



January 30, 2004

# HOUSE BILL No. 1276

DIGEST OF HB 1276 (Updated January 28, 2004 9:44 am - DI 92)

**Citations Affected:** IC 6-3.1; IC 6-4.1; noncode.

**Synopsis:** Historic rehabilitation tax credit. Provides that if a taxpayer dies before using all of a historic rehabilitation tax credit to which the taxpayer is entitled, the unused credit may be used against inheritance tax due with respect to transfers of property interests by the taxpayer. Specifies that the historic rehabilitation tax credit is a credit against state income taxes. Provides that if the amount of historic rehabilitation tax credits claimed in a state fiscal year exceeds the allowable amount, a taxpayer may request that the legislative body of the county, city, or town in which the preservation or rehabilitation of the property occurs approve a refund to the taxpayer of the unused credit. Provides that a county, city, or town that pays a refund is entitled to reimbursement from the state general fund before the end of the state fiscal year that begins ten years after the refund is paid.

**Effective:** July 1, 2004.

**Bottorff**

January 15, 2004, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.  
January 29, 2004, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.

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January 30, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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## HOUSE BILL No. 1276

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

1 SECTION 1. IC 6-3.1-16-2.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. As used in this chapter,**  
4 **"legislative body" refers to the following:**

- 5 (1) **The legislative body of a municipality (as defined in**  
6 **IC 36-1-2-11), in the case of property:**  
7 (A) **on which preservation or rehabilitation occurs; and**  
8 (B) **that is located in the municipality.**  
9 (2) **The legislative body of a county in which property is**  
10 **located, in the case of property:**  
11 (A) **on which preservation or rehabilitation occurs; and**  
12 (B) **that is not located in a municipality.**

13 SECTION 2. IC 6-3.1-16-6, AS AMENDED BY P.L.192-2002(ss),  
14 SECTION 108, IS AMENDED TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2004]: **Sec. 6. As used in this chapter, "state**  
16 **income tax liability" means a taxpayer's total tax liability incurred**  
17 **under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as**

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1 computed after the application of all credits that under IC 6-3.1-1-2 are  
2 to be applied before the credit provided by this chapter.

3 SECTION 3. IC 6-3.1-16-6.1 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. As used in this  
5 chapter, "taxpayer" means an individual, **a resident decedent (as**  
6 **defined in IC 6-4.1-1-11), a non-resident decedent (as defined in**  
7 **IC 6-4.1-1-7),** a corporation, an S corporation, a partnership, a limited  
8 liability company, a limited liability partnership, a nonprofit  
9 organization, or a joint venture.

10 SECTION 4. IC 6-3.1-16-7 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Subject to ~~section~~  
12 ~~14~~ **sections 13(c) and 14** of this chapter, a taxpayer is entitled to a  
13 credit against the taxpayer's state **income** tax liability in the taxable  
14 year in which the taxpayer completes the preservation or rehabilitation  
15 of historic property and obtains the certifications required under section  
16 8 of this chapter.

17 (b) The amount of the credit is equal to twenty percent (20%) of the  
18 qualified expenditures that:

- 19 (1) the taxpayer makes for the preservation or rehabilitation of
- 20 historic property; and
- 21 (2) are approved by the division.

22 (c) In the case of a husband and wife who:

- 23 (1) own and rehabilitate a historic property jointly; and
- 24 (2) file separate tax returns;

25 the husband and wife may take the credit in equal shares or one (1)  
26 spouse may take the whole credit.

27 SECTION 5. IC 6-3.1-16-7.5 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) If a pass  
29 through entity is entitled to a credit under section 7 of this chapter but  
30 does not have state **income** tax liability against which the tax credit  
31 may be applied, a shareholder, partner, or member of the pass through  
32 entity is entitled to a tax credit equal to:

- 33 (1) the tax credit determined for the pass through entity for the
- 34 taxable year; multiplied by
- 35 (2) the percentage of the pass through entity's distributive income
- 36 to which the shareholder, partner, or member is entitled.

37 (b) The credit provided under subsection (a) is in addition to a tax  
38 credit to which a shareholder, partner, or member of a pass through  
39 entity is otherwise entitled under this chapter. However, a pass through  
40 entity and a shareholder, partner, or member of the pass through entity  
41 may not claim more than one (1) credit for the same qualified  
42 expenditure.

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1 SECTION 6. IC 6-3.1-16-12 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A credit claimed  
3 under this chapter shall be recaptured from the taxpayer if:

- 4 (1) the property is transferred less than five (5) years after
- 5 completion of the certified preservation or rehabilitation work; or
- 6 (2) less than five (5) years after completion of the certified
- 7 preservation or rehabilitation, additional modifications to the
- 8 property are undertaken that do not meet the standards of the
- 9 division.

10 (b) If the recapture of a credit is required under this section, an  
11 amount equal to the credit recaptured shall be added to the **state**  
12 **income** tax liability of the taxpayer for the taxable year during which  
13 the credit is recaptured.

