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SENATE BILL No. 259

Proposed Changes to introduced printing by AM025903

DIGEST OF PROPOSED AMENDMENT

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.

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 6-3-2-3.3, AS ADDED BY P.L.230-2025,~~
2 ~~SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE~~
3 ~~UPON PASSAGE]: Sec. 3.3. (a) As used in this section, "nonresident~~
4 ~~partner" has the meaning set forth in IC 6-3-4-12(n). IC 6-3-4-12(m).~~
5 ~~— (b) For all taxable years beginning after December 31, 2025, in the~~
6 ~~case of an investment partnership:~~
7 ~~— (1) any qualifying investment partnership income that is~~
8 ~~distributable to a nonresident partner shall be allocated to the~~
9 ~~partner's state of residence (in the case of an individual, estate,~~
10 ~~or trust) or commercial domicile (in the case of any corporation~~
11 ~~or other entity) for purposes of section 2 of this chapter; and~~
12 ~~— (2) any qualifying investment partnership income that is~~
13 ~~distributable to a nonresident partner shall be treated as business~~
14 ~~income and apportioned as if such income had been received~~
15 ~~directly by the partner if such income is from investment~~
16 ~~activity:~~
17 ~~— (A) that is directly or integrally related to any other business~~
18 ~~activity conducted in this state by the nonresident partner~~
19 ~~(or another corporation or entity that is unitary with the~~

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- 1 partner);
- 2 ~~— (B) that serves an operational function to any other business~~
- 3 ~~activity of the nonresident partner (or another corporation~~
- 4 ~~or entity that is unitary with the partner); or~~
- 5 ~~— (C) where assets of the investment partnership were~~
- 6 ~~acquired with working capital from a trade or business~~
- 7 ~~activity conducted in this state in which the nonresident~~
- 8 ~~partner (or another corporation or entity that is unitary with~~
- 9 ~~the partner) owns an interest.~~
- 10 ~~— (c) For purposes of this section, the following apply:~~
- 11 ~~— (1) If an entity is permitted to allocate qualifying investment~~
- 12 ~~partnership income under subsection (b)(1), the entity shall~~
- 13 ~~exclude the receipts derived from the investment partnership and~~
- 14 ~~attributable to the investment partnership income from the~~
- 15 ~~denominator of the sales factor in section 2(c) of this chapter.~~
- 16 ~~— (2) If an entity is required to treat qualifying investment~~
- 17 ~~partnership income as apportionable income, the entity's share of~~
- 18 ~~receipts from the investment partnership and attributable to the~~
- 19 ~~investment partnership shall be included in the denominator of~~
- 20 ~~the sales factor and attributed to the entity's state of domicile for~~
- 21 ~~purposes of section 2(c) of this chapter.~~
- 22 ~~— (3) For purposes of subsection (b)(2), a corporation or other~~
- 23 ~~entity shall be treated as unitary with the partner if the partner~~
- 24 ~~and the corporation or other entity would be required to be~~
- 25 ~~included in a combined income tax return under this article;~~
- 26 ~~determined as if all relevant entities are subject to tax under this~~
- 27 ~~article as corporations and are not corporations described in~~
- 28 ~~section 2.4 of this chapter. However, in the case of a partner and~~
- 29 ~~a corporate partnership, a unitary relationship shall be~~
- 30 ~~determined without regard to the corporate partner's percentage~~
- 31 ~~of ownership of the partnership.~~
- 32 ~~— (4) Nothing in this section shall affect the apportionment and~~
- 33 ~~allocation of income and receipts derived from partnerships~~
- 34 ~~other than qualified investment partnership income from~~
- 35 ~~investment partnerships.~~
- 36 ~~— (5) If a nonresident person, corporation, or other entity~~
- 37 ~~reasonably determines that it received qualified investment~~
- 38 ~~partnership income from an investment partnership and the~~
- 39 ~~partnership is determined to not be an investment partnership;~~
- 40 ~~the person, corporation, or entity shall be relieved of any penalty~~
- 41 ~~under IC 6-3-4-4.1, IC 6-5.5-7-1, or IC 6-8.1-10-2.1(b) resulting~~
- 42 ~~from the underpayment.~~



> SECTION ~~<2>~~^[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); IC 6-3-4-12(m);~~

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

> (~~<C>~~^[A]) a nonresident ~~<beneficiary>~~^[partner] as defined by ~~<IC 6-3-4-15>~~^{[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.

