



January 21, 2026

SENATE BILL No. 259

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.

Baldwin, Randolph Lonnie M

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

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

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 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.

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



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

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

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

(h) If a partnership fails to withhold and pay any amount of tax required to be withheld under this section and thereafter the tax is paid by the partners, the amounts of tax as paid by the partners shall not be collected from the partnership 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.

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

(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).

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

(1) eighty percent (80%) of the withholding tax due for the current year; or

(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



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

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

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

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

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

(j) A corporation described in subsection (a) shall file a composite adjusted gross income tax return on behalf of all nonresident shareholders. The composite return must include each nonresident shareholder regardless of whether or not the nonresident shareholder has other Indiana source income.

(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).

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



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

(1) eighty percent (80%) of the withholding tax due for the current year; or

(2) one hundred percent (100%) of the withholding tax due for the preceding year.

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

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

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

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

(3) an estate that does not reside in Indiana.

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).



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

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

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 a 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.

SB 259—LS 7048/DI 120



(Reference is to SB 259 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

