

HOUSE BILL No. 1203

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1-3.

Synopsis: Tax amnesty. Provides that if the department of state revenue (department) sent a letter to a taxpayer concerning the tax amnesty program and the taxpayer made a payment under the program, the taxpayer may submit to the department a request to withdraw the taxpayer's participation in the tax amnesty program. Specifies that if the taxpayer submits such a request: (1) the taxpayer shall be considered to have not participated in the amnesty program and to have not complied with the conditions of the amnesty program; and (2) the taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax liability equal to the amount of the payment made by the taxpayer under the amnesty program. Requires such a taxpayer to make the request on the taxpayer's income tax return for a taxable year beginning after December 31, 2015, and before January 1, 2017. Provides that these provisions do not apply to a taxpayer if the department has issued an assessment of a listed tax, a demand for payment of a listed tax, or a demand notice for payment of a listed tax, for a tax period ending before January 1, 2013, that has not been satisfied.

Effective: Upon passage.

Karickhoff, Goodin

January 7, 2016, read first time and referred to Committee on Ways and Means.



Second Regular Session of the 119th General Assembly (2016)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1203

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 6-8.1-3-17, AS AMENDED BY P.L.213-2015,
2 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 17. (a) Before an original tax appeal is filed
4 with the tax court under IC 33-26, the commissioner may settle any tax
5 liability dispute if a substantial doubt exists as to:
6 (1) the constitutionality of the tax under the Constitution of the
7 State of Indiana;
8 (2) the right to impose the tax;
9 (3) the correct amount of tax due;
10 (4) the collectability of the tax; or
11 (5) whether the taxpayer is a resident or nonresident of Indiana.
12 (b) After an original tax appeal is filed with the tax court under
13 IC 33-26, and notwithstanding IC 4-6-2-11, the commissioner may
14 settle a tax liability dispute with an amount in contention of twenty-five
15 thousand dollars (\$25,000) or less. Notwithstanding IC 6-8.1-7-1(a),
16 the terms of a settlement under this subsection are available for public
17 inspection.



1 (c) The department shall establish an amnesty program for taxpayers
 2 having an unpaid tax liability for a listed tax that was due and payable
 3 for a tax period ending before January 1, 2013. A taxpayer is not
 4 eligible for the amnesty program:

5 (1) for any tax liability resulting from the taxpayer's failure to
 6 comply with IC 6-3-1-3.5(b)(3) with regard to the tax imposed by
 7 IC 4-33-13 or IC 4-35-8; or

8 (2) if the taxpayer participated in any previous amnesty program
 9 under:

10 (A) this section (as in effect on December 31, 2014); or

11 (B) IC 6-2.5-14.

12 The time in which a voluntary payment of tax liability may be made (or
 13 the taxpayer may enter into a payment program acceptable to the
 14 department for the payment of the unpaid listed taxes in full in the
 15 manner and time established in a written payment program agreement
 16 between the department and the taxpayer) under the amnesty program
 17 is limited to the period determined by the department, not to exceed
 18 eight (8) regular business weeks ending before the earlier of the date
 19 set by the department or January 1, 2017. The amnesty program must
 20 provide that, upon payment by a taxpayer to the department of all listed
 21 taxes due from the taxpayer for a tax period (or payment of the unpaid
 22 listed taxes in full in the manner and time established in a written
 23 payment program agreement between the department and the taxpayer),
 24 entry into an agreement that the taxpayer is not eligible for any other
 25 amnesty program that may be established and waives any part of
 26 interest and penalties on the same type of listed tax that is being
 27 granted amnesty in the current amnesty program, and compliance with
 28 all other amnesty conditions adopted under a rule of the department in
 29 effect on the date the voluntary payment is made, the department:

30 (1) shall abate and not seek to collect any interest, penalties,
 31 collection fees, or costs that would otherwise be applicable;

32 (2) shall release any liens imposed;

33 (3) shall not seek civil or criminal prosecution against any
 34 individual or entity; and

35 (4) shall not issue, or, if issued, shall withdraw, an assessment, a
 36 demand notice, or a warrant for payment under IC 6-8.1-5-1,
 37 IC 6-8.1-5-3, IC 6-8.1-8-2, or another law against any individual
 38 or entity;

39 for listed taxes due from the taxpayer for the tax period for which
 40 amnesty has been granted to the taxpayer. **Except as provided in**
 41 **section 17.2 of this chapter**, amnesty granted under this subsection is
 42 binding on the state and its agents. However, failure to pay to the



1 department all listed taxes due for a tax period invalidates any amnesty
 2 granted under this subsection for that tax period. The department shall
 3 conduct an assessment of the impact of the tax amnesty program on tax
 4 collections and an analysis of the costs of administering the tax
 5 amnesty program. As soon as practicable after the end of the tax
 6 amnesty period, the department shall submit a copy of the assessment
 7 and analysis to the legislative council in an electronic format under
 8 IC 5-14-6. The department shall enforce an agreement with a taxpayer
 9 that prohibits the taxpayer from receiving amnesty in another amnesty
 10 program.