SECTION ~~8~~ 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
return and payment to the department quarterly, on such dates and in
such manner as the department shall prescribe, of the amount of tax
which, under IC 6-3 and IC 6-3.6, it is required to withhold. If a
partnership credits a partner with pass through entity tax imposed
under IC 6-3-2.1, the withholding required for that partner under this
section shall be reduced by the tax credited to the partner 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) Every partnership shall, at the time of each payment made by
it to the department pursuant to this section, deliver to the department
a return upon such form as shall be prescribed by the department
showing the total amounts paid or credited to its nonresident partners,
the amount deducted therefrom in accordance with the provisions of
this section, and such other information as the department may require.
Every partnership making the deduction and retention provided in this
section shall furnish to its nonresident partners annually, but not later
than the fifteenth day of the third month after the end of its taxable
year, a record of the amount of tax deducted and retained from such



1 partners on forms to be prescribed by the department.

2 (c) All money deducted and retained by the partnership, as
3 provided in this section, shall immediately upon such deduction be the
4 money of the state of Indiana and every partnership which deducts and
5 retains any amount of money under the provisions of IC 6-3 shall hold
6 the same in trust for the state of Indiana and for payment thereof to the
7 department in the manner and at the times provided in IC 6-3. Any
8 partnership may be required to post a surety bond in such sum as the
9 department shall determine to be appropriate to protect the state of
10 Indiana with respect to money deducted and retained pursuant to this
11 section.

12 (d) The provisions of IC 6-8.1 relating to additions to tax in case
13 of delinquency and penalties shall apply to partnerships subject to the
14 provisions of this section, and for these purposes any amount deducted,
15 or required to be deducted and remitted to the department under this
16 section, shall be considered to be the tax of the partnership, and with
17 respect to such amount it shall be considered the taxpayer.

18 (e) Amounts deducted from payments or credits to a nonresident
19 partner during any taxable year of the partnership in accordance with
20 the provisions of this section shall be considered to be in part payment
21 of the tax imposed on such nonresident partner for the nonresident
22 partner's taxable year within or with which the partnership's taxable
23 year ends. A return made by the partnership under subsection (b) shall
24 be accepted by the department as evidence in favor of the nonresident
25 partner of the amount so deducted for the nonresident partner's
26 distributive share.

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

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

41 (h) If a partnership fails to withhold and pay any amount of tax
42 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 in the composite return, the partnership is subject to the penalty imposed under IC 6-8~~
[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)(i)~~ 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 preceding year.

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

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

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

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

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

~~(m)(i)~~ Notwithstanding subsection ~~(k), (i)~~ a



partnership is subject to a late payment penalty 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 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)◇(m) For purposes of this section, a "nonresident partner" 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 not domiciled in Indiana;
- (5) a C corporation not domiciled in Indiana; or
- (6) an S corporation not domiciled in Indiana.

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

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

If a corporation credits a shareholder with pass through entity tax imposed under IC 6-3-2.1, the withholding required for that shareholder under this section shall be reduced by the tax credited to the shareholder 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) Every corporation shall, at the time of each payment made by it to the department pursuant to this section, deliver to the department a return upon such form as shall be prescribed by the department showing the total amounts paid or credited to its nonresident shareholders, the amount withheld in accordance with the provisions



of this section, and such other information as the department may require. Every corporation withholding as provided in this section shall furnish to its nonresident shareholders annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax withheld on behalf of such shareholders on forms to be prescribed by the department.

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

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

(e) Amounts withheld from payments or credits to a nonresident shareholder during any taxable year of the corporation in accordance with the provisions of this section shall be considered to be a part payment of the tax imposed on such nonresident shareholder for the shareholder's taxable year within or with which the corporation's 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 in the composite return, the corporation is subject to the penalty imposed under IC 6-8~~ 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) ~~(k)~~ 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) ~~(l)~~ Notwithstanding subsection ◇(l), ~~(k)~~ 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)◇(m) 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 <5>[4]. <IC 6-3-4.5-1>[IC 6-3-4-15], AS AMENDED BY P.L. <80-2025>[1-2023], SECTION <3>[10], IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. <1. The following definitions apply throughout this chapter:

