



January 21, 2026

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## SENATE BILL No. 259

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DIGEST OF SB 259 (Updated January 20, 2026 11:04 am - DI 120)

**Citations Affected:** IC 6-3; IC 6-8.1; noncode.

**Synopsis:** Partnership composite returns. Removes penalty provisions that apply if a pass through entity fails to include in a composite return nonresident partners, nonresident shareholders, or nonresident beneficiaries that do not have distributive share income of greater than \$0. Makes conforming changes.

**Effective:** Upon passage.

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### Baldwin, Randolph Lonnie M

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January 8, 2026, read first time and referred to Committee on Tax and Fiscal Policy.  
January 20, 2026, amended, reported favorably — Do Pass.

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SB 259—LS 7048/DI 120





January 21, 2026

Second Regular Session of the 124th General Assembly (2026)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2025 Regular Session of the General Assembly.

## SENATE BILL No. 259

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1        SECTION 1. IC 6-3-2.1-2, AS AMENDED BY P.L.194-2023,  
2        SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3        UPON PASSAGE]: Sec. 2. The following definitions apply throughout  
4        this chapter:

5        (1) "Electing entity" means a pass through entity described in  
6        IC 6-3-1-35 that is subject to Subchapter K or Subchapter S of the  
7        Internal Revenue Code and makes the election under this chapter.

8        (2) "Entity owner" means the direct or indirect owners of an  
9        electing entity that are ultimately taxable on the entity's income  
10      under Subchapter K or Subchapter S of the Internal Revenue  
11      Code, except an owner described in subdivision (4)(A) through  
12      (4)(C).

13        (3) "Nonresident" means:

14        (A) a nonresident partner as defined by IC 6-3-4-12(n);  
15        (B) a nonresident shareholder as defined by IC 6-3-4-13(n);  
16        (C) a nonresident beneficiary as defined by ~~IC 6-3-4-15(i)~~;  
17        **IC 6-3-4-15(j)**; or

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(D) in the case of a shareholder of a corporation described in IC 6-3-2-2.8(2), a corporation described in Section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under Section 501(a) of the Internal Revenue Code and that is not domiciled in Indiana; whichever is applicable.

(4) "Owner" means a direct or indirect owner of an electing entity and includes a beneficiary of an estate or trust. However an owner shall not include:

(A) an entity described in IC 6-3-2-2.8(3) that is not a partnership, a trust, or a corporation described in IC 6-3-2-2.8(2);

(B) an entity described in IC 6-3-2-2.8(5); or

(C) any other entity as determined by the department and listed in instructions or guidance issued by the department.

(5) "Resident" means a partner, shareholder, or beneficiary:

(A) that, in the case of an individual, estate, or resident of Indiana as defined in IC 6-3-1-12; or

(B) that is a partnership or corporation, including a corporation described in IC 6-3-2-2.8(1) or IC 6-3-2-2.8(2), that is domiciled in Indiana.

SECTION 2. IC 6-3-4-12, AS AMENDED BY P.L.1-2023, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Every partnership shall, at the time that the partnership pays or credits amounts to any of its nonresident partners on account of their distributive shares of partnership income, for a taxable year of the partnership, deduct and retain therefrom the amount prescribed in the withholding instructions referred to in section 8 of this chapter. Such partnership so paying or crediting any nonresident partner:

(1) shall be liable to the state of Indiana for the payment of the tax required to be deducted and retained under this section and shall not be liable to such partner for the amount deducted from such payment or credit and paid over in compliance or intended compliance with this section; and

(2) shall make return of and payment to the department monthly whenever the amount of tax due under IC 6-3 and IC 6-3.6 exceeds an aggregate amount of fifty dollars (\$50) per month with such payment due on the thirtieth day of the following month, unless an earlier date is specified by section 8.1 of this chapter.

Where the aggregate amount due under IC 6-3 and IC 6-3.6 does not exceed fifty dollars (\$50) per month, then such partnership shall make



1       return and payment to the department quarterly, on such dates and in  
2       such manner as the department shall prescribe, of the amount of tax  
3       which, under IC 6-3 and IC 6-3.6, it is required to withhold. If a  
4       partnership credits a partner with pass through entity tax imposed  
5       under IC 6-3-2.1, the withholding required for that partner under this  
6       section shall be reduced by the tax credited to the partner under  
7       IC 6-3-2.1, but in no event shall the tax required to be withheld be  
8       reduced to less than zero dollars (\$0).

9       (b) Every partnership shall, at the time of each payment made by it  
10      to the department pursuant to this section, deliver to the department a  
11      return upon such form as shall be prescribed by the department  
12      showing the total amounts paid or credited to its nonresident partners,  
13      the amount deducted therefrom in accordance with the provisions of  
14      this section, and such other information as the department may require.  
15      Every partnership making the deduction and retention provided in this  
16      section shall furnish to its nonresident partners annually, but not later  
17      than the fifteenth day of the third month after the end of its taxable  
18      year, a record of the amount of tax deducted and retained from such  
19      partners on forms to be prescribed by the department.

