HOUSE BILL No. 1363

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-34.

Synopsis: Tax credit for manufacture of energy devices. Provides for a credit against a taxpayer's state tax liability for expenditures made by the taxpayer during a taxable year for depreciable assets that are reasonable and necessary for the manufacture or assembly of renewable energy production devices in Indiana.

Effective: January 1, 2018.

Hamilton

January 12, 2017, read first time and referred to Committee on Ways and Means.

Introduced

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1363

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 6-3.1-34 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018]:

Chapter 34. Tax Credit for Manufacture of Renewable Energy Production Devices

Sec. 1. This chapter applies only to taxable years beginning after December 31, 2017.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Department" refers to:

(A) the department of state revenue; or

(B) the department of insurance;

whichever is obligated to administer the tax against which a tax credit is applied.

(2) "Depreciable assets" means real or personal property that qualifies for a depreciation deduction under the Internal Revenue Code.

(3) "IEDC" refers to the Indiana economic development

corporation.

(4) "Qualified expenditures" means expenditures that are approved by the IEDC under section 8 of this chapter.

(5) "Renewable energy" means energy that is collected from resources that are naturally replenished on a human timescale, including sunlight, wind, tides, waves, and geothermal heat.

(6) "Renewable energy production device" means a device designed to convert renewable energy to heat, electricity, or chemical energy.

(7) "State tax liability" means a taxpayer's total tax liability that is incurred under:

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

(B) IC 6-5.5 (the financial institutions tax); and

(C) IC 27-1-18-2 (the insurance premiums 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.

(8) "Tax credit" refers to a tax credit granted by this chapter against state tax liability.

(9) "Taxpayer" means an individual, partnership, corporation, or other entity that is subject to any of the following:

(A) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).

(B) IC 6-5.5 (the financial institutions tax).

(C) IC 27-1-18-2 (the insurance premiums tax).

Sec. 3. Each taxable year, a taxpayer who makes qualified expenditures during the taxable year for depreciable assets that are reasonable and necessary for the manufacture or assembly of renewable energy production devices in Indiana is entitled to a credit against the taxpayer's state tax liability for the taxable year in an amount equal to fifteen percent (15%) of the qualified expenditures.

Sec. 4. (a) If the amount of a tax credit to which a taxpayer is entitled in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to not more than five (5) subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused tax credit.

Sec. 5. If a taxpayer is a pass through entity that does not have state tax liability against which a tax credit may be applied, a shareholder, partner, fiduciary, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit computed for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, fiduciary, or member is entitled.

Sec. 6. To receive a tax credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall maintain the records required by the department for the period specified by the department to substantiate the taxpayer's eligibility for a tax credit.

Sec. 7. (a) A taxpayer who desires to claim the tax credit provided by this chapter for a taxable year must submit an application to the IEDC before the end of the taxable year in the manner prescribed by the IEDC.

(b) An application submitted under this section must include the following:

(1) A brief description of the taxpayer's trade or business.

(2) A description of the renewable energy production devices that the taxpayer manufactures or assembles.

(3) A list of the expenditures, actual or proposed, for which the taxpayer is seeking qualification.

(4) Any other information reasonably required by the IEDC.

Sec. 8. (a) The IEDC shall review the applications submitted under section 7 of this chapter in the order in which the applications are received.

(b) The IEDC shall make reasonable efforts to verify that the information submitted in an application meets the conditions for claiming the tax credit that are set forth in section 3 of this chapter. The IEDC may seek additional information from a taxpayer before taking action on an application.

(c) If the IEDC determines that an applicant or every expenditure described in the application, or both, fails to meet the conditions set forth in section 3 of this chapter, the IEDC shall issue a denial letter to the applicant that states the reasons for the denial.

(d) If the IEDC determines that an applicant and at least some of the expenditures described in the application meet the conditions set forth in section 3 of this chapter, the IEDC shall issue an approval letter for those expenditures described in the application that meet the conditions set forth in section 3 of this chapter. If the IEDC approves some expenditures and denies other expenditures described in the application, the IEDC shall also state in the approval letter the reasons for denying the unapproved expenditures.