- (1) "Adjustment year" means the partnership taxable year described in Section 6225(d)(2) of the Internal Revenue Code.
- (2) "Administrative adjustment request" means an administrative adjustment request filed by a partnership under Section 6227 of the Internal Revenue Code.
- (3) "Affected year" means any taxable year for a taxpayer that is affected by an adjustment under this chapter, regardless of whether the partnership has received an adjustment for that taxable year.
- (4) "Audited partnership" means a partnership subject to a partnership level audit resulting in a federal adjustment.
- (5) "Corporate partner" means a partner that is subject to the state adjusted gross income tax under IC 6-3-2-1(c) or the financial institutions tax under IC 6-5.5-2-1. In the case of a partner that is a corporation described in IC 6-3-2-2.8(2) that also is subject to tax under IC 6-3-2-1(c), the corporation is a corporate partner only to the extent that its income is subject to tax under IC 6-3-2-1(c).
- (6) "Direct partner" means a partner that holds an interest directly in a partnership or >[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<

~~(7) "Exempt partner" means a partner that is exempt from the adjusted gross income> tax [imposed] under <IC 6-3-2-2.8(1) or the financial institutions tax under IC 6-5.5-2-7(4), except to the extent of unrelated business taxable income.~~

~~(8) "Federal adjustment" means a change to an item or amount determined under the Internal Revenue Code or a change to any other tax attribute that is used by a taxpayer to compute state adjusted gross income taxes or financial institutions tax owed, whether that change results from action by the Internal Revenue Service, including a partnership level audit, or the filing of an amended federal return, a federal refund claim, or an administrative adjustment request by the taxpayer. A federal adjustment is positive to the extent that it increases state adjusted gross income as determined under IC 6-3 or IC 6-5.5 and is negative to the extent that it decreases state adjusted gross income as determined under IC 6-3 or IC 6-5.5.~~

~~(9) "Federal adjustment reports" includes methods or forms> [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<for use by a taxpayer to report final federal adjustments for>[. 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 ~~chapter, including an amended Indiana tax return, information return, or uniform multistate report.~~

~~— (10) "Federal partnership representative" means a person the partnership designates for the taxable year as the partnership's representative, or the person the Internal Revenue Service has appointed to act as the federal partnership representative, pursuant to Section 6223(a) of the Internal Revenue Code.~~

~~— (11) "Final determination date" means the following:~~

~~— (A) Except as provided in clause (B) or (C), if the federal adjustment arises from an Internal Revenue Service audit or other action by the Internal Revenue Service, the final determination date is the date on which the federal adjustment is a final determination under IC 6-3-4-6(d).~~

~~— (B) For federal adjustments arising from an Internal Revenue Service audit or other action by the Internal Revenue Service, if the taxpayer filed as a member of a consolidated tax return filed under IC 6-3-4-14, a combined return filed under IC 6-3-2-2 or IC 6-5.5-5-1, or a return combined by the department under IC 6-3-2-2(p), the final determination date means the first date on which no related federal adjustments arising from that audit remain to be finally determined, as described in clause (A), for the entire group.~~

~~— (C) If the federal adjustment results from filing an amended federal return, a federal refund claim, or an administrative adjustment request, the final determination date means the day on which the amended return, refund claim, administrative adjustment request, or other similar report was filed.~~

~~— (12) "Final federal adjustment" means a federal adjustment after the final determination date for that federal adjustment has passed.~~

~~— (13) "Indirect partner" means a partner in a partnership or pass through entity that itself holds an interest directly, or through~~



