

SENATE BILL No. 108

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-35.

Synopsis: Income tax credit for rail improvements. Provides that a railroad company that is classified as a Class II or Class III carrier is entitled to a credit against the railroad company's state income tax liability equal to 50% of the amount of qualified railroad reconstruction or replacement expenditures made by the railroad company during the taxable year. Provides, however, that the credit may not exceed the number of miles of railroad owned or leased by the railroad company on the last day of the taxable year multiplied by \$3,500.

Effective: July 1, 2020.

Crider

January 6, 2020, read first time and referred to Committee on Tax and Fiscal Policy.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 108

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 6-3.1-35 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2020]:
- 4 **Chapter 35. Railroad Investment Tax Credit**
- 5 **Sec. 1. As used in this chapter, "department" refers to the**
- 6 **department of state revenue.**
- 7 **Sec. 2. As used in this chapter, "pass through entity" means:**
- 8 **(1) a corporation that is exempt from the adjusted gross**
- 9 **income tax under IC 6-3-2-2.8(2);**
- 10 **(2) a partnership;**
- 11 **(3) a limited liability company; or**
- 12 **(4) a limited liability partnership.**
- 13 **Sec. 3. As used in this chapter, "qualified railroad**
- 14 **reconstruction or replacement expenditures" means the amount of**
- 15 **expenditures made by a qualified taxpayer for:**
- 16 **(1) maintenance, reconstruction, or replacement of railroad**
- 17 **infrastructure, including:**



- 1 (A) track;
 2 (B) roadbed;
 3 (C) bridges;
 4 (D) industrial leads; and
 5 (E) track related structures; and
 6 (2) new construction of:
 7 (A) industrial leads;
 8 (B) switches;
 9 (C) spurs;
 10 (D) sidings; or
 11 (E) extensions of existing sidings.

12 **Sec. 4.** As used in this chapter, "qualified taxpayer" means a
 13 taxpayer that is a railroad company that is classified as a Class II
 14 or Class III carrier as determined by the Surface Transportation
 15 Board based on annual revenue thresholds under 49 CFR 1201 1-1,
 16 Subpart A.

17 **Sec. 5.** As used in this chapter, "state tax liability" means a
 18 qualified taxpayer's total tax liability that is incurred under
 19 IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax) as
 20 computed after the application of the credits that under
 21 IC 6-3.1-1-2 are to be applied before the credit provided by this
 22 chapter.

23 **Sec. 6. (a)** Subject to subsection (b) and section 7 of this chapter,
 24 a qualified taxpayer is entitled to a credit against the qualified
 25 taxpayer's state tax liability for a taxable year equal to:

- 26 (1) the amount of qualified railroad reconstruction or
 27 replacement expenditures paid by the qualified taxpayer
 28 during the taxable year; multiplied by
 29 (2) fifty percent (50%).

30 (b) The amount of a credit that a qualified taxpayer is entitled
 31 to with respect to the taxable year under subsection (a) may not
 32 exceed the product of:

- 33 (1) the number of miles of railroad:
 34 (A) located in Indiana; and
 35 (B) owned or leased;

36 by the eligible taxpayer on the last day of the taxable year;
 37 multiplied by

- 38 (2) three thousand five hundred dollars (\$3,500).

39 **Sec. 7. (a)** A taxpayer wishing to obtain a credit under this
 40 chapter must first apply to the Indiana department of
 41 transportation for certification of the credit.

42 (b) The application must be in the form prescribed by the



1 **Indiana department of transportation.**

2 **(c) The Indiana department of transportation shall review an**
 3 **application for certification of credit not later than fifteen (15)**
 4 **days after its receipt.**

5 **(d) If, after reviewing an application for certification, the**
 6 **Indiana department of transportation determines that the:**

- 7 **(1) taxpayer is a qualified taxpayer; and**
 8 **(2) taxpayer's proposed or incurred expenditures would**
 9 **qualify for a credit under this chapter;**

10 **the Indiana department of transportation shall issue a certification**
 11 **of credit to the taxpayer certifying the taxpayer as a qualified**
 12 **taxpayer and certifying the taxpayer's proposed or incurred**
 13 **expenditures as qualified railroad reconstruction or replacement**
 14 **expenditures for purposes of this chapter.**

15 **(e) To receive the credit allowed under this chapter, a qualified**
 16 **taxpayer must claim the credit on the qualified taxpayer's state tax**
 17 **return or returns in the manner prescribed by the department. The**
 18 **qualified taxpayer shall submit to the department the certification**
 19 **of credit by the Indiana department of transportation, proof of**
 20 **payment of the certified qualified railroad reconstruction or**
 21 **replacement expenditures, and all information that the department**
 22 **determines is necessary for the calculation of the credit.**

23 **(f) The department shall adopt rules under IC 4-22-2 for the**
 24 **verification and certification process under this section and to**
 25 **otherwise carry out this chapter.**

26 **Sec. 8. If a pass through entity is entitled to a credit under**
 27 **section 6 of this chapter but does not have state tax liability against**
 28 **which the tax credit may be applied, a shareholder, partner, or**
 29 **member of the pass through entity is entitled to a tax credit equal**
 30 **to:**

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

36 **Sec. 9. (a) If the credit provided by this chapter exceeds the**
 37 **qualified taxpayer's state tax liability for the taxable year for**
 38 **which the credit is first claimed, the excess may be carried forward**
 39 **to succeeding taxable years and used as a credit against the**
 40 **qualified taxpayer's state tax liability during those taxable years.**
 41 **Each time that the credit is carried forward to a succeeding taxable**
 42 **year, the credit is to be reduced by the amount that was used as a**



1 credit during the immediately preceding taxable year. The credit
2 provided by this chapter may be carried forward and applied to
3 succeeding taxable years for five (5) taxable years following the
4 unused credit year.

5 (b) A credit earned by a taxpayer in a particular taxable year
6 shall be applied against the taxpayer's tax liability for that taxable
7 year before any credit carryover is applied against that liability
8 under subsection (a).

9 (c) A qualified taxpayer is not entitled to any carryback or
10 refund of any unused credit.

11 **Sec. 10. (a)** A qualified taxpayer may assign any part of the
12 credit that the qualified taxpayer may claim under this chapter. A
13 qualified taxpayer may assign a credit for up to five (5) taxable
14 years following the first year for which the credit may be claimed.
15 A credit that is assigned under this section remains subject to this
16 chapter.

17 (b) An assignment of a credit under this section must be in
18 writing. If the right to claim a credit is assigned under this section,
19 the qualified taxpayer and the assignee shall provide the
20 department with a copy of the written assignment not later than
21 thirty (30) days after the assignment is made. The written
22 assignment must include at least the following information:

23 (1) The name, address, and taxpayer identification number of
24 the qualified taxpayer and the assignee.

25 (2) The taxable year for which the Indiana department of
26 transportation originally certified the qualified taxpayer's
27 expenditures as qualified railroad reconstruction or
28 replacement expenditures under section 7(d) of this chapter.

29 (3) The amount of the credit being assigned and the taxable
30 year or years in which the credit will be claimed by the
31 assignee.

32 (c) Both the qualified taxpayer and assignee shall report the
33 assignment on the qualified taxpayer's and assignee's state tax
34 returns for the year in which the assignment is made, in the
35 manner prescribed by the department.

36 **SECTION 2. [EFFECTIVE JULY 1, 2020] (a)** IC 6-3.1-35, as
37 added by this act, applies to taxable years beginning after
38 December 31, 2020.

39 (b) This SECTION expires December 31, 2023.

