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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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IN 259—LS 7048/DI 120



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IN 259—LS 7048/DI 120



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1       > SECTION ~~1~~1. IC 6-3-2.1-2, AS AMENDED BY  
 2 P.L.194-2023, SECTION 19, IS AMENDED TO READ AS  
 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The following  
 4 definitions apply throughout 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);~~  
 16 ~~IC 6-3-4-12(m);~~

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

19       > (A) a nonresident ~~beneficiary~~partner as defined  
 20 by ~~IC 6-3-4-15~~IC 6-3-4-12(n);

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

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

24       (D) in the case of a shareholder of a corporation described  
 25 in IC 6-3-2-2.8(2), a corporation described in Section  
 26 501(c)(3) of the Internal Revenue Code that is exempt from  
 27 taxation under Section 501(a) of the Internal Revenue Code  
 28 and that is not domiciled in Indiana;

29       whichever is applicable.

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

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

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

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

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

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

42       (B) that is a partnership or corporation, including a



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

3 SECTION ~~2~~<sup>3</sup> [2], IC 6-3-4-12, AS AMENDED BY P.L.1-2023,  
 4 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 UPON PASSAGE]: Sec. 12. (a) Every partnership shall, at the time  
 6 that the partnership pays or credits amounts to any of its nonresident  
 7 partners on account of their distributive shares of partnership income,  
 8 for a taxable year of the partnership, deduct and retain therefrom the  
 9 amount prescribed in the withholding instructions referred to in section  
 10 8 of this chapter. Such partnership so paying or crediting any  
 11 nonresident partner:

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

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

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

33 (b) Every partnership shall, at the time of each payment made by  
 34 it to the department pursuant to this section, deliver to the department  
 35 a return upon such form as shall be prescribed by the department  
 36 showing the total amounts paid or credited to its nonresident partners,  
 37 the amount deducted therefrom in accordance with the provisions of  
 38 this section, and such other information as the department may require.  
 39 Every partnership making the deduction and retention provided in this  
 40 section shall furnish to its nonresident partners annually, but not later  
 41 than the fifteenth day of the third month after the end of its taxable  
 42 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



1 by the partners, the amounts of tax as paid by the partners shall not be  
 2 collected from the partnership but it may not be relieved from liability  
 3 for interest or penalty otherwise due in respect to the failure to  
 4 withhold under IC 6-8.1-10.

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

9       ~~◦(j) ◦If ◦a ◦partnership ◦does ◦not ◦include ◦all ◦nonresident~~  
 10 ~~◦partners in the composite return, the partnership is~~  
 11 ~~◦subject to the penalty imposed under IC 6-8>[ partners that have~~  
 12 ~~◦distributive share income from the partnership:~~

13       (1) as determined under this article; and  
 14       (2) derived from Indiana sources;

15       of greater than zero dollars (\$0) in the composite return, the  
 16 partnership is subject to the penalty imposed under IC 6-8].1-10-2.1(j).

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

24       (1) eighty percent (80%) of the withholding tax due for the  
 25 current year; or  
 26       (2) one hundred percent (100%) of the withholding tax due for  
 27 the preceding year.

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

31       (1) is a publicly traded partnership as defined by Section 7704(b)  
 32 of the Internal Revenue Code;  
 33       (2) meets the exception for partnerships under Section 7704(c)  
 34 of the Internal Revenue Code; and  
 35       (3) has agreed to file an annual information return reporting the  
 36 name, address, taxpayer identification number, and other  
 37 information requested by the department of each unit holder.

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

42       ~~◦(m)◦(f)~~ Notwithstanding subsection ~~◦(k),◦(f)~~ a



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

7 ◊(n)◊(m) For purposes of this section, a "nonresident partner"  
 8 is:

9 (1) an individual who does not reside in Indiana;  
 10 (2) a trust that does not reside in Indiana;  
 11 (3) an estate that does not reside in Indiana;  
 12 (4) a partnership not domiciled in Indiana;  
 13 (5) a C corporation not domiciled in Indiana; or  
 14 (6) an S corporation not domiciled in Indiana.

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

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

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

38 (b) Every corporation shall, at the time of each payment made by  
 39 it to the department pursuant to this section, deliver to the department  
 40 a return upon such form as shall be prescribed by the department  
 41 showing the total amounts paid or credited to its nonresident  
 42 shareholders, the amount withheld in accordance with the provisions



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

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

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

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

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

35 (g) Instead of the reporting periods required under subsection (a),  
 36 the department may permit a corporation to file one (1) return and  
 37 payment each year if the corporation pays or credits amounts to its  
 38 nonresident shareholders only one (1) time each year. The withholding  
 39 return and payment are due on or before the fifteenth day of the fourth  
 40 month after the end of the taxable year of the corporation. However, if  
 41 a corporation is permitted an extension to file its income tax return  
 42 under IC 6-8.1-6-1, the return and payment due under this subsection



1 shall be allowed the same treatment as the extended income tax return  
 2 with respect to the due dates, interest, and penalties under IC 6-8.1-6-1.

