

HOUSE BILL No. 1308

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3-3-12.

Synopsis: Education savings plan tax credit. Increases the maximum amount of the annual credit against adjusted gross income to which a taxpayer is entitled for a contribution to a college choice 529 education savings plan.

Effective: July 1, 2021.

Miller D, Jordan

January 14, 2021, read first time and referred to Committee on Ways and Means.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1308

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 6-3-3-12, AS AMENDED BY P.L.154-2020,
- 2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2021]: Sec. 12. (a) As used in this section, "account" has the
- 4 meaning set forth in IC 21-9-2-2.
- 5 (b) As used in this section, "account beneficiary" has the meaning
- 6 set forth in IC 21-9-2-3.
- 7 (c) As used in this section, "account owner" has the meaning set
- 8 forth in IC 21-9-2-4.
- 9 (d) As used in this section, "college choice 529 education savings
- 10 plan" refers to a college choice 529 plan established under IC 21-9.
- 11 (e) As used in this section, "contribution" means the amount of
- 12 money directly provided to a college choice 529 education savings plan
- 13 account by a taxpayer. A contribution does not include any of the
- 14 following:
- 15 (1) Money credited to an account as a result of bonus points or
- 16 other forms of consideration earned by the taxpayer that result in
- 17 a transfer of money to the account.



- 1 (2) Money transferred from any other qualified tuition program
2 under Section 529 of the Internal Revenue Code or from any other
3 similar plan.
- 4 (3) Money that is credited to an account and that will be
5 transferred to an ABLE account (as defined in Section 529A of
6 the Internal Revenue Code).
- 7 (f) As used in this section, "nonqualified withdrawal" means a
8 withdrawal or distribution from a college choice 529 education savings
9 plan that is not a qualified withdrawal.
- 10 (g) As used in this section, "qualified higher education expenses"
11 has the meaning set forth in IC 21-9-2-19.5, except that the term does
12 not include qualified education loan repayments under Section
13 529(c)(9) of the Internal Revenue Code.
- 14 (h) As used in this section, "qualified K-12 education expenses"
15 means expenses that are for tuition in connection with enrollment or
16 attendance at an elementary or secondary public, private, or religious
17 school located in Indiana and are permitted under Section 529 of the
18 Internal Revenue Code.
- 19 (i) As used in this section, "qualified withdrawal" means a
20 withdrawal or distribution from a college choice 529 education savings
21 plan that is made:
- 22 (1) to pay for qualified higher education expenses, excluding any
23 withdrawals or distributions used to pay for qualified higher
24 education expenses, if the withdrawals or distributions are made
25 from an account of a college choice 529 education savings plan
26 that is terminated within twelve (12) months after the account is
27 opened;
- 28 (2) as a result of the death or disability of an account beneficiary;
- 29 (3) because an account beneficiary received a scholarship that
30 paid for all or part of the qualified higher education expenses of
31 the account beneficiary, to the extent that the withdrawal or
32 distribution does not exceed the amount of the scholarship; or
- 33 (4) by a college choice 529 education savings plan as the result of
34 a transfer of funds by a college choice 529 education savings plan
35 from one (1) third party custodian to another.
- 36 However, a qualified withdrawal does not include a withdrawal or
37 distribution that will be used for expenses that are for tuition in
38 connection with enrollment or attendance at an elementary or
39 secondary public, private, or religious school unless the school is
40 located in Indiana. A qualified withdrawal does not include a rollover
41 distribution or transfer of assets from a college choice 529 education
42 savings plan to any other qualified tuition program under Section 529



1 of the Internal Revenue Code or to any other similar plan.

2 (j) As used in this section, "taxpayer" means:

- 3 (1) an individual filing a single return;
 4 (2) a married couple filing a joint return; or
 5 (3) for taxable years beginning after December 31, 2019, a
 6 married individual filing a separate return.

7 (k) A taxpayer is entitled to a credit against the taxpayer's adjusted
 8 gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable
 9 year equal to the least of the following:

10 (1) The following amount:

11 (A) For taxable years beginning before January 1, 2019, the
 12 sum of twenty percent (20%) multiplied by the amount of the
 13 total contributions that are made by the taxpayer to an account
 14 or accounts of a college choice 529 education savings plan
 15 during the taxable year and that will be used to pay for
 16 qualified higher education expenses that are not qualified K-12
 17 education expenses, plus the lesser of:

- 18 (i) five hundred dollars (\$500); or
 19 (ii) ten percent (10%) multiplied by the amount of the total
 20 contributions that are made by the taxpayer to an account or
 21 accounts of a college choice 529 education savings plan
 22 during the taxable year and that will be used to pay for
 23 qualified K-12 education expenses.

