

SENATE BILL No. 259

AM025903 has been incorporated into introduced printing.

Synopsis: Partnership composite returns.

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IN 259—LS 7048/DI 120



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Introduced

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
7 the Internal Revenue Code and makes the election under this
8 chapter.
9 (2) "Entity owner" means the direct or indirect owners of an
10 electing entity that are ultimately taxable on the entity's income
11 under Subchapter K or Subchapter S of the Internal Revenue
12 Code, except an owner described in subdivision (4)(A) through
13 (4)(C).
14 (3) "Nonresident" means:
15 (A) a nonresident partner as defined by IC 6-3-4-12(n);

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(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.

25 SECTION 2. IC 6-3-4-12, AS AMENDED BY P.L.1-2023,
26 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 UPON PASSAGE]: Sec. 12. (a) Every partnership shall, at the time
28 that the partnership pays or credits amounts to any of its nonresident
29 partners on account of their distributive shares of partnership income,
30 for a taxable year of the partnership, deduct and retain therefrom the
31 amount prescribed in the withholding instructions referred to in section
32 8 of this chapter. Such partnership so paying or crediting any
33 nonresident partner:

34 (1) shall be liable to the state of Indiana for the payment of the
35 tax required to be deducted and retained under this section and
36 shall not be liable to such partner for the amount deducted from
37 such payment or credit and paid over in compliance or intended
38 compliance with this section; and
39 (2) shall make return of and payment to the department monthly
40 whenever the amount of tax due under IC 6-3 and IC 6-3.6
41 exceeds an aggregate amount of fifty dollars (\$50) per month



1 with such payment due on the thirtieth day of the following
2 month, unless an earlier date is specified by section 8.1 of this
3 chapter.

4 Where the aggregate amount due under IC 6-3 and IC 6-3.6 does not
5 exceed fifty dollars (\$50) per month, then such partnership shall make
6 return and payment to the department quarterly, on such dates and in
7 such manner as the department shall prescribe, of the amount of tax
8 which, under IC 6-3 and IC 6-3.6, it is required to withhold. If a
9 partnership credits a partner with pass through entity tax imposed
10 under IC 6-3-2.1, the withholding required for that partner under this
11 section shall be reduced by the tax credited to the partner under
12 IC 6-3-2.1, but in no event shall the tax required to be withheld be
13 reduced to less than zero dollars (\$0).

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

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

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

41 (e) Amounts deducted from payments or credits to a nonresident



1 partner during any taxable year of the partnership in accordance with
 2 the provisions of this section shall be considered to be in part payment
 3 of the tax imposed on such nonresident partner for the nonresident
 4 partner's taxable year within or with which the partnership's taxable
 5 year ends. A return made by the partnership under subsection (b) shall
 6 be accepted by the department as evidence in favor of the nonresident
 7 partner of the amount so deducted for the nonresident partner's
 8 distributive share.

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

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

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

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

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

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

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

39 (k) For taxable years beginning after December 31, 2013, the
 40 department may not impose a late payment penalty on a partnership for
 41 the failure to file a return, pay the full amount of the tax shown on the



1 partnership's return, or pay the deficiency of the withholding taxes due
 2 under this section if the partnership pays the department before the
 3 fifteenth day of the fourth month after the end of the partnership's
 4 taxable year at least:

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

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

- 12 (1) is a publicly traded partnership as defined by Section 7704(b)
 13 of the Internal Revenue Code;
- 14 (2) meets the exception for partnerships under Section 7704(c)
 15 of the Internal Revenue Code; and
- 16 (3) has agreed to file an annual information return reporting the
 17 name, address, taxpayer identification number, and other
 18 information requested by the department of each unit holder.

19 The department may issue written guidance explaining circumstances
 20 under which limited partnerships or limited liability companies owned
 21 by a publicly traded partnership may be excluded from the withholding
 22 requirements of this section.

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

30 (n) For purposes of this section, a "nonresident partner" is:
 31 (1) an individual who does not reside in Indiana;
 32 (2) a trust that does not reside in Indiana;
 33 (3) an estate that does not reside in Indiana;
 34 (4) a partnership not domiciled in Indiana;
 35 (5) a C corporation not domiciled in Indiana; or
 36 (6) an S corporation not domiciled in Indiana.