20      (c) All money deducted and retained by the partnership, as provided  
21      in this section, shall immediately upon such deduction be the money of  
22      the state of Indiana and every partnership which deducts and retains  
23      any amount of money under the provisions of IC 6-3 shall hold the  
24      same in trust for the state of Indiana and for payment thereof to the  
25      department in the manner and at the times provided in IC 6-3. Any  
26      partnership may be required to post a surety bond in such sum as the  
27      department shall determine to be appropriate to protect the state of  
28      Indiana with respect to money deducted and retained pursuant to this  
29      section.

30      (d) The provisions of IC 6-8.1 relating to additions to tax in case of  
31      delinquency and penalties shall apply to partnerships subject to the  
32      provisions of this section, and for these purposes any amount deducted,  
33      or required to be deducted and remitted to the department under this  
34      section, shall be considered to be the tax of the partnership, and with  
35      respect to such amount it shall be considered the taxpayer.

36      (e) Amounts deducted from payments or credits to a nonresident  
37      partner during any taxable year of the partnership in accordance with  
38      the provisions of this section shall be considered to be in part payment  
39      of the tax imposed on such nonresident partner for the nonresident  
40      partner's taxable year within or with which the partnership's taxable  
41      year ends. A return made by the partnership under subsection (b) shall  
42      be accepted by the department as evidence in favor of the nonresident



1                   partner of the amount so deducted for the nonresident partner's  
 2                   distributive share.

3                   (f) This section shall in no way relieve any nonresident partner from  
 4                   the nonresident partner's obligations of filing a return or returns at the  
 5                   time required under IC 6-3 or IC 6-3.6, and any unpaid tax shall be paid  
 6                   at the time prescribed by section 5 of this chapter.

7                   (g) Instead of the reporting periods required under subsection (a),  
 8                   the department may permit a partnership to file one (1) return and  
 9                   payment each year if the partnership pays or credits amounts to its  
 10                  nonresident partners only one (1) time each year. The return and  
 11                  payment are due on or before the fifteenth day of the fourth month after  
 12                  the end of the year. However, if a partnership is permitted an extension  
 13                  to file its income tax return under IC 6-8.1-6-1, the return and payment  
 14                  due under this subsection shall be allowed the same treatment as an  
 15                  extended income tax return with respect to due dates, interest, and  
 16                  penalties under IC 6-8.1-6-1.

17                  (h) If a partnership fails to withhold and pay any amount of tax  
 18                  required to be withheld under this section and thereafter the tax is paid  
 19                  by the partners, the amounts of tax as paid by the partners shall not be  
 20                  collected from the partnership but it may not be relieved from liability  
 21                  for interest or penalty otherwise due in respect to the failure to  
 22                  withhold under IC 6-8.1-10.

23                  (i) A partnership shall file a composite adjusted gross income tax  
 24                  return on behalf of all nonresident partners. The composite return must  
 25                  include each nonresident partner regardless of whether or not the  
 26                  nonresident partner has other Indiana source income.

27                  (j) If a partnership does not include all nonresident partners **that**  
 28                  **have distributive share income from the partnership:**

29                   **(1) as determined under this article; and**  
 30                   **(2) derived from Indiana sources;**

31                  **of greater than zero dollars (\$0)** in the composite return, the  
 32                  partnership is subject to the penalty imposed under IC 6-8.1-10-2.1(j).

33                  (k) For taxable years beginning after December 31, 2013, the  
 34                  department may not impose a late payment penalty on a partnership for  
 35                  the failure to file a return, pay the full amount of the tax shown on the  
 36                  partnership's return, or pay the deficiency of the withholding taxes due  
 37                  under this section if the partnership pays the department before the  
 38                  fifteenth day of the fourth month after the end of the partnership's  
 39                  taxable year at least:

40                   (1) eighty percent (80%) of the withholding tax due for the  
 41                   current year; or  
 42                   (2) one hundred percent (100%) of the withholding tax due for the



1                   preceding year.

2                   (l) Notwithstanding subsection (a) or (i), a partnership is not  
 3                   required to withhold tax or file a composite adjusted gross income tax  
 4                   return for a nonresident partner if the partnership:

5                   (1) is a publicly traded partnership as defined by Section 7704(b)  
 6                   of the Internal Revenue Code;

7                   (2) meets the exception for partnerships under Section 7704(c) of  
 8                   the Internal Revenue Code; and

9                   (3) has agreed to file an annual information return reporting the  
 10                  name, address, taxpayer identification number, and other  
 11                  information requested by the department of each unit holder.

12                  The department may issue written guidance explaining circumstances  
 13                  under which limited partnerships or limited liability companies owned  
 14                  by a publicly traded partnership may be excluded from the withholding  
 15                  requirements of this section.