24 (B) For taxable years beginning after December 31, 2018, the
 25 sum of:

- 26 (i) twenty percent (20%) multiplied by the amount of the
 27 total contributions that are made by the taxpayer to an
 28 account or accounts of a college choice 529 education
 29 savings plan during the taxable year and that are designated
 30 to pay for qualified higher education expenses that are not
 31 qualified K-12 education expenses; plus
 32 (ii) twenty percent (20%) multiplied by the amount of the
 33 total contributions that are made by the taxpayer to an
 34 account or accounts of a college choice 529 education
 35 savings plan during the taxable year and that are designated
 36 to pay for qualified K-12 education expenses.

37 (2) ~~One Two~~ thousand dollars (~~\$1,000~~), **(\$2,000)**, or ~~five hundred~~
 38 **one thousand** dollars (~~\$500~~) **(\$1,000)** in the case of a married
 39 individual filing a separate return.

40 (3) The amount of the taxpayer's adjusted gross income tax
 41 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,
 42 reduced by the sum of all credits (as determined without regard to



1 this section) allowed by IC 6-3-1 through IC 6-3-7.

2 (l) This subsection applies after December 31, 2018. At the time a
3 contribution is made to or a withdrawal is made from an account or
4 accounts of a college choice 529 education savings plan, the person
5 making the contribution or withdrawal shall designate whether the
6 contribution is made for or the withdrawal will be used for:

- 7 (1) qualified higher education expenses that are not qualified
8 K-12 education expenses; or
9 (2) qualified K-12 education expenses.

10 The Indiana education savings authority (IC 21-9-3) shall use
11 subaccounting to track the designations.

12 (m) A taxpayer who makes a contribution to a college choice 529
13 education savings plan is considered to have made the contribution on
14 the date that:

- 15 (1) the taxpayer's contribution is postmarked or accepted by a
16 delivery service, for contributions that are submitted to a college
17 choice 529 education savings plan by mail or delivery service; or
18 (2) the taxpayer's electronic funds transfer is initiated, for
19 contributions that are submitted to a college choice 529 education
20 savings plan by electronic funds transfer.

21 (n) A taxpayer is not entitled to a carryback, carryover, or refund of
22 an unused credit.

23 (o) A taxpayer may not sell, assign, convey, or otherwise transfer the
24 tax credit provided by this section.

25 (p) To receive the credit provided by this section, a taxpayer must
26 claim the credit on the taxpayer's annual state tax return or returns in
27 the manner prescribed by the department. The taxpayer shall submit to
28 the department all information that the department determines is
29 necessary for the calculation of the credit provided by this section.

30 (q) An account owner of an account of a college choice 529
31 education savings plan must repay all or a part of the credit in a taxable
32 year in which any nonqualified withdrawal is made from the account.

33 The amount the taxpayer must repay is equal to the lesser of:

- 34 (1) twenty percent (20%) of the total amount of nonqualified
35 withdrawals made during the taxable year from the account; or
36 (2) the excess of:

37 (A) the cumulative amount of all credits provided by this
38 section that are claimed by any taxpayer with respect to the
39 taxpayer's contributions to the account for all prior taxable
40 years beginning on or after January 1, 2007; over

41 (B) the cumulative amount of repayments paid by the account
42 owner under this subsection for all prior taxable years



- 1 beginning on or after January 1, 2008.
- 2 (r) Any required repayment under subsection (q) shall be reported
3 by the account owner on the account owner's annual state income tax
4 return for any taxable year in which a nonqualified withdrawal is made.
- 5 (s) A nonresident account owner who is not required to file an
6 annual income tax return for a taxable year in which a nonqualified
7 withdrawal is made shall make any required repayment on the form
8 required under IC 6-3-4-1(2). If the nonresident account owner does
9 not make the required repayment, the department shall issue a demand
10 notice in accordance with IC 6-8.1-5-1.
- 11 (t) The executive director of the Indiana education savings authority
12 shall submit or cause to be submitted to the department a copy of all
13 information returns or statements issued to account owners, account
14 beneficiaries, and other taxpayers for each taxable year with respect to:
- 15 (1) nonqualified withdrawals made from accounts, including
16 subaccounts of a college choice 529 education savings plan for
17 the taxable year; or
18 (2) account closings for the taxable year.
- 19 **SECTION 2. [EFFECTIVE JULY 1, 2021] (a) IC 6-3-3-12, as**
20 **amended by this act, applies to taxable years beginning after**
21 **December 31, 2021.**
22 **(b) This SECTION expires July 1, 2024.**