11 (d) For purposes of subsection (c), a liability for a listed tax is due
 12 and payable if:

13 (1) the department has issued:

14 (A) an assessment of the listed tax under IC 6-8.1-5-1;

15 (B) a demand for payment under IC 6-8.1-5-3; or

16 (C) a demand notice for payment of the listed tax under
 17 IC 6-8.1-8-2;

18 (2) the taxpayer has filed a return or an amended return in which
 19 the taxpayer has reported a liability for the listed tax; or

20 (3) the taxpayer has filed a written statement of liability for the
 21 listed tax in a form that is satisfactory to the department.

22 SECTION 2. IC 6-8.1-3-17.2 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE UPON PASSAGE]: **Sec. 17.2. (a) Except as provided**
 25 **in subsection (d), this section applies to a taxpayer that meets all**
 26 **the following conditions:**

27 (1) **The department or a contractor on behalf of the**
 28 **department sent to the taxpayer after September 30, 2015,**
 29 **and before November 17, 2015, a letter:**

30 (A) **that informed the taxpayer that the department was**
 31 **conducting a tax amnesty program; and**

32 (B) **that stated that, based on a review of past tax filings,**
 33 **the department or the contractor believed the taxpayer**
 34 **may be underreporting taxable income for the state of**
 35 **Indiana.**

36 (2) **After the date on which the letter described in subdivision**
 37 **(1) was sent to the taxpayer and before November 17, 2015,**
 38 **the taxpayer made either:**

39 (A) **a lump sum payment to the department under the**
 40 **amnesty program described in section 17 of this chapter;**
 41 **or**

42 (B) **a payment to the department under a payment plan**



- 1 agreement entered into by the taxpayer under the amnesty
2 program described in section 17 of this chapter.
- 3 (b) Subject to subsections (c) and (d), the following apply if a
4 taxpayer described in subsection (a) submits a request to the
5 department as provided in this section to withdraw the taxpayer's
6 participation in the tax amnesty program described in section 17
7 of this chapter:
- 8 (1) The taxpayer shall be considered to have not participated
9 in the amnesty program and to have not complied with the
10 conditions of the amnesty program, notwithstanding section
11 17 of this chapter, rules adopted by the department to carry
12 out section 17 of this chapter, or any payment plan agreement
13 entered into by the taxpayer under the amnesty program.
- 14 (2) The taxpayer is entitled to a credit against the taxpayer's
15 adjusted gross income tax liability for the taxpayer's taxable
16 year beginning after December 31, 2015, and before January
17 1, 2017. The amount of the credit is equal to the amount of the
18 payment made by the taxpayer under the amnesty program,
19 as described in subsection (a)(2).
- 20 (3) If the credit provided by subdivision (2) exceeds the
21 taxpayer's state tax liability for the taxable year for which the
22 credit is first claimed, the excess may be carried over to
23 succeeding taxable years and used as a credit against the
24 adjusted gross income tax otherwise due and payable by the
25 taxpayer under IC 6-3 during those taxable years. Each time
26 the credit is carried over to a succeeding taxable year, the
27 credit shall be reduced by the amount that was used as a
28 credit during the immediately preceding taxable year.
- 29 (c) The department shall prescribe the form that a taxpayer
30 described in subsection (a) must use to submit a request under
31 subsection (b). The taxpayer may make the request only on the
32 taxpayer's adjusted gross income tax return for a taxable year
33 beginning after December 31, 2015, and before January 1, 2017.
- 34 (d) This section does not apply to a taxpayer if the department
35 has issued to the taxpayer:
- 36 (1) an assessment of a listed tax under IC 6-8.1-5-1;
37 (2) a demand for payment under IC 6-8.1-5-3 of a listed tax;
38 or
39 (3) a demand notice for payment of a listed tax under
40 IC 6-8.1-8-2;
41 for a tax period ending before January 1, 2013, that has not been
42 satisfied.



1 **SECTION 3. An emergency is declared for this act.**

