-7-2-0.5) including the tax imposed under IC 6-7-4 and  
 17 IC 6-7-2-7.5.

18 (d) Gross retail income is only taxable under this article to the  
 19 extent that the income represents:

20 (1) the price of the property transferred, without the rendition of  
 21 any services; and

22 (2) except as provided in subsection (b), any bona fide charges  
 23 which are made for preparation, fabrication, alteration,  
 24 modification, finishing, completion, delivery, or other service  
 25 performed in respect to the property transferred before its transfer  
 26 and which are separately stated on the transferor's records. For  
 27 purposes of this subdivision, a transfer is considered to have  
 28 occurred after the delivery of the property to the purchaser.

29 (e) A public utility's or a power subsidiary's gross retail income  
 30 includes all gross retail income received by the public utility or power  
 31 subsidiary, including any minimum charge, flat charge, membership  
 32 fee, or any other form of charge or billing.

33 **(f) Amounts added or subtracted by a seller to comply with**  
 34 **IC 23-15-13 shall not be considered in determining gross retail**  
 35 **income.**

36 SECTION 3. IC 6-2.5-2-2, AS AMENDED BY P.L.146-2020,  
 37 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JANUARY 1, 2027]: Sec. 2. (a) The state gross retail tax is measured  
 39 by the gross retail income received by a retail merchant in a retail  
 40 unitary or bundled transaction and is imposed at seven percent (7%) of

1 that gross retail income.

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

6 **(c) In a cash transaction, after the application of subsection (b)**  
7 **and except as provided in subsection (d), the retail merchant must**  
8 **calculate the tax on the unrounded total taxable transaction**  
9 **amount notwithstanding IC 23-15-13 and then round the tax**  
10 **amount to the nearest five cent (\$0.05) increment as follows:**

11 (1) For a tax amount with one (1), two (2), three (3), or four  
12 (4) in the second decimal place, round the tax amount  
13 downward to the next amount divisible by five cents (\$0.05).

14 (2) For a tax amount with six (6), seven (7), eight (8), or nine  
15 (9) in the second decimal place, round the tax amount  
16 downward to the next amount divisible by five cents (\$0.05).

17 (d) In a cash transaction, for a tax amount that is less than five  
18 cents (\$0.05), the retail merchant must round the amount down to  
19 zero cents (\$0.00).

20 (e) (e) A seller may elect to round the tax under subsection (b) on a  
21 transaction on an item basis or an invoice basis. However, a seller  
22 may not round the tax under subsection (b) to circumvent the tax that  
23 would otherwise be imposed on a transaction using an invoice basis."

24 Page 130, between lines 16 and 17, begin a new paragraph and  
25 insert:

26 "SECTION 104. IC 23-15-13 IS ADDED TO THE INDIANA  
27 CODE AS A NEW CHAPTER TO READ AS FOLLOWS  
28 [EFFECTIVE JANUARY 1, 2027]:

29 **Chapter 13. Payments to Business Entities**

30 **Sec. 1. (a) This chapter applies only to a cash transaction.**

31 **(b) This chapter does not apply to retail transactions under**  
32 **IC 6-2.5.**

33 **Sec. 2. As used in this chapter, "business entity" means any:**

34 **(1) bank;**

35 **(2) hospital;**

36 **(3) health care provider;**

37 **(4) sole proprietorship;**

38 **(5) corporation;**

39 **(6) limited liability company;**

40 **(7) association;**

- 1           **(8) partnership;**
- 2           **(9) joint stock company;**
- 3           **(10) joint venture;**
- 4           **(11) mutual fund;**
- 5           **(12) trust;**
- 6           **(13) joint tenancy; or**
- 7           **(14) other form of business organization.**

8           **Sec. 3. (a) For a total transaction amount payable to a business**  
 9           **entity, except as provided in subsection (b), the business entity**  
 10           **must round the total transaction amount to the nearest five cent**  
 11           **(\$0.05) increment as follows:**

12           **(1) For a total transaction amount with one (1), two (2), six**  
 13           **(6), or seven (7), in the second decimal place, round the total**  
 14           **transaction amount downward to the next amount divisible by**  
 15           **five cents (\$0.05).**

16           **(2) For a total transaction amount with three (3), four (4),**  
 17           **eight (8), or nine (9) in the second decimal place, round the**  
 18           **total transaction amount upward to the next amount divisible**  
 19           **by five cents (\$0.05).**

20           **(b) For a total transaction amount that is less than five cents**  
 21           **(\$0.05), the business entity must round the amount down to zero**  
 22           **cents (\$0.00)."**

23           Page 131, between lines 22 and 23, begin a new paragraph and  
 24           insert:

25           **"SECTION 110. [EFFECTIVE JANUARY 1, 2027] (a)**  
 26           **IC 6-2.5-2-2, as amended by this act, and IC 5-36.5 and**  
 27           **IC 23-15-13, both as added by this act, apply only to cash**  
 28           **transactions occurring after December 31, 2026.**

29           **(b) Except as provided in subsection (c), a retail transaction is**  
 30           **considered to have occurred after December 31, 2026, if the**  
 31           **property whose transfer constitutes selling at retail is delivered to**  
 32           **the purchaser or to the place of delivery designated by the**  
 33           **purchaser after December 31, 2026.**

34           **(c) Notwithstanding the delivery of the property constituting**  
 35           **selling at retail after December 31, 2026, a transaction is**  
 36           **considered to have occurred before January 1, 2027, to the extent**  
 37           **that:**

- 38           **(1) the agreement of the parties to the transaction is entered**  
 39           **into before January 1, 2027; and**
- 40           **(2) payment for the property furnished in the transaction is**

- 1           **made before January 1, 2027.**
- 2           **(d) This SECTION expires January 1, 2030."**
- 3           Renumber all SECTIONS consecutively.  
              (Reference is to SB 243 as introduced.)