16                  (m) Notwithstanding subsection (k), a partnership is subject to a late  
 17                  payment penalty for the failure to file a return, pay the full amount of  
 18                  the tax shown on the partnership's return, or pay the deficiency of the  
 19                  withholding taxes due under this section for any amounts of  
 20                  withholding tax, including any interest under IC 6-8.1-10-1, reported  
 21                  or paid after the due date of the return, as adjusted by any extension  
 22                  under IC 6-8.1-6-1.

23                  (n) For purposes of this section, a "nonresident partner" is:

24                   (1) an individual who does not reside in Indiana;

25                   (2) a trust that does not reside in Indiana;

26                   (3) an estate that does not reside in Indiana;

27                   (4) a partnership not domiciled in Indiana;

28                   (5) a C corporation not domiciled in Indiana; or

29                   (6) an S corporation not domiciled in Indiana.

30                  SECTION 3. IC 6-3-4-13, AS AMENDED BY P.L.1-2023,  
 31                  SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32                  UPON PASSAGE]: Sec. 13. (a) Every corporation which is exempt  
 33                  from tax under IC 6-3 pursuant to IC 6-3-2-2.8(2) shall, at the time that  
 34                  it pays or credits amounts to any of its nonresident shareholders as  
 35                  dividends or as their share of the corporation's undistributed taxable  
 36                  income, withhold the amount prescribed by the department. Such  
 37                  corporation so paying or crediting any nonresident shareholder:

38                   (1) shall be liable to the state of Indiana for the payment of the tax  
 39                   required to be withheld under this section and shall not be liable  
 40                   to such shareholder for the amount withheld and paid over in  
 41                   compliance or intended compliance with this section; and

42                   (2) when the aggregate amount due under IC 6-3 and IC 6-3.6



1           exceeds one hundred fifty dollars (\$150) per quarter, then such  
2           corporation shall make return and payment to the department  
3           quarterly, on such dates and in such manner as the department  
4           shall prescribe, of the amount of tax which, under IC 6-3 and  
5           IC 6-3.6, it is required to withhold.

6           If a corporation credits a shareholder with pass through entity tax  
7           imposed under IC 6-3-2.1, the withholding required for that  
8           shareholder under this section shall be reduced by the tax credited to  
9           the shareholder under IC 6-3-2.1, but in no event shall the tax required  
10          to be withheld be reduced to less than zero dollars (\$0).

11          (b) Every corporation shall, at the time of each payment made by it  
12          to the department pursuant to this section, deliver to the department a  
13          return upon such form as shall be prescribed by the department  
14          showing the total amounts paid or credited to its nonresident  
15          shareholders, the amount withheld in accordance with the provisions  
16          of this section, and such other information as the department may  
17          require. Every corporation withholding as provided in this section shall  
18          furnish to its nonresident shareholders annually, but not later than the  
19          fifteenth day of the third month after the end of its taxable year, a  
20          record of the amount of tax withheld on behalf of such shareholders on  
21          forms to be prescribed by the department.

22          (c) All money withheld by a corporation, pursuant to this section,  
23          shall immediately upon being withheld be the money of the state of  
24          Indiana and every corporation which withholds any amount of money  
25          under the provisions of this section shall hold the same in trust for the  
26          state of Indiana and for payment thereof to the department in the  
27          manner and at the times provided in IC 6-3. Any corporation may be  
28          required to post a surety bond in such sum as the department shall  
29          determine to be appropriate to protect the state of Indiana with respect  
30          to money withheld pursuant to this section.

31          (d) The provisions of IC 6-8.1 relating to additions to tax in case of  
32          delinquency and penalties shall apply to corporations subject to the  
33          provisions of this section, and for these purposes any amount withheld,  
34          or required to be withheld and remitted to the department under this  
35          section, shall be considered to be the tax of the corporation, and with  
36          respect to such amount it shall be considered the taxpayer.

37          (e) Amounts withheld from payments or credits to a nonresident  
38          shareholder during any taxable year of the corporation in accordance  
39          with the provisions of this section shall be considered to be a part  
40          payment of the tax imposed on such nonresident shareholder for the  
41          shareholder's taxable year within or with which the corporation's  
42          taxable year ends. A return made by the corporation under subsection



1 (b) shall be accepted by the department as evidence in favor of the  
2 nonresident shareholder of the amount so withheld from the  
3 shareholder's distributive share.

4 (f) This section shall in no way relieve any nonresident shareholder  
5 from the shareholder's obligation of filing a return or returns at the time  
6 required under IC 6-3 or IC 6-3.6, and any unpaid tax shall be paid at  
7 the time prescribed by section 5 of this chapter.

