HOUSE BILL No. 2040

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3; IC 6-3.1-21-6.

Synopsis: Income tax credits and deductions. Provides that a taxpayer filing a single return may not claim the additional $500 income tax deduction for the elderly if the taxpayer's adjusted gross income is more than $20,000. (Under current law, a $40,000 income limitation applies to taxpayers filing a single return and to married taxpayers filing a joint return.) Increases the amount of the unified income tax credit for the elderly for a claimant that resides with a spouse who is also eligible for the credit. Provides that married taxpayers filing a joint return with income of less than $24,000 may claim the earned income tax credit. (Under current law, a $12,000 income limitation applies to taxpayers filing a single return and to married taxpayers filing a joint return.)

Effective: January 1, 2002.

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January 17, 2001, read first time and referred to Committee on Ways and Means.

Introduced

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

HOUSE BILL No. 2040

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.14-2000, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3.5. When used in IC 6-3, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:
(A) one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and
(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of:
(i) the taxpayer **is less than twenty thousand dollars ($20,000), in the case of a taxpayer not filing a joint return;** or
(ii) the taxpayer and the taxpayer's spouse, in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:
(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Internal Revenue Code Section 111 as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were

received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under IC 6-3 by

the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(c) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) reduced by income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.

SECTION 2. IC 6-3-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 9. (a) The credit provided by this section shall be known as the unified tax credit for the elderly.

(b) As used in this section, unless the context clearly indicates otherwise:

(1) "Household federal adjusted gross income" means the total adjusted gross income, as defined in Section 62 of the Internal Revenue Code, of an individual, or of an individual and his spouse if they reside together for the taxable year for which the credit provided by this section is claimed.

(2) "Household" means a claimant or, if applicable, a claimant and his or her spouse if the spouse resides with the claimant and "household income" means the income of the claimant or, if applicable, the combined income of the claimant and his or her spouse if the spouse resides with the claimant.

(3) "Claimant" means an individual, other than an individual described in subsection (c) of this section, who:

(A) has filed a claim under this section;

(B) was a resident of this state for at least six (6) months during the taxable year for which he or she has filed a claim under this section; and

(C) was sixty-five (65) years of age during some portion of the taxable year for which he has filed a claim under this section or whose spouse was either sixty-five (65) years of age or over during the taxable year.

(c) The credit provided under this section shall not apply to an individual who, for a period of at least one hundred eighty (180) days during the taxable year for which he has filed a claim under this section, was incarcerated in a local, state, or federal correctional institution.

(d) The right to file a claim under this section shall be personal to the claimant and shall not survive his death, except that a surviving spouse of a claimant is entitled to claim the credit provided by this section. For purposes of determining the amount of the credit a surviving spouse is entitled to claim under this section, the deceased spouse shall be treated as having been alive on the last day of the taxable year in which the deceased spouse died. When a claimant dies after having filed a timely claim, the amount thereof shall be disbursed to another member of the household as determined by the commissioner. If the claimant was the only member of his household, the claim may be paid to his executor or administrator, but if neither is appointed and qualified within two (2) years of the filing of the claim, the amount of the claim shall escheat to the state.

(e) For each taxable year, subject to the limitations provided in this section, one (1) claimant per household may claim, as a credit against Indiana adjusted gross income taxes otherwise due, the credit provided by this section. If the allowable amount of the claim exceeds the income taxes otherwise due on the claimant's household income or if there are no Indiana income taxes due on such income, the amount of the claim not used as an offset against income taxes after audit by the department, at the taxpayer's option, shall be refunded to the claimant or taken as a credit against such taxpayer's income tax liability subsequently due.

(f) No claim filed pursuant to this section shall be allowed unless filed within six (6) months following the close of claimant's taxable year or within the extension period if an extension of time for filing the return has been granted under IC 6-8.1-6-1, whichever is later.

(g) The amount of any claim otherwise payable under this section may be applied by the department against any liability outstanding on the books of the department against the claimant, or against any other individual who was a member of his household in the taxable year to which the claim relates.

(h) The amount of a claim filed pursuant to this section by a claimant that either (i) does not reside with his spouse during the taxable year, or (ii) resides with his spouse during the taxable year and only one (1) of them is sixty-five (65) years of age or older at the end of the taxable year, shall be determined in accordance with the following schedule:

HOUSEHOLD FEDERAL

ADJUSTED GROSS INCOME FOR TAXABLE YEAR	CREDIT
less than $1,000	$100
at least $1,000, but less than $3,000	$ 50
at least $3,000, but less than $10,000	$ 40

(i) The amount of a claim filed pursuant to this section by a claimant that resides with his spouse during his taxable year shall be determined in accordance with the following schedule if both the claimant and spouse are sixty-five (65) years of age or older at the end of the taxable year:

HOUSEHOLD FEDERAL ADJUSTED GROSS INCOME FOR TAXABLE YEAR	CREDIT
less than $1,000	~~$140~~ **$200**
at least $1,000, but less than $3,000	~~$90~~ **$100**
at least $3,000, but less than $10,000	$80

(j) The department may promulgate reasonable rules under IC 4-22-2 for the administration of this section.

(k) Every claimant under this section shall supply to the department on forms provided under IC 6-8.1-3-4, in support of his claim, reasonable proof of household income and age.

(l) Whenever on the audit of any claim filed under this section the department finds that the amount of the claim has been incorrectly determined, the department shall redetermine the claim and notify the claimant of the redetermination and the reasons therefor. The redetermination shall be final.

(m) In any case in which it is determined that a claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid or a credit has been allowed against income taxes otherwise payable, the credit shall be canceled and the amount paid shall be recovered by assessment as income taxes are assessed and such assessment shall bear interest from the date of payment or credit of the claim, until refunded or paid at the rate determined under IC 6-8.1-10-1. The claimant in such a case commits a Class A misdemeanor. In any case in which it is determined that a claim is or was excessive and was negligently prepared, ten percent (10%) of the corrected claim shall be disallowed and, if the claim has been paid or credited against income taxes otherwise payable, the credit shall be reduced or canceled, and the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed, and such assessment shall bear interest at the rate determined under IC 6-8.1-10-1 from the date of payment until refunded or paid.

SECTION 3. IC 6-3.1-21-6, AS ADDED BY P.L.273-1999, SECTION 227, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6. The credit authorized under section 5 of this chapter is equal to three and four-tenths percent (3.4%) of:

(1) **either:**

(A) twelve thousand dollars ($12,000), **in the case of a taxpayer not filing a joint return; or**

(B) twenty-four thousand dollars ($24,000), in the case of married taxpayers filing a joint return; minus

(2) the amount of the individual's Indiana total income.

If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess shall be refunded to the taxpayer.

SECTION 4. [EFFECTIVE JANUARY 1, 2002] **IC 6-3-1-3.5, IC 6-3-3-9, and IC 6-3.1-21-6, all as amended by this act, apply to taxable years beginning after December 31, 2001.**