14 SECTION 7. IC 6-3.1-16-13, AS AMENDED BY P.L.192-2002(ss),  
15 SECTION 109, IS AMENDED TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) If the credit provided by this  
17 chapter exceeds a taxpayer's state **income** tax liability for the taxable  
18 year for which the credit is first claimed, the excess may be carried  
19 over to succeeding taxable years and used as a credit against the tax  
20 otherwise due and payable by the taxpayer under IC 6-3 during those  
21 taxable years. Each time that the credit is carried over to a succeeding  
22 taxable year, the credit is to be reduced by the amount that was used as  
23 a credit during the immediately preceding taxable year. The credit  
24 provided by this chapter may be carried forward and applied to  
25 succeeding taxable years for fifteen (15) taxable years following the  
26 unused credit year.

27 (b) A credit earned by a taxpayer in a particular taxable year shall  
28 be applied against the taxpayer's **state income** tax liability for that  
29 taxable year before any credit carryover is applied against that liability  
30 under subsection (a).

31 (c) **Except as provided in section 14 of this chapter**, a taxpayer is  
32 not entitled to any carryback or refund of any unused credit. **However,**  
33 **if the taxpayer is a resident or a non-resident who:**

- 34 (1) **dies before applying the credit under this chapter against**
- 35 **the taxpayer's state income tax liability; or**
- 36 (2) **has at the time of the taxpayer's death unused credit under**
- 37 **this chapter that was carried forward under subsection (a);**
- 38 **the credit may be carried over and applied to an inheritance tax**
- 39 **imposed under IC 6-4.1 with respect to the transfers of property**
- 40 **interests by the taxpayer.**

41 SECTION 8. IC 6-3.1-16-14 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) The amount of

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1 tax credits allowed under this chapter may not exceed  
 2 ~~(1) seven hundred fifty thousand dollars (\$750,000) in the state~~  
 3 ~~fiscal year beginning July 1, 1997, and the state fiscal year~~  
 4 ~~beginning July 1, 1998; and~~  
 5 ~~(2) four hundred fifty thousand dollars (\$450,000) in a state fiscal~~  
 6 ~~year. that begins July 1, 1999 or thereafter.~~

7 **(b) If the amount of tax credits claimed under this chapter in a**  
 8 **state fiscal year exceeds the amount that may be allowed under**  
 9 **subsection (a), a taxpayer may submit to the legislative body a**  
 10 **request that the legislative body approve a refund to the taxpayer**  
 11 **of the unused credit to which the taxpayer is otherwise entitled**  
 12 **under this chapter. A legislative body may approve and pay a**  
 13 **refund under this subsection only if the legislative body approves**  
 14 **the request by resolution. A refund under this subsection is subject**  
 15 **to the reasonable conditions imposed by the legislative body and**  
 16 **may be paid only from money under the control of the legislative**  
 17 **body.**

18 **(c) If a legislative body approves the payment of a refund under**  
 19 **subsection (b), the county, city, or town that pays the refund is**  
 20 **entitled to reimbursement from the state general fund equal to the**  
 21 **amount paid by the county, city, or town. The reimbursement must**  
 22 **be paid by the treasurer of state on warrant of the auditor of state**  
 23 **before the end of the state fiscal year that begins ten (10) years**  
 24 **after the refund is paid by the county, city, or town. Amounts**  
 25 **necessary to make the reimbursements required by this subsection**  
 26 **are appropriated from the state general fund.**

27 SECTION 9. IC 6-4.1-5-1.7 IS ADDED TO THE INDIANA CODE  
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 29 1, 2004]: **Sec. 1.7. A person is entitled to claim the amount of a tax**  
 30 **credit carried over under IC 6-3.1-16-13(c) as a credit against**  
 31 **inheritance tax imposed under this article. A credit allowed under**  
 32 **this section shall be applied as follows:**

- 33 **(1) Proportionally against the inheritance tax liability of all**  
 34 **Class A transferees.**
- 35 **(2) Proportionally against the inheritance tax liability of all**  
 36 **Class B transferees, if unused credit remains after the credit**  
 37 **is applied under subdivision (1).**
- 38 **(3) Proportionally against the inheritance tax liability of all**  
 39 **Class C transferees, if unused credit remains after the credit**  
 40 **is applied under subdivisions (1) and (2).**

41 SECTION 10. [EFFECTIVE JULY 1, 2004] **(a) IC 6-1.1-16-13, as**  
 42 **amended by this act, and IC 6-4.1-5-1.7, as added by this act, apply**

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1 to an individual who dies after June 30, 2004.  
2 (b) IC 6-3.1-16-14, as amended by this act, applies to state fiscal  
3 years beginning after June 30, 2004.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1276, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BISCHOFF, Chair

Committee Vote: yeas 11, nays 0.

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