8       (g) Instead of the reporting periods required under subsection (a),  
9       the department may permit a corporation to file one (1) return and  
10      payment each year if the corporation pays or credits amounts to its  
11      nonresident shareholders only one (1) time each year. The withholding  
12      return and payment are due on or before the fifteenth day of the fourth  
13      month after the end of the taxable year of the corporation. However, if  
14      a corporation is permitted an extension to file its income tax return  
15      under IC 6-8.1-6-1, the return and payment due under this subsection  
16      shall be allowed the same treatment as the extended income tax return  
17      with respect to the due dates, interest, and penalties under IC 6-8.1-6-1.

18 (h) If a distribution will be made with property other than money or  
19 a gain is realized without the payment of money, the corporation shall  
20 not release the property or credit the gain until it has funds sufficient  
21 to enable it to pay the tax required to be withheld under this section. If  
22 necessary, the corporation shall obtain such funds from the  
23 shareholders.

24 (i) If a corporation fails to withhold and pay any amount of tax  
25 required to be withheld under this section and thereafter the tax is paid  
26 by the shareholders, such amount of tax as paid by the shareholders  
27 shall not be collected from the corporation but it shall not be relieved  
28 from liability for interest or penalty otherwise due in respect to such  
29 failure to withhold under IC 6-8.1-10.

35 (k) If a corporation described in subsection (a) does not include all  
36 nonresident shareholders **who have distributive share income from**  
37 **the corporation:**

38 (1) as determined under this article; and

39 (2) derived from Indiana sources;

40 of greater than zero dollars (\$0) in the composite return, the  
41 corporation is subject to the penalty imposed under IC 6-8.1-10-2.1(j).

42 (l) For taxable years beginning after December 31, 2013, the



1 department may not impose a late payment penalty on a corporation for  
2 the failure to file a return, pay the full amount of the tax shown on the  
3 corporation's return, or pay the deficiency of the withholding taxes due  
4 under this section if the corporation pays the department before the  
5 fifteenth day of the fourth month after the end of the partnership's  
6 taxable year at least:

7 (1) eighty percent (80%) of the withholding tax due for the  
8 current year; or  
9 (2) one hundred percent (100%) of the withholding tax due for the  
10 preceding year.

11 (m) Notwithstanding subsection (l), a corporation is subject to a late  
12 payment penalty for the failure to file a return, pay the full amount of  
13 the tax shown on the corporation's return, or pay the deficiency of the  
14 withholding taxes due under this section for any amounts of  
15 withholding tax, including any interest under IC 6-8.1-10-1, reported  
16 or paid after the due date of the return, as adjusted by any extension  
17 under IC 6-8.1-6-1.

18 (n) For purposes of this section, a "nonresident shareholder" is:

19 (1) an individual who does not reside in Indiana;  
20 (2) a trust that does not reside in Indiana; or  
21 (3) an estate that does not reside in Indiana.

22 SECTION 4. IC 6-3-4-15, AS AMENDED BY P.L.1-2023,  
23 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 UPON PASSAGE]: Sec. 15. (a) A trust or estate shall, at the time that  
25 it distributes income (except income attributable to interest or  
26 dividends) to a nonresident beneficiary, deduct and retain therefrom the  
27 amount prescribed in the withholding instructions referred to in section  
28 8 of this chapter. The trust or estate so distributing income to a  
29 nonresident beneficiary:

30 (1) is liable to this state for the tax which it is required to deduct  
31 and retain under this section and is not liable to the beneficiary for  
32 the amount deducted from the distribution and paid to the  
33 department in compliance, or intended compliance, with this  
34 section; and  
35 (2) shall pay the amount deducted to the department before the  
36 thirtieth day of the month following the distribution, unless an  
37 earlier date is specified by section 8.1 of this chapter.

38 If a trust or estate credits a beneficiary with pass through entity tax  
39 imposed under IC 6-3-2.1, the withholding required for that beneficiary  
40 under this section shall be reduced by the tax credited to the  
41 beneficiary under IC 6-3-2.1, but in no event shall the tax required to  
42 be withheld be reduced to less than zero dollars (\$0).



(b) A trust or estate shall, at the time that it makes a payment to the department under this section, deliver to the department a return which shows the total amounts distributed to the trust's or estate's nonresident beneficiaries, the amount deducted from the distributions under this section, and any other information required by the department. The trust or estate shall file the return on the form prescribed by the department. A trust or estate which makes the deduction and retention required by this section shall furnish to its nonresident beneficiaries annually, but not later than thirty (30) days after the end of the trust's or estate's taxable year, a record of the amount of tax deducted and retained from the beneficiaries. The trust or estate shall furnish the information on the form prescribed by the department.

21 (d) The provisions of IC 6-8.1 relating to penalties or to additions to  
22 tax in case of a delinquency apply to trusts and estates which are  
23 subject to this section. For purposes of this subsection, any amount  
24 deducted, or required to be deducted and remitted to the department,  
25 under this section is considered the tax of the trust or estate, and with  
26 respect to that amount, it is considered the taxpayer.

