
SENATE BILL No. 70

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-32.

Synopsis: Qualified child care expenditure tax credits. Establishes a state tax credit for a taxpayer 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 taxpayer's pro rata share of: (1) \$20,000; or (2) 40% of the taxpayer's qualified expenditures.

Effective: January 1, 2009.

Errington

January 8, 2008, read first time and referred to Committee on Tax and Fiscal Policy.

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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 2007 Regular Session of the General Assembly.

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SENATE BILL No. 70



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 6-3.1-32 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2009]:

4 **Chapter 32. Employer Child Care Expenditure Credits**

5 **Sec. 1. As used in this chapter, "department" refers to:**

- 6 (1) the department of insurance, for purposes of
- 7 administration of the insurance premium tax (IC 27-1-18-2);
- 8 and
- 9 (2) the department of state revenue, for purposes of
- 10 administration of a tax other than the insurance premium tax.

11 **Sec. 2. As used in this chapter, "Indiana qualified child care**
12 **facility" means a facility that is:**

- 13 (1) a qualified child care facility (as defined in Section 45F of
- 14 the Internal Revenue Code);
- 15 (2) located in Indiana;
- 16 (3) licensed by the division of family resources under
- 17 IC 12-17.2; and



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

7 **Sec. 3.** As used in this chapter, "pass through entity" means the
 8 following:

- 9 (1) A corporation that is exempt from the adjusted gross
- 10 income tax under IC 6-3-2-2.8(2).
- 11 (2) A partnership.
- 12 (3) A limited liability company.
- 13 (4) A limited liability partnership.

14 **Sec. 4.** As used in this chapter, "qualified child care
 15 expenditure" means an expenditure that is:

- 16 (1) a qualified child care expenditure (as defined in Section
- 17 45F of the Internal Revenue Code); and
- 18 (2) an expenditure:
 - 19 (A) for the acquisition, construction, rehabilitation, or
 - 20 expansion of property used as part of an Indiana qualified
 - 21 child care facility of a taxpayer that is operated for the
 - 22 taxpayer's employees;
 - 23 (B) for the operation of an Indiana qualified child care
 - 24 facility of a taxpayer for the taxpayer's employees,
 - 25 including costs related to the training of employees,
 - 26 scholarship programs, or providing increased
 - 27 compensation to employees with higher levels of child care
 - 28 training; or
 - 29 (C) incurred under a contract between a taxpayer and an
 - 30 Indiana qualified child care facility to provide child care
 - 31 services to employees of the taxpayer.

32 **Sec. 5. (a)** As used in this chapter, "qualified child care planning
 33 expenditure" means any amount paid or incurred by a taxpayer to
 34 determine the feasibility or practicability of providing child care
 35 to the taxpayer's employees in an Indiana qualified child care
 36 facility.

37 **(b)** The term includes expenditures, made by the taxpayer or by
 38 the taxpayer jointly with one (1) or more other individuals or
 39 entities, for any of the following:

- 40 (1) Plans, specifications, studies, surveys, and estimates of
- 41 cost.
- 42 (2) Professional fees.

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1 (3) Costs paid or incurred in connection with financing the
2 construction, acquisition, rehabilitation, or expansion of an
3 Indiana qualified child care facility.
4 (4) Any other expenses necessary or incident to planning or
5 determining the need for the provision of child care at an
6 Indiana qualified child care facility.
7 Sec. 6. As used in this chapter, "qualified expenditure" means
8 the amount paid or incurred for any combination of the following:
9 (1) A qualified child care expenditure.
10 (2) A qualified child care planning expenditure.
11 (3) A qualified Indiana child care resource and referral
12 expenditure.
13 Sec. 7. As used in this chapter, "qualified Indiana child care
14 resource and referral expenditure" means an expenditure that is:
15 (1) a qualified child care resources and referral expenditure
16 (as defined in Section 45F of the Internal Revenue Code); and
17 (2) incurred under a contract between a taxpayer and an
18 Indiana qualified child care facility to provide child care
19 services to employees of the taxpayer.
20 Sec. 8. As used in this chapter, "state tax liability" means a
21 taxpayer's total tax liability that is incurred under:
22 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
23 (2) IC 6-5.5 (the financial institutions tax); and
24 (3) IC 27-1-18-2 (the insurance premiums tax);
25 as computed after the application of the credits that under
26 IC 6-3.1-1-2 are to be applied before the credit provided by this
27 chapter.
28 Sec. 9. As used in this chapter, "taxpayer" means an individual
29 or entity that has state tax liability.
30 Sec. 10. (a) A taxpayer that makes a qualified expenditure in a
31 taxable year is eligible for a state credit against the taxpayer's state
32 tax liability for the taxable year.
33 (b) The maximum amount of the credit to which a taxpayer is
34 entitled in a particular taxable year is equal to the lesser of the
35 following:
36 (1) Twenty thousand dollars (\$20,000) multiplied by a
37 fraction. The numerator of the fraction is the taxpayer's share
38 of qualified expenditures shared with one (1) or more
39 individuals or entities, and the denominator is the total
40 qualified expenditures.
41 (2) Forty percent (40%) of the employer's qualified
42 expenditures in the taxable year.

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1 **Sec. 11. (a) If a taxpayer is a pass through entity that does not**
2 **have state tax liability against which the credit granted by this**
3 **chapter may be applied, a shareholder, member, or partner of the**
4 **pass through entity is entitled to a credit equal to:**

5 **(1) the credit determined for the pass through entity for the**
6 **taxable year; multiplied by**

7 **(2) the percentage of the pass through entity's distributive**
8 **income to which the shareholder or partner is entitled.**

9 **(b) The credit provided under subsection (a) is in addition to a**
10 **credit to which a shareholder or partner of a pass through entity**
11 **is otherwise entitled under this chapter. However, a pass through**
12 **entity and a shareholder or partner of the pass through entity may**
13 **not claim a credit under this chapter for the same qualified child**
14 **care expenditure.**

15 **Sec. 12. (a) A taxpayer is not entitled to a refund or carryback**
16 **of an unused credit granted under this chapter.**

17 **(b) If the amount of the credit to which a taxpayer is entitled**
18 **under this chapter exceeds the taxpayer's tax liability for a taxable**
19 **year, the taxpayer may carry the excess over to the immediately**
20 **following taxable year. The credit provided by this chapter may be**
21 **carried forward and applied to succeeding taxable years for not**
22 **more than three (3) taxable years following the taxable year in**
23 **which the qualified expenditure for which the credit is received is**
24 **made.**

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

28 **Sec. 13. To obtain a credit under this chapter, a taxpayer must**
29 **claim the credit in the manner prescribed by the department. The**
30 **taxpayer shall submit to the department all information that the**
31 **department determines is necessary to calculate the credit**
32 **provided by this chapter.**

33 **Sec. 14. A credit to which a taxpayer is entitled under this**
34 **chapter shall be applied against the taxpayer's state tax liability in**
35 **the order of the taxes listed in section 8 of this chapter.**

36 **SECTION 2. [EFFECTIVE JANUARY 1, 2009] IC 6-3.1-32, as**
37 **added by this act, applies only to taxable years beginning after**
38 **December 31, 2008.**

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