- 1 another indirect partner, in a partnership or pass through entity.
 2 ~~(14) "Internal Revenue Code" has the meaning set forth in~~
 3 ~~IC 6-3-1-11.~~
 4 ~~(15) "Nonresident partner" has the meaning provided in~~
 5 ~~IC 6-3-4-12(n). IC 6-3-4-12(m).~~
 6 ~~(16) "Partner" means a person or entity that holds an interest~~
 7 ~~directly or indirectly in a partnership or other pass-through~~
 8 ~~entity.~~
 9 ~~(17) "Partner level adjustments report" means a report provided~~
 10 ~~by a partnership to its partners as a result of a department action~~
 11 ~~with regard to the partnership. A partner level adjustments report~~
 12 ~~does not include an amended statement provided by a~~
 13 ~~partnership or other entity as a result of an adjustment reported~~
 14 ~~by the partnership.~~
 15 ~~(18) "Partnership" has the meaning set forth in IC 6-3-1-19.~~
 16 ~~(19) "Partnership level audit" means an examination by the~~
 17 ~~Internal Revenue Service at the partnership level under Sections~~
 18 ~~6221 through 6241 of the Internal Revenue Code, as enacted by~~
 19 ~~the Bipartisan Budget Act of 2015, Public Law 114-74, which~~
 20 ~~results in federal adjustments.~~
 21 ~~(20) "Partnership return" means a return required to be filed by~~
 22 ~~a partnership pursuant to IC 6-3-4-10. In the case of a~~
 23 ~~partnership that is required to withhold tax or~~ [subsection, any
 24 amount deducted, or required to be deducted and remitted to the
 25 department, under this section is considered the tax of the trust
 26 or estate, and with respect to that amount, it is considered the
 27 taxpayer.
 28 (e) Amounts deducted from distributions to nonresident
 29 beneficiaries under this section during a taxable year of the trust or
 30 estate are considered a partial payment of the tax imposed on the
 31 nonresident beneficiary for his taxable year within or with which the
 32 trust's or estate's taxable year ends. The department shall accept a
 33 return made by the trust or estate under subsection (b) as evidence of
 34 the amount of tax deducted from the income distributed to a
 35 nonresident beneficiary.
 36 (f) This section does not relieve a nonresident beneficiary of his
 37 duty to file a return at the time required under IC 6-3. The nonresident
 38 beneficiary shall pay any unpaid tax at the time prescribed by section
 39 5 of this chapter.
 40 (g) If a trust or estate fails to withhold and pay any amount of tax
 41 required to be withheld under this section and thereafter the tax is paid
 42 by the beneficiaries, the amount of tax paid by the beneficiaries may



1 not be collected from the trust or estate but it may not be relieved from
 2 liability for interest or penalty otherwise due in respect to the failure to
 3 withhold under IC 6-8.1-10.

4 (h) A trust or estate shall] file a composite ~~<return pursuant to~~
 5 ~~IC 6-3-4-12 or IC 6-5.5-2-8, the term also includes the returns or~~
 6 ~~schedules required for tax withholding or composite filing. In the case~~
 7 ~~of a partnership that is an electing entity under IC 6-3-2.1, the term also~~
 8 ~~includes the returns or schedules required for the pass through entity~~
 9 ~~tax under IC 6-3-2.1.~~

10 ~~— (21) "Pass through entity" means an entity defined in~~
 11 ~~IC 6-3-1-35, other than a partnership, that:~~

12 ~~— (A) is not subject to tax except as provided in~~
 13 ~~IC 6-3-2-2.8(2), in the case of a corporation described in~~
 14 ~~IC 6-3-2-2.8(2); or~~

15 ~~— (B) is not subject to tax except on its undistributed taxable~~
 16 ~~income, in the case of an estate or a trust.~~

17 ~~— (22) "Reallocation adjustment" means a federal adjustment~~
 18 ~~resulting from a partnership level audit or an administrative~~
 19 ~~adjustment request that changes the shares of one (1) or more~~
 20 ~~items of partnership income, gain, loss, expense, or credit~~
 21 ~~allocated to direct partners. A positive reallocation adjustment~~
 22 ~~means the portion of a reallocation adjustment that would~~
 23 ~~increase federal adjusted gross income or federal taxable income~~
 24 ~~for one (1) or more direct partners, and a negative reallocation~~
 25 ~~adjustment means the portion of a reallocation adjustment that~~
 26 ~~would decrease federal adjusted gross income or federal taxable~~
 27 ~~income for one (1) or more direct partners, according to Section~~
 28 ~~6225 of the Internal Revenue Code and the regulations under~~
 29 ~~that section.~~

30 ~~— (23) "Resident partner" means a partner that is not a nonresident~~
 31 ~~partner.~~

32 ~~— (24) "Review year" means the taxable year of a partnership that~~
 33 ~~is subject to a partnership level audit, an administrative~~
 34 ~~adjustment request, or an amended federal return that results in~~
 35 ~~federal adjustments, regardless of whether any federal tax~~
 36 ~~determined to be due is the responsibility of the partnership or~~
 37 ~~partners.~~

38 ~~— (25) "Statement" means a form or schedule prescribed by the~~
 39 ~~department through which a partnership or pass through entity~~
 40 ~~reports tax attributes to its owners or beneficiaries.~~

41 ~~— (26) "Tax attribute" means any item of income, deduction, credit,~~
 42 ~~receipts for apportionment, or other amount or status that~~



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determines a partner's liability under IC 6-3, IC 6-3.6, or IC 6-5.5.