27 (e) Amounts deducted from distributions to nonresident  
28 beneficiaries under this section during a taxable year of the trust or  
29 estate are considered a partial payment of the tax imposed on the  
30 nonresident beneficiary for his taxable year within or with which the  
31 trust's or estate's taxable year ends. The department shall accept a  
32 return made by the trust or estate under subsection (b) as evidence of  
33 the amount of tax deducted from the income distributed to a  
34 nonresident beneficiary.

35 (f) This section does not relieve a nonresident beneficiary of his  
36 duty to file a return at the time required under IC 6-3. The nonresident  
37 beneficiary shall pay any unpaid tax at the time prescribed by section  
38 5 of this chapter.

39 (g) If a trust or estate fails to withhold and pay any amount of tax  
40 required to be withheld under this section and thereafter the tax is paid  
41 by the beneficiaries, the amount of tax paid by the beneficiaries may  
42 not be collected from the trust or estate but it may not be relieved from



1 liability for interest or penalty otherwise due in respect to the failure to  
 2 withhold under IC 6-8.1-10.

3 (h) A trust or estate shall file a composite adjusted gross income tax  
 4 return on behalf of all nonresident beneficiaries. The composite return  
 5 must include each nonresident beneficiary regardless of whether the  
 6 nonresident beneficiary has other Indiana source income.

7 **(i) If a trust or estate does not include all nonresident  
 8 beneficiaries that have distributable net income from the trust or  
 9 estate:**

10       **(1) as determined under this article; and**  
 11       **(2) derived from Indiana sources;**

12 **of greater than zero dollars (\$0) in the composite return, the trust  
 13 or estate is subject to the penalty imposed under IC 6-8.1-10-2.1(j).**

14       **(j) For purposes of this section, a "nonresident beneficiary" is:**

15       (1) an individual who does not reside in Indiana;  
 16       (2) a trust that does not reside in Indiana;  
 17       (3) an estate that does not reside in Indiana;  
 18       (4) a partnership that is not domiciled in Indiana;  
 19       (5) a C corporation that is not domiciled in Indiana; or  
 20       (6) an S corporation that is not domiciled in Indiana.

21       **(k) If a trust or estate is permitted an extension to file its income  
 22 tax return under IC 6-8.1-6-1, then the return and payment due under  
 23 this subsection shall be allowed the same treatment as the extended  
 24 income tax return with respect to due dates, interest, and penalties  
 25 under IC 6-8.1-6-1.**

26       SECTION 5. IC 6-8.1-10-2.1, AS AMENDED BY P.L.230-2025,  
 27 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 UPON PASSAGE]: Sec. 2.1. (a) Except as provided in IC 6-3-4-12(k)  
 29 and IC 6-3-4-13(l), a person that:

30       (1) fails to file a return for any of the listed taxes;  
 31       (2) fails to pay the full amount of tax shown on the person's return  
 32       on or before the due date for the return or payment;  
 33       (3) incurs, upon examination by the department, a deficiency that  
 34       is due to negligence;  
 35       (4) fails to timely remit any tax held in trust for the state;  
 36       (5) fails to file a return in the electronic manner required by the  
 37       department if such return is required to be filed electronically; or  
 38       (6) is required to make a payment by electronic funds transfer (as  
 39       defined in IC 4-8.1-2-7), overnight courier, personal delivery, or  
 40       any other electronic means and the payment is not received by the  
 41       department by the due date in such manner and in funds  
 42       acceptable to the department;



1       is subject to a penalty.

2       (b) Except as provided in subsection (g), the penalty described in  
3       subsection (a) is ten percent (10%) of:

4           (1) the full amount of the tax due if the person failed to file the  
5           return or, in the case of a return required to be filed electronically,  
6           the return is not filed in the electronic manner required by the  
7           department;

8           (2) the amount of the tax not paid, if the person filed the return  
9           but failed to pay the full amount of the tax shown on the return;

10           (3) the amount of the tax held in trust that is not timely remitted;

11           (4) the amount of deficiency as finally determined by the  
12           department; or

13           (5) the amount of tax due if a person failed to make payment  
14           required to be made by electronic funds transfer, overnight  
15           courier, personal delivery, or any other electronic means by the  
16           due date in such manner.

17       (c) For purposes of this section, the filing of a substantially blank or  
18       unsigned return does not constitute a return.

19       (d) If a person subject to the penalty imposed under this section can  
20       show that the failure to file a return, pay the full amount of tax shown  
21       on the person's return, timely remit tax held in trust, or pay the  
22       deficiency determined by the department was due to reasonable cause  
23       and not due to willful neglect, the department shall waive the penalty.

24       (e) A person who wishes to avoid the penalty imposed under this  
25       section must make an affirmative showing of all facts alleged as a  
26       reasonable cause for the person's failure to file the return, pay the  
27       amount of tax shown on the person's return, pay the deficiency, or  
28       timely remit tax held in trust, in a written statement containing a  
29       declaration that the statement is made under penalty of perjury. The  
30       statement must be filed with the return or payment within the time  
31       prescribed for protesting departmental assessments. A taxpayer may  
32       also avoid the penalty imposed under this section by obtaining a ruling  
33       from the department before the end of a particular tax period on the  
34       amount of tax due for that tax period.