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

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

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

20 ~~◇(k) ◇If ◇a ◇corporation ◇described ◇in ◇subsection~~  
 21 ~~◇(a) ◇does ◇not ◇include ◇all ◇nonresident ◇shareholders in~~  
 22 ~~the composite return, the corporation is subject to the penalty imposed~~  
 23 ~~under IC 6-8-10-2-1(j) [shareholders who have distributive share income~~  
 24 ~~from the corporation:~~

25 (1) as determined under this article; and

26 (2) derived from Indiana sources;

27 of greater than zero dollars (\$0) in the composite return, the  
 28 corporation is subject to the penalty imposed under IC 6-8-10-2-1(j).

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

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

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

40 ~~◇(m) ◇Notwithstanding subsection ◇(l), ◇a~~  
 41 corporation is subject to a late payment penalty for the failure to file a  
 42 return, pay the full amount of the tax shown on the corporation's return,



1 or pay the deficiency of the withholding taxes due under this section for  
 2 any amounts of withholding tax, including any interest under  
 3 IC 6-8.1-10-1, reported or paid after the due date of the return, as  
 4 adjusted by any extension under IC 6-8.1-6-1.

5 ~~◇(n)←(m)◇~~ For purposes of this section, a "nonresident  
 6 shareholder" is:

- 7 (1) an individual who does not reside in Indiana;
- 8 (2) a trust that does not reside in Indiana; or
- 9 (3) an estate that does not reside in Indiana.

10 SECTION ~~↔[4].~~ ~~IC 6-3-4.5-1~~ IC 6-3-4-15, AS AMENDED  
 11 BY P.L. ~~80-2025~~ [1-2023], SECTION ~~↔[10]~~, IS AMENDED TO  
 12 READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. ~~4. The~~  
 13 ~~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



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

5                   If a trust or estate credits a beneficiary with] pass through entity  
 6                   (7) "Exempt partner" means a partner that is exempt from the  
 7                   adjusted gross income> tax[ imposed] under <IC 6-3-2-2.8(1) or  
 8                   the financial institutions tax under IC 6-5.5-2-7(4), except to the  
 9                   extent of unrelated business taxable income.

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

22                   (9) "Federal adjustment reports" includes methods or  
 23                   forms>[IC 6-3-2.1, the withholding required for that beneficiary  
 24                   under this section shall be reduced by the tax credited to the  
 25                   beneficiary under IC 6-3-2.1, but in no event shall the tax  
 26                   required to be withheld be reduced to less than zero dollars (\$0).

27                   (b) A trust or estate shall, at the time that it makes a payment to  
 28                   the department under this section, deliver to the department a return  
 29                   which shows the total amounts distributed to the trust's or estate's  
 30                   nonresident beneficiaries, the amount deducted from the distributions  
 31                   under this section, and any other information] required by the  
 32                   department<for use by a taxpayer to report final federal adjustments  
 33                   for>[. The trust or estate shall file the return on the form prescribed by  
 34                   the department. A trust or estate which makes the deduction and  
 35                   retention required by this section shall furnish to its nonresident  
 36                   beneficiaries annually, but not later than thirty (30) days after the end  
 37                   of the trust's or estate's taxable year, a record of the amount of tax  
 38                   deducted and retained from the beneficiaries. The trust or estate shall  
 39                   furnish the information on the form prescribed by the department.

40                   (c) The money deducted and retained by a trust or estate under this  
 41                   section is money of this state. Every trust or estate which deducts and  
 42                   retains any money under this section shall hold the money in trust for



1       this state until it pays the money to the department in the manner and  
 2       at the time provided in this section. The department may require a trust  
 3       or estate to post a surety bond to protect this state with respect to  
 4       money deducted and retained by the trust or estate under this section.  
 5       The department shall determine the amount of the surety bond.

6       (d) The provisions of IC 6-8.1 relating to penalties or to additions  
 7       to tax in case of a delinquency apply to trusts and estates which are  
 8       subject to this section. For] purposes of this <chapter, including an  
 9       amended Indiana tax return, information return, or uniform multistate  
 10      report.

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

16      (11) "Final determination date" means the following:

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

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

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

38       (12) "Final federal adjustment" means a federal adjustment after  
 39       the final determination date for that federal adjustment has  
 40       passed.

41       (13) "Indirect partner" means a partner in a partnership or pass  
 42       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~~ IC 6-3-4-12 or IC 6-5.5-2-8, the term also includes the returns or  
 5       schedules required for tax withholding or composite filing. In the case  
 6       of a partnership that is an electing entity under IC 6-3-2.1, the term also  
 7       includes the returns or schedules required for the pass through entity  
 8       tax under IC 6-3-2.1.

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

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

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

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

29       (23) "Resident partner" means a partner that is not a nonresident  
 30       partner.

