discretion of the court to permit the plea of guilty to be withdrawn after sentence is pronounced.

People v. Byzon, 267 Ill. 498, 108 N.E. 685;
People v. Walker, 250 Ill. 427, 95 N.E. 475;
Gardner v. People, 106 Ill. 76;
Myers v. State, 115 Ind. 554, 18 N.E. 42;
Sanders v. State, 85 Ind. 318, (where the rules of the common law were invoked to justify the relief granted);

It must be presumed that the trial court exercised sound legal discretion in permitting the withdrawal of the plea of guilty, and that he conscientiously believed that such procedure, in the light of all of the circumstances of the case which were before him, was most consistent with the attainment of justice.

I am therefore of the opinion that the trial court was empowered to exercise discretion in the matter of granting leave to withdraw the plea of guilty and to enter in lieu thereof another plea, notwithstanding the fact that such action was taken at a term of court subsequent to the term at which the original plea of guilty was entered. I therefore respond to your question in the affirmative.

GROSS INCOME TAX AND STORE LICENSE DIVISION:
Taxation—Vendors to Federal government not exempt from payment of gross income tax.

May 29, 1936.

Mr. Fred C. McClurg,
Chief Counsel;
Gross Income Tax Division,
Department of Treasury,
Indianapolis, Indiana.

Dear Sir:

I have before me your request that an official opinion issue in response to the following inquiry:

"May the State of Indiana through the Department of Treasury impose and collect gross income tax from
vendors upon their receipts from sales to either or both the Federal government's regular departments, or it's emergency agencies?"

The pertinent provision of Section 6 of Chapter 50 of the Acts of 1933 is as follows:

"There shall be excepted from the gross income taxable under this Act * * * (c) So much of such gross income as is derived from sales to the United States Government, its departments, or agencies to the extent to which the State of Indiana is prohibited from taxing under the Constitution of the United States of America."

It should be noted that the tax imposed by Chapter 50 of the Acts of 1933 is upon the receipt of gross income and is an excise upon the right or privilege of receiving such gross income.

Miles v. Department of Treasury, .... Ind. ...., 199 N. E. 372.

The tax, therefore, is a tax directly upon the vendor and is not a tax either upon the transaction of selling or upon the article sold. In other words, this tax is not a sales tax, but is, in effect, almost the antithesis of such a tax.

Sims v. Weldon, 165 Ark. 13, 263 S. W. 42.

Since the Act does not provide that the tax is to be paid by the purchaser of the article sold, but contrarywise imposes the tax in unqualified language upon the person who receives the gross income, it is extremely difficult to envision any burden being placed upon the government of the United States or its agencies through the taxation of those who sell to the government or its agencies.