35       (f) The department shall adopt rules under IC 4-22-2 to prescribe the  
36       circumstances that constitute reasonable cause and negligence for  
37       purposes of this section.

38       (g) A person who fails to file a return for a listed tax that shows no  
39       tax liability for a taxable year, other than an information return (as  
40       defined in section 6 of this chapter), on or before the due date of the  
41       return shall pay a penalty of ten dollars (\$10) for each day that the  
42       return is past due, up to a maximum of two hundred fifty dollars



1       (\$250).

2       (h) A:

3           (1) corporation which otherwise qualifies under IC 6-3-2-2.8(2);

4           (2) partnership; or

5           (3) trust;

6       that fails to withhold and pay any amount of tax required to be withheld  
 7       under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15 shall pay a penalty  
 8       equal to twenty percent (20%) of the amount of tax required to be  
 9       withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15. This penalty  
 10      shall be in addition to any penalty imposed by section 6 of this chapter.

11      (i) Subsections (a) through (c) do not apply to a motor carrier fuel  
 12      tax return.

13      (j) If a pass through entity (as defined in IC 6-3-1-35) fails to  
 14      include all nonresident partners, nonresident shareholders, or  
 15      nonresident beneficiaries in a composite return as required by  
 16      IC 6-3-4-12(i), IC 6-3-4-12(j), IC 6-3-4-13(j), IC 6-3-4-13(k), or  
 17      IC 6-3-4-15(h), IC 6-3-4-15(i), a penalty of five hundred dollars (\$500)  
 18      per pass through entity is imposed on the pass through entity. **For**  
 19      **purposes of this subsection:**

20      **(1) no penalty shall be imposed on the failure to list**  
 21      **nonresident partners, nonresident shareholders, or**  
 22      **nonresident beneficiaries not described in IC 6-3-4-12(j),**  
 23      **IC 6-3-4-13(k), or IC 6-3-4-15(i), on a composite return; and**  
 24      **(2) the determination of whether a partner, shareholder, or**  
 25      **beneficiary is required to be included on a composite return**  
 26      **shall be determined at the time the pass through entity files its**  
 27      **return required under IC 6-3 unless the determination by the**  
 28      **pass through entity was the result of:**

29      **(A) fraud; or**  
 30      **(B) intentional or reckless disregard of IC 6-3 or the**  
 31      **Internal Revenue Code.**

32      (k) If a person subject to the penalty imposed under this section  
 33      provides the department with documentation showing that the person  
 34      is or has been subject to incarceration for a period of at least one  
 35      hundred eighty (180) days, the department shall waive any penalty  
 36      under this section and interest that accrues during the time the person  
 37      was incarcerated, but not to an extent greater than the penalty or  
 38      interest relief to which a person would otherwise have been entitled  
 39      under the federal Servicemembers Civil Relief Act (50 U.S.C.  
 40      3901-4043), if the person was in military service. Nothing in this  
 41      subsection shall preclude the department from issuing a proposed  
 42      assessment, demand notice, jeopardy proposed assessment, jeopardy



1 demand notice, or warrant otherwise permitted by law.

2 (l) Beginning after December 31, 2024, reasonable cause under this  
3 section for failure to file a timely and complete form IT-65 partnership  
4 return will be presumed if the partnership (or any of its partners) is able  
5 to show that all of the following conditions have been met:

6 (1) The partnership had no more than ten (10) partners for the  
7 taxable year. (A husband and wife filing a joint return count as  
8 one (1) partner.)

9 (2) Each partner during the tax year was a natural person (other  
10 than a nonresident alien), or the estate of a natural person.

11 (3) Each partner's proportionate share of any partnership item is  
12 the same as the partner's proportionate share of any other  
13 partnership item.

14 (4) The partnership did not elect to be subject to the rules for  
15 federal consolidated audit proceedings under Sections 6221  
16 through 6234 of the Internal Revenue Code.

17 (5) All partners reported their distributive share of partnership  
18 items on their timely filed income tax returns.

19 SECTION 6. [EFFECTIVE UPON PASSAGE] **IC 6-3-4-12,**  
20 **IC 6-3-4-13, IC 6-3-4-15, and IC 6-8.1-10-21, all as amended by this**  
21 **act, are effective for pass through entity returns due after passage**  
22 **of this act, including any extensions allowable for the return.**

23 SECTION 7. **An emergency is declared for this act.**



## COMMITTEE REPORT

Mr. President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 259, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 39, begin a new paragraph and insert:

"SECTION 1. IC 6-3-2.1-2, AS AMENDED BY P.L.194-2023, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The following definitions apply throughout this chapter:

(1) "Electing entity" means a pass through entity described in IC 6-3-1-35 that is subject to Subchapter K or Subchapter S of the Internal Revenue Code and makes the election under this chapter.