(27) "Taxable year" means, in the case of a partnership, the year or partial year for which a partnership files a return for state and federal purposes and, in the case of a partner, the taxable year in which the partner reports tax attributes from the partnership.

(28) "Taxpayer" has the meaning set forth in IC 6-3-1-15 (in the case of the >adjusted gross income tax<) and IC 6-5.5-1-17 (in the case of the financial institutions tax) and, unless the context clearly indicates otherwise, includes a partnership subject to a partnership level audit or >[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).

(i) (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 <has made an administrative adjustment request, as well as a tiered partner of that partnership.

(29) "Tiered partner" means any partner that is a partnership or pass through entity.

(30) "Unrelated business taxable income" has the meaning set forth in Section 512 of the Internal Revenue Code.

~~SECTION 6. IC 6-8.1-6-1, AS AMENDED BY P.L.137-2022, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This subsection does not apply to a person's Indiana adjusted gross >~~**[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.

(i) (k) If a trust or estate is permitted an extension to file its income tax return <or a person's financial institutions tax return. If a person responsible for filing a tax return is unable to file the return by the appropriate due date, the person may petition the department, before that due date, for a filing extension. When the department



1 receives the petition, the department shall grant the person a sixty (60)
2 day extension:

3 — (b) If a person responsible for filing a tax return has received an
4 extension of the due date and is still unable to file the return by the
5 extended due date, the person may petition the department for another
6 extension. The person must include in the petition a statement of the
7 reasons for the person's inability to file the return by the due date. If the
8 department finds that the person's petition is proper and that the person
9 has good cause for requesting the extension, the department may
10 extend the person's due date for any period that the department deems
11 reasonable under the circumstances. The department may allow
12 additional, successive extensions if the person properly petitions for the
13 extension before the end of the person's current extension period.

14 — (c) The following apply only to a person's Indiana adjusted gross
15 income tax return or a person's financial institutions tax return:

16 — (1) If the Internal Revenue Service allows a person an extension
17 on the person's federal income tax return, the corresponding due
18 dates for the person's Indiana income tax returns are
19 automatically extended to the last day as the federal extension;
20 plus one (1) month. For purposes of this subdivision, if the last
21 day of the federal extension is a Saturday, Sunday, a national
22 legal holiday recognized by the federal government, or a
23 statewide holiday, the last day of the federal extension shall be
24 determined without regard to Saturdays, Sundays, or holidays.

25 — (2) If a person petitions the department for a filing extension for
26 the person's Indiana adjusted gross income tax return or financial
27 institutions tax return without obtaining an extension for filing
28 the person's federal income tax return, the department shall
29 extend the person's due date for the person's Indiana adjusted
30 gross income tax return or financial institutions tax return for the
31 same period that the person would have been allowed under
32 subdivision (1) if the person had been granted an extension by
33 the Internal Revenue Service. For purposes of this subdivision;
34 if a person files an extension request for the person's federal
35 income tax return for a taxable year but the extension is denied
36 by the Internal Revenue Service, the department shall consider
37 the person to have filed an extension >[under IC 6-8.1-6-1, then
38 the return and payment due] under this subsection ~~<for that~~
39 ~~taxable year, provided that the person did not have a previous~~
40 ~~extension request denied by the Internal Revenue Service for that~~
41 ~~taxable year.~~

42 — (d) A person submitting a petition for an extension under this



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section is not required to include any payment of tax with the petition. However, a person obtaining an extension under this section must pay at least ninety percent (90%) of the tax that is reasonably expected to be due on the original due date by that due date, or the person may be subject to the penalties imposed for failure to pay the tax. This subsection does not apply to payments required under IC 6-3-4-12(k) ~~IC 6-3-4-12(j)~~ and IC 6-3-4-13(l). ~~IC 6-3-4-13(k)~~.

—(c) Any tax that remains unpaid during an extension period ~~accrues interest at a rate established~~ [shall be allowed the same treatment as the extended income tax return with respect to due dates, interest, and penalties] under IC 6-8. ~~<1-10-1 from the original due date, but that tax will not accrue any late payment penalties until the extension period has ended. Any penalties must be determined based on the amount of tax not paid on or before the end of the extension period after application of payments provided under IC 6-8.1-8-1.5 and determined as of the deadline of the extension period.~~

—SECTION 7. IC 6-8.1-10-1, AS AMENDED BY P.L.1-2025, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) If a person fails to file a return for any of the listed taxes, fails to pay the full amount of tax shown on the person's return by the due date for the return or the payment, or incurs a deficiency upon a determination by the department, the person is subject to interest on the nonpayment.

