

HOUSE BILL No. 1406

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-24.

Synopsis: Venture capital tax credits. Provides that the venture capital investment tax credit may be applied against any retaliatory premium tax liability imposed on out-of-state insurance companies (a retaliatory tax is added in determining Indiana insurance premium tax liability when the state in which the insurance company is domiciled imposes higher taxes and fees on an Indiana domiciled insurer for the same business.) Increases the maximum amount of tax credits available under the venture capital investment tax credit for the provision of qualified investment capital to a particular qualified Indiana business to be the lesser of: (1) the total amount of qualified investment capital provided to the qualified business multiplied by: (A) 40%, in the case of a qualified business that is located within a low income community; or (B) 25%, in the case of any other qualified business (other than a qualified business located in a low income community); or (2) \$1,500,000; for calendar years after 2016. Increases the total amount of tax credits that may be approved by the Indiana economic development corporation for qualified investment capital from \$12,500,000 to \$15,000,000. Provides that, for a taxable year beginning after December 31, 2016, the amount of credit to which a taxpayer is entitled to equals the product of: (1) 40%, in the case of a qualified Indiana business that is located within a low income community; or (2) 25%, in the case of any other qualified Indiana business; multiplied by the amount of the qualified investment capital. Incorporates the definition of "low income community" used in the federal new markets tax credit for purposes of determining a low income community in Indiana. Provides that the credit is assignable.

Effective: July 1, 2016; January 1, 2017.

Smaltz

January 13, 2016, read first time and referred to Committee on Ways and Means.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1406



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 6-3.1-24-0.5 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JANUARY 1, 2017]: **Sec. 0.5. As used in this chapter,**
- 4 **"low income community" has the meaning set forth in Section 45D**
- 5 **of the Internal Revenue Code.**
- 6 SECTION 2. IC 6-3.1-24-4 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 4. As used in this
- 8 chapter, "state tax liability" means a taxpayer's total tax liability that is
- 9 incurred under:
- 10 (1) IC 6-2.5 (state gross retail and use tax);
- 11 (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 12 (3) IC 6-5.5 (the financial institutions tax); **and**
- 13 (4) IC 27-1-18-2 (the insurance premiums tax); **and**
- 14 **(5) IC 27-1-20-12 (retaliatory tax);**
- 15 as computed after the application of the credits that under IC 6-3.1-1-2
- 16 are to be applied before the credit provided by this chapter.
- 17 SECTION 3. IC 6-3.1-24-7, AS AMENDED BY P.L.172-2011,



1 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JANUARY 1, 2017]: Sec. 7. (a) The Indiana economic development
 3 corporation shall certify that a business is a qualified Indiana business
 4 if the corporation determines that the business:

- 5 (1) has its headquarters in Indiana;
 6 (2) is primarily focused on professional motor vehicle racing,
 7 commercialization of research and development, technology
 8 transfers, or the application of new technology, or is determined
 9 by the Indiana economic development corporation to have
 10 significant potential to:
 11 (A) bring substantial capital into Indiana;
 12 (B) create jobs;
 13 (C) diversify the business base of Indiana; or
 14 (D) significantly promote the purposes of this chapter in any
 15 other way;
 16 (3) has had average annual revenues of less than ten million
 17 dollars (\$10,000,000) in the two (2) years preceding the year in
 18 which the business received qualified investment capital from a
 19 taxpayer claiming a credit under this chapter;
 20 (4) has:
 21 (A) at least fifty percent (50%) of its employees residing in
 22 Indiana; or
 23 (B) at least seventy-five percent (75%) of its assets located in
 24 Indiana; and
 25 (5) is not engaged in a business involving:
 26 (A) real estate;
 27 (B) real estate development;
 28 (C) insurance;
 29 (D) professional services provided by an accountant, a lawyer,
 30 or a physician;
 31 (E) retail sales, except when the primary purpose of the
 32 business is the development or support of electronic commerce
 33 using the Internet; or
 34 (F) oil and gas exploration.