(2) "Entity owner" means the direct or indirect owners of an electing entity that are ultimately taxable on the entity's income under Subchapter K or Subchapter S of the Internal Revenue Code, except an owner described in subdivision (4)(A) through (4)(C).

(3) "Nonresident" means:

(A) a nonresident partner as defined by IC 6-3-4-12(n);

(B) a nonresident shareholder as defined by IC 6-3-4-13(n);

(C) a nonresident beneficiary as defined by ~~IC 6-3-4-15(i);~~  
**IC 6-3-4-15(j);** or

(D) in the case of a shareholder of a corporation described in IC 6-3-2-2.8(2), a corporation described in Section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under Section 501(a) of the Internal Revenue Code and that is not domiciled in Indiana;

whichever is applicable.

(4) "Owner" means a direct or indirect owner of an electing entity and includes a beneficiary of an estate or trust. However an owner shall not include:

(A) an entity described in IC 6-3-2-2.8(3) that is not a partnership, a trust, or a corporation described in IC 6-3-2-2.8(2);

(B) an entity described in IC 6-3-2-2.8(5); or

(C) any other entity as determined by the department and listed in instructions or guidance issued by the department.

(5) "Resident" means a partner, shareholder, or beneficiary:



(A) that, in the case of an individual, estate, or trust, is a resident of Indiana as defined in IC 6-3-1-12; or

(B) that is a partnership or corporation, including a corporation described in IC 6-3-2-2.8(1) or IC 6-3-2-2.8(2), that is domiciled in Indiana.".

Page 6, delete lines 3 through 5, begin a new paragraph and insert:

**"(j) If a partnership does not include all nonresident partners **that have distributive share income from the partnership:****

**(1) as determined under this article; and**

**(2) derived from Indiana sources;**

**of greater than zero dollars (\$0) in the composite return, the partnership is subject to the penalty imposed under IC 6-8.1-10-2.1(j).".**

Page 6, line 6, reset in roman "(k)".

Page 6, line 6, delete "(j)".

Page 6, line 17, reset in roman "(l)".

Page 6, line 17, delete "(k)".

Page 6, line 31, reset in roman "(m)".

Page 6, line 31, delete "(l)".

Page 6, line 31, reset in roman "(k),".

Page 6, line 31, delete "(j),".

Page 6, line 38, reset in roman "(n)".

Page 6, line 38, delete "(m)".

Page 9, delete lines 8 through 10, begin a new paragraph and insert:

**"(k) If a corporation described in subsection (a) does not include all nonresident shareholders **who have distributive share income from the corporation:****

**(1) as determined under this article; and**

**(2) derived from Indiana sources;**

**of greater than zero dollars (\$0) in the composite return, the corporation is subject to the penalty imposed under IC 6-8.1-10-2.1(j).".**

Page 9, line 11, reset in roman "(l)".

Page 9, line 11, delete "(k)".

Page 9, line 22, reset in roman "(m)".

Page 9, line 22, delete "(l)".

Page 9, line 22, reset in roman "(l),".

Page 9, line 22, delete "(k),".

Page 9, line 29, reset in roman "(n)".

Page 9, line 29, delete "(m)".

Page 9, delete lines 33 through 42.

Delete pages 10 through 14.

Page 15, delete lines 1 through 29, begin a new paragraph and



insert:

"SECTION 4. IC 6-3-4-15, AS AMENDED BY P.L.1-2023, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A trust or estate shall, at the time that it distributes income (except income attributable to interest or dividends) to a nonresident beneficiary, deduct and retain therefrom the amount prescribed in the withholding instructions referred to in section 8 of this chapter. The trust or estate so distributing income to a nonresident beneficiary:

- (1) is liable to this state for the tax which it is required to deduct and retain under this section and is not liable to the beneficiary for the amount deducted from the distribution and paid to the department in compliance, or intended compliance, with this section; and
- (2) shall pay the amount deducted to the department before the thirtieth day of the month following the distribution, unless an earlier date is specified by section 8.1 of this chapter.

If a trust or estate credits a beneficiary with pass through entity tax imposed under IC 6-3-2.1, the withholding required for that beneficiary under this section shall be reduced by the tax credited to the beneficiary under IC 6-3-2.1, but in no event shall the tax required to be withheld be reduced to less than zero dollars (\$0).

(b) A trust or estate shall, at the time that it makes a payment to the department under this section, deliver to the department a return which shows the total amounts distributed to the trust's or estate's nonresident beneficiaries, the amount deducted from the distributions under this section, and any other information required by the department. The trust or estate shall file the return on the form prescribed by the department. A trust or estate which makes the deduction and retention required by this section shall furnish to its nonresident beneficiaries annually, but not later than thirty (30) days after the end of the trust's or estate's taxable year, a record of the amount of tax deducted and retained from the beneficiaries. The trust or estate shall furnish the information on the form prescribed by the department.

