January 27, 2021

SENATE BILL No. 209

DIGEST OF SB 209 (Updated January 25, 2021 3:15 pm - DI 136)

Citations Affected: IC 6-3.1.

Synopsis: Foster care program tax credit. Provides a tax credit for a taxpayer that makes a monetary contribution to a qualifying foster care organization. Defines a "qualifying foster care organization" as an organization that (1) is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code; (2) provides foster care prevention services and programs or direct assistance to individuals in the foster care system; (3) spends at least 50% of its available revenue on qualified services to Indiana residents; (4) affirms it will continue spending at least 50% of its available revenue on qualified services to Indiana residents; and (5) provides ongoing qualified services to at least 200 Indiana residents. Provides that the department of state revenue (department) shall grant a tax credit against any state tax liability due equal to 50% of the amount of the monetary contribution by a person to a qualifying foster care organization. Provides that the tax credit that a taxpayer receives may not exceed $100,000 for any taxable year. Provides that the amount of tax credits allowed may not exceed $2,000,000 in the state fiscal year. Provides that to claim a tax credit an application must be filed with the department. Provides that the department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year in which the application is filed. Provides that when the total credits approved equal the maximum amount allowable in any state fiscal year, no application thereafter filed for that fiscal year shall be approved.

Effective: July 1, 2021.

Doriot, Garten, Freeman, Ford Jon, Rogers, Crane, Grooms, Qaddoura

January 7, 2021, read first time and referred to Committee on Family and Children Services.
January 26, 2021, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

January 27, 2021

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.

SENATE BILL No. 209

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-35.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 35.8. Foster Care Support Tax Credit

Sec. 1. (a) As used in this chapter, "foster care" means living in a place licensed under IC 31-27.

(b) As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

(c) As used in this chapter, "qualifying foster care organization" means an organization that meets the following qualifications:

(1) The organization is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code.

(2) The organization provides:

(A) foster care prevention services and programs as required by 42 U.S.C. 671; or

(B) direct assistance to individuals in the foster care

system.

(3) The organization spends at least fifty percent (50%) of its available revenue on qualified services to Indiana residents.

(4) The organization affirms that it will continue spending at least fifty percent (50%) of its available revenue on qualified services to Indiana residents.

(5) The organization provides ongoing qualified services to at least two hundred (200) Indiana residents.

(d) As used in this chapter, "state fiscal year" means a twelve (12) month period beginning on July 1 and ending on June 30.

(e) As used in this chapter, "state tax liability" means the taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax); and

(2) IC 6-5.5 (the financial institutions tax);

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

(f) As used in this chapter, "tax credit" means a deduction from any tax otherwise due under IC 6-3 or IC 6-5.5.

Sec. 2. A person who makes a monetary contribution to a qualifying foster care organization shall receive a tax credit as provided in section 3 of this chapter.

Sec. 3. (a) Subject to the limitations provided in subsection (b) and sections 5 and 6 of this chapter, the department shall grant a tax credit against any state tax liability due equal to fifty percent (50%) of the amount of the monetary contribution by a person to a qualifying foster care organization.

(b) The tax credit provided by this chapter must only be applied against any state tax liability owed by the taxpayer after the application of any credits, which under IC 6-3.1-1-2 must be applied before the credit provided by this chapter. In addition, the tax credit which a taxpayer receives under this chapter may not exceed one hundred thousand dollars ($100,000) for any taxable year of the taxpayer.

(c) If a person that is:

(1) exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(2); or

(2) a partnership;

does not have any tax liability against which the credit provided by this section may be applied, a shareholder or a partner of the business firm is entitled to a credit against the shareholder's or

partner's liability under the adjusted gross income tax.

(d) The amount of the tax credit provided by this section under subsection (c) is equal to:

(1) the tax credit determined for the business firm for the taxable year under subsection (a); multiplied by

(2) the percentage of the business firm's distributive income to which the shareholder or the partner is entitled.

The tax credit provided by this section is in addition to any credit to which a shareholder or partner is otherwise entitled under this chapter. However, a business firm and a shareholder or partner of that business firm may not claim a credit under this chapter for the same monetary contribution to a qualifying foster care organization.

Sec. 4. (a) Any business firm or person that desires to claim a tax credit as provided in this chapter shall file with the department, in the form that the department may prescribe, an application stating the amount of the contribution or investment that it proposes to make that would qualify for a tax credit, and the amount sought to be claimed as a credit.

(b) The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year in which the application is filed, as provided in section 5 of this chapter. If the credit is allowable in that state fiscal year, the applicant shall within thirty (30) days after receipt of the notice file with the department a statement, in the form and accompanied by the proof of payment as the department may prescribe, setting forth that the amount to be claimed as a credit under this chapter has been paid to a qualifying foster care organization for an approved program or purpose, or permanently set aside in a special account to be used solely for an approved program or purpose.

(c) The department may disallow any credit claimed under this chapter for which the statement or proof of payment is not filed within the thirty (30) day period.

Sec. 5. (a) The amount of tax credits allowed under this chapter may not exceed two million dollars ($2,000,000) in the state fiscal year beginning July 1, 2021, and each state fiscal year thereafter.

(b) The department shall record the time of filing of each application for allowance of a tax credit required under section 4 of this chapter and shall approve the applications, if they otherwise qualify for a tax credit under this chapter, in the chronological order in which the applications are filed in the state fiscal year.

(c) When the total tax credits approved under this section equal the maximum amount allowable in any state fiscal year, no application thereafter filed for that same fiscal year shall be approved. However, if any applicant for whom a credit has been approved fails to file the statement of proof of payment required under section 4 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to any subsequent applicant in the year. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

Sec. 6. A tax credit shall be allowable under this chapter only for the taxable year of the taxpayer in which the contribution qualifying for the credit is paid or permanently set aside in a special account for the approved program or purpose.

COMMITTEE REPORT

Madam President: The Senate Committee on Family and Children Services, to which was referred Senate Bill No. 209, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 10 through 14, begin a new paragraph and insert:

"**(c) As used in this chapter, "qualifying foster care organization" means an organization that meets the following qualifications:**

(1) The organization is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code.

(2) The organization provides:

(A) foster care prevention services and programs as required by 42 U.S.C. 671; or

(B) direct assistance to individuals in the foster care system.

(3) The organization spends at least fifty percent (50%) of its available revenue on qualified services to Indiana residents.

(4) The organization affirms that it will continue spending at least fifty percent (50%) of its available revenue on qualified services to Indiana residents.

(5) The organization provides ongoing qualified services to at least two hundred (200) Indiana residents.".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 209 as introduced.)

GROOMS, Chairperson

Committee Vote: Yeas 8, Nays 0.