35 **In addition, if a business is certified under this subsection, the**
 36 **Indiana economic development corporation shall also determine if**
 37 **the qualified Indiana business is located within a low income**
 38 **community. If the qualified Indiana business is located within a low**
 39 **income community, the Indiana economic development**
 40 **corporation shall include in the certification a designation of the**
 41 **qualified Indiana business as a business located within a low**
 42 **income community for purposes of determining the applicable**



1 **credit percentage under section 10 of this chapter.**

2 (b) A business shall apply to be certified as a qualified Indiana
3 business on a form prescribed by the Indiana economic development
4 corporation.

5 (c) If a business is certified as a qualified Indiana business under
6 this section, the Indiana economic development corporation shall
7 provide a copy of the certification to the investors in the qualified
8 Indiana business for inclusion in tax filings.

9 (d) Except as provided in subsection (e), the Indiana economic
10 development corporation may impose an application fee of not more
11 than two hundred dollars (\$200).

12 (e) The Indiana economic development corporation may not impose
13 the application fee authorized by subsection (d) for applications
14 submitted during the period beginning July 1, 2011, and ending June
15 30, 2013.

16 SECTION 4. IC 6-3.1-24-8, AS AMENDED BY P.L.172-2011,
17 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2016]: Sec. 8. (a) A certification provided under section 7 of
19 this chapter must include notice to the investors of the maximum
20 amount of tax credits available under this chapter for the provision of
21 qualified investment capital to the qualified Indiana business.

22 (b) For a calendar year ending before January 1, 2011, the maximum
23 amount of tax credits available under this chapter for the provision of
24 qualified investment capital to a particular qualified Indiana business
25 equals the lesser of:

- 26 (1) the total amount of qualified investment capital provided to
27 the qualified Indiana business in the calendar year, multiplied by
28 twenty percent (20%); or
29 (2) five hundred thousand dollars (\$500,000).

30 (c) For a calendar year beginning after December 31, 2010, **and**
31 **before January 1, 2017**, the maximum amount of tax credits available
32 under this chapter for the provision of qualified investment capital to
33 a particular qualified Indiana business equals the lesser of the
34 following:

- 35 (1) The total amount of qualified investment capital provided to
36 the qualified Indiana business in the calendar year, multiplied by
37 twenty percent (20%).
38 (2) One million dollars (\$1,000,000).

39 (d) **For a calendar year beginning after December 31, 2016, the**
40 **maximum amount of tax credits available under this chapter for**
41 **the provision of qualified investment capital to a particular**
42 **qualified Indiana business equals the lesser of the following:**



1 **(1) The total amount of qualified investment capital provided**
 2 **to the qualified Indiana business in the calendar year,**
 3 **multiplied by:**

4 **(A) forty percent (40%), in the case of qualified investment**
 5 **capital provided by a taxpayer to a qualified Indiana**
 6 **business that is located within any low income community**
 7 **in Indiana; or**

8 **(B) twenty-five percent (25%), in the case of qualified**
 9 **investment capital provided by a taxpayer to a qualified**
 10 **Indiana business that is not described in clause (A).**

11 **(2) One million five hundred thousand dollars (\$1,500,000).**

12 SECTION 5. IC 6-3.1-24-9, AS AMENDED BY P.L.250-2015,
 13 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JANUARY 1, 2017]: Sec. 9. (a) The total amount of tax credits that
 15 may be approved by the corporation under this chapter in a particular
 16 calendar year for qualified investment capital provided during that
 17 calendar year may not exceed ~~twelve~~ **fifteen** million ~~five hundred~~
 18 ~~thousand~~ dollars ~~(\$12,500,000)~~. **(\$15,000,000)**. An amount of an
 19 unused credit carried over by a taxpayer from a previous calendar year
 20 may not be considered in determining the amount of proposed
 21 investments that the Indiana economic development corporation may
 22 certify under this chapter.

23 (b) Notwithstanding the other provisions of this chapter, a taxpayer
 24 is not entitled to a credit for providing qualified investment capital to
 25 a qualified Indiana business after December 31, 2020. However, this
 26 subsection may not be construed to prevent a taxpayer from carrying
 27 over to a taxable year beginning after December 31, 2020, an unused
 28 tax credit attributable to an investment occurring before January 1,
 29 2021.