37 SECTION 3. IC 6-3-4-13, AS AMENDED BY P.L.1-2023,
 38 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 13. (a) Every corporation which is exempt
 40 from tax under IC 6-3 pursuant to IC 6-3-2-2.8(2) shall, at the time that
 41 it pays or credits amounts to any of its nonresident shareholders as



1 dividends or as their share of the corporation's undistributed taxable
 2 income, withhold the amount prescribed by the department. Such
 3 corporation so paying or crediting any nonresident shareholder:

4 (1) shall be liable to the state of Indiana for the payment of the
 5 tax required to be withheld under this section and shall not be
 6 liable to such shareholder for the amount withheld and paid over
 7 in compliance or intended compliance with this section; and
 8 (2) when the aggregate amount due under IC 6-3 and IC 6-3.6
 9 exceeds one hundred fifty dollars (\$150) per quarter, then such
 10 corporation shall make return and payment to the department
 11 quarterly, on such dates and in such manner as the department
 12 shall prescribe, of the amount of tax which, under IC 6-3 and
 13 IC 6-3.6, it is required to withhold.

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

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

30 (c) All money withheld by a corporation, pursuant to this section,
 31 shall immediately upon being withheld be the money of the state of
 32 Indiana and every corporation which withholds any amount of money
 33 under the provisions of this section shall hold the same in trust for the
 34 state of Indiana and for payment thereof to the department in the
 35 manner and at the times provided in IC 6-3. Any corporation may be
 36 required to post a surety bond in such sum as the department shall
 37 determine to be appropriate to protect the state of Indiana with respect
 38 to money withheld pursuant to this section.

39 (d) The provisions of IC 6-8.1 relating to additions to tax in case
 40 of delinquency and penalties shall apply to corporations subject to the
 41 provisions of this section, and for these purposes any amount withheld,



1 or required to be withheld and remitted to the department under this
 2 section, shall be considered to be the tax of the corporation, and with
 3 respect to such amount it shall be considered the taxpayer.

4 (e) Amounts withheld from payments or credits to a nonresident
 5 shareholder during any taxable year of the corporation in accordance
 6 with the provisions of this section shall be considered to be a part
 7 payment of the tax imposed on such nonresident shareholder for the
 8 shareholder's taxable year within or with which the corporation's
 9 taxable year ends. A return made by the corporation under subsection
 10 (b) shall be accepted by the department as evidence in favor of the
 11 nonresident shareholder of the amount so withheld from the
 12 shareholder's distributive share.

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

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

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

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

39 (j) A corporation described in subsection (a) shall file a composite
 40 adjusted gross income tax return on behalf of all nonresident
 41 shareholders. The composite return must include each nonresident



1 shareholder regardless of whether or not the nonresident shareholder
 2 has other Indiana source income.

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

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

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

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

17 (1) eighty percent (80%) of the withholding tax due for the
 18 current year; or
 19 (2) one hundred percent (100%) of the withholding tax due for
 20 the preceding year.

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

28 (n) For purposes of this section, a "nonresident shareholder" is:
 29 (1) an individual who does not reside in Indiana;
 30 (2) a trust that does not reside in Indiana; or
 31 (3) an estate that does not reside in Indiana.

32 SECTION 4. IC 6-3-4-15, AS AMENDED BY P.L.1-2023,
 33 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]: Sec. 15. (a) A trust or estate shall, at the time that
 35 it distributes income (except income attributable to interest or
 36 dividends) to a nonresident beneficiary, deduct and retain therefrom the
 37 amount prescribed in the withholding instructions referred to in section
 38 8 of this chapter. The trust or estate so distributing income to a
 39 nonresident beneficiary:

40 (1) is liable to this state for the tax which it is required to deduct
 41 and retain under this section and is not liable to the beneficiary



1 for the amount deducted from the distribution and paid to the
 2 department in compliance, or intended compliance, with this
 3 section; and

4 (2) shall pay the amount deducted to the department before the
 5 thirtieth day of the month following the distribution, unless an
 6 earlier date is specified by section 8.1 of this chapter.