(c) The money deducted and retained by a trust or estate under this section is money of this state. Every trust or estate which deducts and retains any money under this section shall hold the money in trust for this state until it pays the money to the department in the manner and at the time provided in this section. The department may require a trust or estate to post a surety bond to protect this state with respect to money deducted and retained by the trust or estate under this section. The department shall determine the amount of the surety bond.



(d) The provisions of IC 6-8.1 relating to penalties or to additions to tax in case of a delinquency apply to trusts and estates which are subject to this section. For purposes of this subsection, any amount deducted, or required to be deducted and remitted to the department, under this section is considered the tax of the trust or estate, and with respect to that amount, it is considered the taxpayer.

(e) Amounts deducted from distributions to nonresident beneficiaries under this section during a taxable year of the trust or estate are considered a partial payment of the tax imposed on the nonresident beneficiary for his taxable year within or with which the trust's or estate's taxable year ends. The department shall accept a return made by the trust or estate under subsection (b) as evidence of the amount of tax deducted from the income distributed to a nonresident beneficiary.

(f) This section does not relieve a nonresident beneficiary of his duty to file a return at the time required under IC 6-3. The nonresident beneficiary shall pay any unpaid tax at the time prescribed by section 5 of this chapter.

(g) If a trust or estate fails to withhold and pay any amount of tax required to be withheld under this section and thereafter the tax is paid by the beneficiaries, the amount of tax paid by the beneficiaries may not be collected from the trust or estate but it may not be relieved from liability for interest or penalty otherwise due in respect to the failure to withhold under IC 6-8.1-10.

(h) A trust or estate shall file a composite adjusted gross income tax return on behalf of all nonresident beneficiaries. The composite return must include each nonresident beneficiary regardless of whether the nonresident beneficiary has other Indiana source income.

**(i) If a trust or estate does not include all nonresident beneficiaries that have distributable net income from the trust or estate:**

**(1) as determined under this article; and**

**(2) derived from Indiana sources;**

**of greater than zero dollars (\$0) in the composite return, the trust or estate is subject to the penalty imposed under IC 6-8.1-10-2.1(j).**

**(†) (j) For purposes of this section, a "nonresident beneficiary" is:**

**(1) an individual who does not reside in Indiana;**

**(2) a trust that does not reside in Indiana;**

**(3) an estate that does not reside in Indiana;**

**(4) a partnership that is not domiciled in Indiana;**

**(5) a C corporation that is not domiciled in Indiana; or**

**(6) an S corporation that is not domiciled in Indiana.**



**(j) (k)** If a trust or estate is permitted an extension to file its income tax return under IC 6-8.1-6-1, then the return and payment due under this subsection shall be allowed the same treatment as the extended income tax return with respect to due dates, interest, and penalties under IC 6-8.1-6-1.".

Page 15, line 32, reset in roman "IC 6-3-4-12(k)".

Page 15, line 33, delete "IC 6-3-4-12(j)".

Page 15, line 33, reset in roman "IC 6-3-4-13(l)".

Page 15, line 33, delete "IC 6-3-4-13(k)".

Page 17, delete lines 17 through 22, begin a new paragraph and insert:

"(j) If a pass through entity (as defined in IC 6-3-1-35) fails to include all nonresident partners, nonresident shareholders, or nonresident beneficiaries in a composite return as required by ~~IC 6-3-4-12(i), IC 6-3-4-12(j), IC 6-3-4-13(j), IC 6-3-4-13(k), or IC 6-3-4-15(h), IC 6-3-4-15(i),~~ a penalty of five hundred dollars (\$500) per pass through entity is imposed on the pass through entity. **For purposes of this subsection:**

**(1) no penalty shall be imposed on the failure to list nonresident partners, nonresident shareholders, or nonresident beneficiaries not described in IC 6-3-4-12(j), IC 6-3-4-13(k), or IC 6-3-4-15(i), on a composite return; and (2) the determination of whether a partner, shareholder, or beneficiary is required to be included on a composite return shall be determined at the time the pass through entity files its return required under IC 6-3 unless the determination by the pass through entity was the result of:**

**(A) fraud; or  
(B) intentional or reckless disregard of IC 6-3 or the Internal Revenue Code."**

Page 17, line 23, reset in roman "(k)".

Page 17, line 23, delete "(j)".

Page 17, line 35, reset in roman "(l)".

Page 17, line 35, delete "(k)".

Page 18, delete lines 11 through 42, begin a new paragraph and insert:

**"SECTION 6. [EFFECTIVE UPON PASSAGE] IC 6-3-4-12, IC 6-3-4-13, IC 6-3-4-15, and IC 6-8.1-10-21, all as amended by this act, are effective for pass through entity returns due after passage of this act, including any extensions allowable for the return."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.



(Reference is to SB 259 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

**SB 259—LS 7048/DI 120**