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

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

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



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

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

7                   (28) "Taxpayer" has the meaning set forth in IC 6-3-1-15 (in the  
 8                   case of the >adjusted gross income tax <and IC 6-5.5-1-17 (in  
 9                   the case of the financial institutions tax) and, unless the context  
 10                   clearly indicates otherwise, includes a partnership subject to a  
 11                   partnership level audit or >[ return on behalf of all nonresident  
 12                   beneficiaries. The composite return must include each  
 13                   nonresident beneficiary regardless of whether the nonresident  
 14                   beneficiary has other Indiana source income.

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

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

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

22                   (f) (j) For purposes of this section, a "nonresident beneficiary" is:

23                   **(1) an individual who does not reside in Indiana;**  
 24                   **(2) a trust that does not reside in Indiana;**  
 25                   **(3) an estate that does not reside in Indiana;**

26                   **(4) a partnership that <has made an administrative adjustment  
 27                   request, as well as a tiered partner of that partnership.**

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

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

32                   SECTION 6. IC 6-8.1-6-1, AS AMENDED BY P.L.137-2022,  
 33                   SECTION 85, IS AMENDED TO READ ASFOLLOWS [EFFECTIVE  
 34                   UPON PASSAGE]. Sec. 1. (a) This subsection does not apply to a  
 35                   person's Indiana adjusted gross>[is not domiciled in Indiana;

36                   **(5) a C corporation that is not domiciled in Indiana; or**  
 37                   **(6) an S corporation that is not domiciled in Indiana.**

38                   (f) (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 <sup>></sup> [under IC 6-8.1-6-1, then  
 38 the return and payment due] under this subsection <sup><</sup> 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



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

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

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

24 ~~(b) The interest for a failure described in subsection (a) is the~~  
 25 ~~adjusted rate established by the commissioner under subsection (e),~~  
 26 ~~from the due date for payment. The interest applies to:~~

27 ~~(1) the full amount of the unpaid tax due if the person failed to~~  
 28 ~~file the return;~~  
 29 ~~(2) the amount of the tax that is not paid, if the person filed the~~  
 30 ~~return but failed to pay the full amount of tax shown on the~~  
 31 ~~return; or~~  
 32 ~~(3) the amount of the deficiency.~~

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



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

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

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

10 ~~(f) Subsections (a) through (e) do not apply to a motor carrier fuel  
 11 tax return.~~

12 ~~SECTION 8~~[1-6-1]

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

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

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

34 (1) the full amount of the tax due if the person failed to file the  
 35 return or, in the case of a return required to be filed  
 36 electronically, the return is not filed in the electronic manner  
 37 required by the department;  
 38 (2) the amount of the tax not paid, if the person filed the return  
 39 but failed to pay the full amount of the tax shown on the return;  
 40 (3) the amount of the tax held in trust that is not timely remitted;  
 41 (4) the amount of deficiency as finally determined by the  
 42 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.

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IN 259—LS 7048/DI 120



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

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

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

23        (k)] If a person subject to the penalty imposed under this section  
 24        provides the department with documentation showing that the person  
 25        is or has been subject to incarceration for a period of at least one  
 26        hundred eighty (180) days, the department shall waive any penalty  
 27        under this section and interest that accrues during the time the person  
 28        was incarcerated, but not to an extent greater than the penalty or  
 29        interest relief to which a person would otherwise have been entitled  
 30        under the federal Servicemembers Civil Relief Act (50 U.S.C.  
 31        3901-4043), if the person was in military service. Nothing in this  
 32        subsection shall preclude the department from issuing a proposed  
 33        assessment, demand notice, jeopardy proposed assessment, jeopardy  
 34        demand notice, or warrant otherwise permitted by law.

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

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



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

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

11 SECTION ~~9-IC 6-8.1-10-6, AS AMENDED BY P.L.230-2025,~~  
12 ~~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:~~

16 \_\_\_\_\_ (1) Schedule K-1 of form IT-20S, IT-41, or IT-65.

17 (2) Any form, statement, or schedule required to be filed with the  
18 department with respect to an amount from which tax is required  
19 to be deducted and withheld under IC 6 or from which tax would  
20 be required to be deducted and withheld but for an exemption  
21 under IC 6.

22 (3) Any form, statement, or schedule required to be filed with the  
23 Internal Revenue Service under 26 C.F.R. 301.6721-1(g)(1993).  
24 The term does not include form IT-20FIT, IT-20S, IT-20SC, IT-41, or  
25 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:

30 \_\_\_\_\_ (1) each failure to file a timely return; or

30 \_\_\_\_\_ (2) each failure to file a timely return, or  
31 ~~(2) each failure to electronically file a timely return required by~~  
32 ~~the department to be in an electronic format;~~

32 the department to be in an electronic format;  
33 not to exceed twenty-five thousand dollars (\$25,000) in any one (1)  
34 calendar year is imposed.

36 or unsigned return does not constitute a return.

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

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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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