30 SECTION 6. IC 6-3.1-24-10 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 10. Subject to
 32 sections 8 and 13 of this chapter, the amount of the credit to which a
 33 taxpayer is entitled under section 6 of this chapter equals the product
 34 of:

35 **(1) ~~twenty percent (20%); a percentage equal to:~~**

36 **(A) forty percent (40%), in the case of qualified investment**
 37 **capital provided by a taxpayer to a qualified Indiana**
 38 **business that is located within any low income community**
 39 **in Indiana; or**

40 **(B) twenty-five percent (25%), in the case of qualified**
 41 **investment capital provided by a taxpayer to a qualified**
 42 **Indiana business that is not described in clause (A);**



- 1 multiplied by
- 2 (2) the amount of the qualified investment capital provided to a
- 3 qualified Indiana business by the taxpayer in the taxable year.
- 4 SECTION 7. IC 6-3.1-24-12.5, AS AMENDED BY P.L.193-2005,
- 5 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6 JANUARY 1, 2017]: Sec. 12.5. (a) A taxpayer wishing to obtain a
- 7 credit under this chapter must apply to the Indiana economic
- 8 development corporation for a certification that the taxpayer's proposed
- 9 investment plan would qualify for a credit under this chapter.
- 10 (b) The application required under subsection (a) must include:
- 11 (1) the name and address of the taxpayer;
- 12 (2) the name and address of each proposed recipient of the
- 13 taxpayer's proposed investment;
- 14 (3) the amount of the proposed investment;
- 15 (4) a copy of the certification issued under section 7 of this
- 16 chapter that the proposed recipient is a qualified Indiana business;
- 17 and
- 18 (5) any other information required by the Indiana economic
- 19 development corporation.
- 20 (c) If the Indiana economic development corporation determines
- 21 that:
- 22 (1) the proposed investment would qualify the taxpayer for a
- 23 credit under this chapter; and
- 24 (2) the amount of the proposed investment would not result in the
- 25 total amount of tax credits certified for the calendar year
- 26 exceeding ~~twelve~~ **fifteen** million ~~five hundred thousand~~ dollars
- 27 ~~(\$12,500,000);~~ **(\$15,000,000);**
- 28 the corporation shall certify the taxpayer's proposed investment plan.
- 29 (d) To receive a credit under this chapter, the taxpayer must provide
- 30 qualified investment capital to a qualified Indiana business according
- 31 to the taxpayer's certified investment plan within two (2) years after the
- 32 date on which the Indiana economic development corporation certifies
- 33 the investment plan.
- 34 (e) Upon making the investment required under subsection (d), the
- 35 taxpayer shall provide proof of the investment to the Indiana economic
- 36 development corporation.
- 37 (f) Upon receiving proof of a taxpayer's investment under subsection
- 38 (e), the Indiana economic development corporation shall issue the
- 39 taxpayer a certificate indicating:
- 40 (1) that the taxpayer has fulfilled the requirements of the
- 41 corporation; ~~and~~
- 42 (2) that the taxpayer is entitled to a credit under this chapter; ~~and~~



- 1 **(3) the credit percentage that the taxpayer is entitled to apply**
2 **in determining the amount of the credit under section 10 of**
3 **this chapter.**
- 4 (g) A taxpayer forfeits the right to a tax credit attributable to an
5 investment certified under subsection (c) if the taxpayer fails to make
6 the proposed investment within the period required under subsection
7 (d).
- 8 SECTION 8. IC 6-3.1-24-13.5 IS ADDED TO THE INDIANA
9 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
10 **[EFFECTIVE JULY 1, 2016]: Sec. 13.5. (a) A taxpayer may assign**
11 **any part of the credit to which the taxpayer is entitled under this**
12 **chapter to another taxpayer. A credit that is assigned under this**
13 **subsection remains subject to this chapter.**
- 14 **(b) An assignment under subsection (a) must be in writing, and**
15 **both the taxpayer and the other taxpayer must report the**
16 **assignment on their state tax return for the year in which the**
17 **assignment is made, in the manner prescribed by the department.**
18 **The taxpayer shall not receive value in connection with the**
19 **assignment under subsection (a) that exceeds the value of the part**
20 **of the credit assigned.**
- 21 SECTION 9. [EFFECTIVE JANUARY 1, 2017] **(a) IC 6-3.1-24-10,**
22 **as amended by this act, applies to taxable years beginning after**
23 **December 31, 2016.**
- 24 **(b) The SECTION expires January 1, 2020.**

