
SENATE BILL No. 388

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-25.

Synopsis: Qualified child care expenditure tax credits. Establishes a state tax credit for an employer that makes qualified child care expenditures, qualified child care resource and referral expenditures, or qualified child care planning expenditures on behalf of its employees. Provides that the maximum amount of the credit for each taxable year is the lesser of the employer's pro rata share of: (1) \$20,000; or (2) 40% of the employer's qualified expenditures.

Effective: January 1, 2007.

Lewis

January 11, 2006, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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SENATE BILL No. 388



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 6-3.1-25 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2007]:
4 **Chapter 25. Employer Child Care Expenditure Credits**
5 **Sec. 1. As used in this chapter, "pass through entity" means the**
6 **following:**
7 (1) **A corporation that is exempt from the adjusted gross**
8 **income tax under IC 6-3-2-2.8(2).**
9 (2) **A partnership.**
10 (3) **A limited liability company.**
11 (4) **A limited liability partnership.**
12 **Sec. 2. As used in this chapter, "qualified child care**
13 **expenditure" has the meaning set forth in Section 45F(c)(1) of the**
14 **Internal Revenue Code.**
15 **Sec. 3. As used in this chapter, "qualified child care facility" has**
16 **the meaning set forth in Section 45F(c)(2) of the Internal Revenue**
17 **Code.**



1 **Sec. 4. As used in this chapter, "qualified child care planning**
2 **expenditure" means any amount paid or incurred to determine the**
3 **feasibility or practicability of providing child care in a qualified**
4 **child care facility that meets the requirements of section 8(a) of this**
5 **chapter. The term includes expenditures, made by the taxpayer or**
6 **by the taxpayer jointly with one (1) or more other individuals or**
7 **entities, for any of the following:**

- 8 (1) Plans, specifications, studies, surveys, and estimates of
- 9 cost.
- 10 (2) Professional fees.
- 11 (3) Costs paid or incurred in connection with financing the
- 12 construction, acquisition, rehabilitation, or expansion of a
- 13 qualified child care facility that meets the requirements of
- 14 section 8(a) of this chapter.
- 15 (4) Any other expenses necessary or incident to planning or
- 16 determining the need for the provision of child care at a
- 17 qualified child care facility that meets the requirements of
- 18 section 8(a) of this chapter.

19 **Sec. 5. As used in this chapter, "qualified child care resource**
20 **and referral expenditure" has the meaning set forth in Section**
21 **45F(c)(3) of the Internal Revenue Code.**

22 **Sec. 6. As used in this chapter, "state tax liability" means a**
23 **taxpayer's total tax liability that is incurred under:**

- 24 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 25 (2) IC 6-5.5 (the financial institutions tax); and
- 26 (3) IC 27-1-18-2 (the insurance premiums tax);

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

30 **Sec. 7. As used in this chapter, "taxpayer" means an individual**
31 **or entity that has state tax liability.**

32 **Sec. 8. (a) A taxpayer that is eligible for an employer provided**
33 **child care credit under Section 45F of the Internal Revenue Code**
34 **is eligible for a credit under this chapter for qualified child care**
35 **expenditures and qualified child care resource and referral**
36 **expenditures that are made during a taxable year for child care**
37 **provided in a qualified child care facility that is:**

- 38 (1) located in Indiana;
- 39 (2) licensed by the division of family and children under
- 40 IC 12-17.2; and
- 41 (3) operated:
 - 42 (A) by the taxpayer;

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- 1 **(B)** by the taxpayer jointly with one (1) or more other
- 2 individuals or entities; or
- 3 **(C)** under a contract described in Section 45F(c)(1)(A)(iii)
- 4 of the Internal Revenue Code as in effect on January 1,
- 5 2005.

6 **(b)** Except as provided in section 9 of this chapter, a taxpayer
 7 that makes a qualified child care expenditure, qualified child care
 8 resource and referral expenditure, or qualified child care planning
 9 expenditure during a taxable year is entitled to a credit against the
 10 taxpayer's state tax liability for the taxable year in an amount
 11 equal to the lesser of:

- 12 (1) twenty thousand dollars (\$20,000) or, if the taxpayer
- 13 shares in one (1) or more qualifying expenditures with one (1)
- 14 or more individuals or entities, twenty thousand dollars
- 15 (\$20,000) multiplied by the taxpayer's percentage share of the
- 16 total qualified expenditures; or
- 17 (2) forty percent (40%) of the taxpayer's total qualified
- 18 expenditures made during the taxable year or, if the taxpayer
- 19 shares in one (1) or more qualifying expenditures with one (1)
- 20 or more individuals or entities, forty percent (40%) of the
- 21 taxpayer's percentage share of the total qualified
- 22 expenditures.

23 **Sec. 9. (a)** A taxpayer's credit for a taxable year may not exceed
 24 the taxpayer's state tax liability for the taxable year.

25 **(b)** If the amount determined under section 8 of this chapter for
 26 a taxpayer for a taxable year exceeds the taxpayer's state tax
 27 liability for the taxable year, the taxpayer may carry the excess
 28 over to the immediately following taxable year. The credit
 29 provided by this chapter may be carried forward and applied to
 30 succeeding taxable years for three (3) taxable years following the
 31 unused credit year.

32 **(c)** The amount of a credit carryover under this section shall be
 33 reduced to the extent that the carryover is used as a credit during
 34 the immediately preceding taxable year.

35 **(d)** A taxpayer is not entitled to a carryback or refund of any
 36 unused credit.

37 **Sec. 10. (a)** If a pass through entity does not have state tax
 38 liability against which the credit granted by this chapter may be
 39 applied, a shareholder or partner of the pass through entity is
 40 entitled to a credit equal to:

- 41 (1) the credit determined for the pass through entity for the
- 42 taxable year; multiplied by

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1 **(2) the percentage of the pass through entity's distributive**
 2 **income to which the shareholder or partner is entitled.**
 3 **(b) The credit provided under subsection (a) is in addition to a**
 4 **credit to which a shareholder or partner of a pass through entity**
 5 **is otherwise entitled under this chapter. However, a pass through**
 6 **entity and a shareholder or partner of the pass through entity may**
 7 **not claim a credit under this chapter for the same qualified child**
 8 **care expenditure.**
 9 **Sec. 11. To obtain a credit under this chapter, a taxpayer must**
 10 **claim the credit in the manner prescribed by the department. The**
 11 **taxpayer shall submit to the department all information that the**
 12 **department determines is necessary to calculate the credit**
 13 **provided by this chapter.**
 14 **Sec. 12. A credit to which a taxpayer is entitled under this**
 15 **chapter shall be applied against the taxpayer's state tax liability in**
 16 **the order of the taxes listed in section 6 of this chapter.**
 17 **SECTION 2. [EFFECTIVE JANUARY 1, 2007] IC 6-3.1-25, as**
 18 **added by this act, applies only to taxable years that begin after**
 19 **December 31, 2006.**

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