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

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

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

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

39 (e) Amounts deducted from distributions to nonresident
 40 beneficiaries under this section during a taxable year of the trust or
 41 estate are considered a partial payment of the tax imposed on the



1 nonresident beneficiary for his taxable year within or with which the
 2 trust's or estate's taxable year ends. The department shall accept a
 3 return made by the trust or estate under subsection (b) as evidence of
 4 the amount of tax deducted from the income distributed to a
 5 nonresident beneficiary.

6 (f) This section does not relieve a nonresident beneficiary of his
 7 duty to file a return at the time required under IC 6-3. The nonresident
 8 beneficiary shall pay any unpaid tax at the time prescribed by section
 9 5 of this chapter.

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

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

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

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

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

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

27 ~~(j)~~ For purposes of this section, a "nonresident beneficiary" is:

- 28 (1) an individual who does not reside in Indiana;
- 29 (2) a trust that does not reside in Indiana;
- 30 (3) an estate that does not reside in Indiana;
- 31 (4) a partnership that is not domiciled in Indiana;
- 32 (5) a C corporation that is not domiciled in Indiana; or
- 33 (6) an S corporation that is not domiciled in Indiana.

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

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



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

21 (2) the amount of the tax not paid, if the person filed the return
22 but failed to pay the full amount of the tax shown on the return;
23 (3) the amount of the tax held in trust that is not timely remitted;
24 (4) the amount of deficiency as finally determined by the
25 department; or

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

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

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

37 (e) A person who wishes to avoid the penalty imposed under this
38 section must make an affirmative showing of all facts alleged as a
39 reasonable cause for the person's failure to file the return, pay the
40 amount of tax shown on the person's return, pay the deficiency, or
41 timely remit tax held in trust, in a written statement containing a

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1 declaration that the statement is made under penalty of perjury. The
 2 statement must be filed with the return or payment within the time
 3 prescribed for protesting departmental assessments. A taxpayer may
 4 also avoid the penalty imposed under this section by obtaining a ruling
 5 from the department before the end of a particular tax period on the
 6 amount of tax due for that tax period.

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

10 (g) A person who fails to file a return for a listed tax that shows no
 11 tax liability for a taxable year, other than an information return (as
 12 defined in section 6 of this chapter), on or before the due date of the
 13 return shall pay a penalty of ten dollars (\$10) for each day that the
 14 return is past due, up to a maximum of two hundred fifty dollars
 15 (\$250).

16 (h) A:

17 (1) corporation which otherwise qualifies under IC 6-3-2-2.8(2);
 18 (2) partnership; or
 19 (3) trust;

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

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

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

34 (1) **no penalty shall be imposed on the failure to list**
 35 **nonresident partners, nonresident shareholders, or**
 36 **nonresident beneficiaries not described in IC 6-3-4-12(j),**
 37 **IC 6-3-4-13(k), or IC 6-3-4-15(i), on a composite return; and**
 38 **(2) the determination of whether a partner, shareholder, or**
 39 **beneficiary is required to be included on a composite return**
 40 **shall be determined at the time the pass through entity files**
 41 **its return required under IC 6-3 unless the determination by**
 42 **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.

4 (k) If a person subject to the penalty imposed under this section
5 provides the department with documentation showing that the person
6 is or has been subject to incarceration for a period of at least one
7 hundred eighty (180) days, the department shall waive any penalty
8 under this section and interest that accrues during the time the person
9 was incarcerated, but not to an extent greater than the penalty or
10 interest relief to which a person would otherwise have been entitled
11 under the federal Servicemembers Civil Relief Act (50 U.S.C.
12 3901-4043), if the person was in military service. Nothing in this
13 subsection shall preclude the department from issuing a proposed
14 assessment, demand notice, jeopardy proposed assessment, jeopardy
15 demand notice, or warrant otherwise permitted by law.

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

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

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

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

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

38 SECTION 7. An emergency is declared for this act.