—(b) The interest for a failure described in subsection (a) is the adjusted rate established by the commissioner under subsection (c); from the due date for payment. The interest applies to:

—(1) the full amount of the unpaid tax due if the person failed to file the return;

—(2) the amount of the tax that is not paid, if the person filed the return but failed to pay the full amount of tax shown on the return; or

—(3) the amount of the deficiency.

—(c) The commissioner shall establish an adjusted rate of interest for a failure described in subsection (a) and for an excess tax payment on or before November 1 of each year. For purposes of subsection (b), the adjusted rate of interest shall be the percentage rounded to the nearest whole number that equals two (2) percentage points above the average investment yield on state general fund money for the state's previous fiscal year, excluding pension fund investments, as determined by the treasurer of state on or before October 1 of each year and reported to the commissioner. For purposes of IC 6-8.1-9-2(c), the adjusted rate of interest for an excess tax payment must be the same as



the adjusted rate of interest determined under this subsection for a failure described in subsection (a). The adjusted rates of interest established under this subsection shall take effect on January 1 of the immediately succeeding year.

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

— (e) Except as provided by IC 6-8.1-3-17(d), IC 6-8.1-3-17(f), IC 6-8.1-5-2, and section 2.1(k) 2.1(j) of this chapter, the department may not waive the interest imposed under this section.

— (f) Subsections (a) through (c) do not apply to a motor carrier fuel tax return.

— ~~SECTION 8~~ [1-6-1.

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

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

is subject to a penalty.

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

- (1) the full amount of the tax due if the person failed to file the return or, in the case of a return required to be filed electronically, the return is not filed in the electronic manner required by the department;
- (2) the amount of the tax not paid, if the person filed the return but failed to pay the full amount of the tax shown on the return;
- (3) the amount of the tax held in trust that is not timely remitted;
- (4) the amount of deficiency as finally determined by the 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.

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

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

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

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

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

(h) A:

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

(2) partnership; or

(3) trust;

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

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



~~IC 6-3-1-35~~ (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)~~, ~~a penalty of five hundred dollars (\$500) per pass through entity is imposed on the pass through entity.~~ ~~(k)-(j)~~ 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.

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

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

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



(2) Each partner during the tax year was a natural person (other 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.

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

SECTION ~~<9. IC 6-8.1-10-6, AS AMENDED BY P.L.230-2025, SECTION 92, IS AMENDED TO READ AS FOLLOWS>~~ [6.]
[EFFECTIVE UPON PASSAGE] ~~< Sec. 6. (a) As used in this section, "information return" means the following when a statute or rule requires the following to be filed with the department:~~

~~—— (1) Schedule K-1 of form IT-20S, IT-41, or IT-65;~~

~~—— (2) Any form, statement, or schedule required to be filed with the department with respect to an amount from which tax is required to be deducted and withheld under IC 6 or from which tax would be required to be deducted and withheld but for an exemption under IC 6;~~

~~—— (3) Any form, statement, or schedule required to be filed with the Internal Revenue Service under 26 C.F.R. 301.6721-1(g) (1993). The term does not include form IT-20FIT, IT-20S, IT-20SC, IT-41, or IT-65;~~

~~—— (b) If a person fails to file an information return required by the department, or fails to electronically file an information return that is required by the department to be filed in an electronic format, a penalty of ten dollars (\$10) for:~~

~~—— (1) each failure to file a timely return; or~~

~~—— (2) each failure to electronically file a timely return required by the department to be in an electronic format; not to exceed twenty-five thousand dollars (\$25,000) in any one (1) calendar year, is imposed;~~

~~—— (c) For purposes of this section, the filing of a substantially blank or unsigned return does not constitute a return;~~

~~—— (d) Beginning after December 31, 2024, a person that has been granted penalty relief under section 2.1(l) 2.1(k) of this chapter for failure to file a timely and complete form IT-65 partnership return shall not be subject to a penalty under this section for failure to file the information return Schedule K-1 of form IT-65 for which penalty relief was granted;~~



1 ~~SECTION 10~~ [IC 6-3-4-12, IC 6-3-4-13, IC 6-3-4-15, and
2 IC 6-8.1-10-21, all as amended by this act, are effective for pass
3 through entity returns due after passage of this act, including any
4 extensions allowable for the return.
5 SECTION 7]. An emergency is declared for this act.

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**DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY**