SENATE BILL No. 186

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-39.

Synopsis: Tax credit for employer provided child care. Establishes a state tax credit for a taxpayer that makes qualified child care expenditures or qualified child care resource and referral expenditures in providing child care to the taxpayer's employees. Provides that the maximum amount of the credit for each taxable year is equal to 50% of the taxpayer's qualified child care expenditures or qualified child care resource and referral expenditors for the taxpayer's qualified child care expenditures or qualified child care resource and referral expenditures for the taxable year. Provides for recapture of certain amounts due to cessation of operation of a child care facility or a change in ownership of a child care facility.

Effective: July 1, 2023; January 1, 2024.

Walker K

January 9, 2023, read first time and referred to Committee on Appropriations.



Introduced

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 186

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 6-3.1-39 IS ADDED TO THE INDIANA CODE
2	AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3	JANUARY 1, 2024]:
4	Chapter 39. Employer Child Care Expenditure Credits
5	Sec. 1. As used in this chapter, "Indiana qualified child care
6	facility" means a facility that is:
7	(1) a qualified child care facility (as defined in Section 45F of
8	the Internal Revenue Code);
9	(2) located in Indiana;
10	(3) licensed by the division of family resources under
11	IC 12-17.2; and
12	(4) operated:
13	(A) by a taxpayer;
14	(B) by a taxpayer jointly with one (1) or more other
15	individuals or entities; or
16	(C) under a contract described in Section 45F(c)(1)(A)(iii)
17	of the Internal Revenue Code with the taxpayer.



1	Sec. 2. As used in this chapter, "pass through entity" means:
2	(1) a corporation that is exempt from the adjusted gross
3	income tax under IC 6-3-2-2.8(2);
4	(2) a partnership;
5	(3) a trust;
6	(4) an estate;
7	(5) a limited liability company; or
8	(6) a limited liability partnership.
9	Sec. 3. As used in this chapter, "qualified child care
10	expenditure" means an expenditure that is:
11	(1) a qualified child care expenditure (as defined in Section
12	45F of the Internal Revenue Code); and
13	(2) an expenditure:
14	(A) for the acquisition, construction, rehabilitation, or
15	expansion of property used as part of an Indiana qualified
16	child care facility of a taxpayer that is operated for the
17	taxpayer's employees;
18	(B) for the operation of an Indiana qualified child care
19	facility of a taxpayer for the taxpayer's employees,
20	including costs related to the training of employees,
21	scholarship programs, or providing increased
22	compensation to employees with higher levels of child care
23	training; or
24	(C) incurred under a contract between a taxpayer and an
25	Indiana qualified child care facility to provide child care
26	services to employees of the taxpayer.
27	Sec. 4. As used in this chapter, "qualified expenditure" means
28	the amount paid or incurred for any combination of the following:
29	(1) A qualified child care expenditure.
30	(2) A qualified Indiana child care resource and referral
31	expenditure.
32	Sec. 5. As used in this chapter, "qualified Indiana child care
33	resource and referral expenditure" means an expenditure that is:
34	(1) a qualified child care resource and referral expenditure (as
35	defined in Section 45F of the Internal Revenue Code); and
36	(2) incurred under a contract between a taxpayer and an
37	Indiana qualified child care facility to provide child care
38	services to employees of the taxpayer.
39	Sec. 6. As used in this chapter, "recapture event" means:
40	(1) the cessation of the operation of the Indiana qualified child
41	care facility as an Indiana qualified child care facility; or
42	(2) a change in ownership of an Indiana qualified child care
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1facility for which a credit was allowed under this chapter,2unless the person acquiring an interest agrees to assume the3recapture liability of the person disposing of an interest.4The term does not include a cessation of operation or change in5ownership due to accident or casualty.6Sec. 7. As used in this chapter, "state tax liability" means the7taxpayer's total tax liability that is incurred under:8(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);9(2) IC 27-1-18-2 (the insurance premiums tax) or IC 6-8-1510(the nonprofit agricultural organization health coverage tax);11and12(3) IC 6-5.5 (the financial institutions tax);13as computed after the application of the credits that, under14IC 6-3.1-1-2, are to be applied before the credit provided by this15chapter.16Sec. 8. As used in this chapter, "taxpayer" means any person,17corporation, limited liability company, partnership, or other entity18that has any state tax liability. The term includes a pass through19entity.20Sec. 9. (a) A taxpayer that makes a qualified expenditure in a21taxable year is entitled to a credit against the taxpayer's state tax22liability for the taxable year.23(b) The maximum amount of the credit to which a taxpayer is24entitled in a particular taxable year is equal to fifty percent (50%)25of the employer's qualified expenditures in the taxable year. <td< th=""><th></th><th></th></td<>		
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taxpayer's state tax liability for that taxable year, the taxpayer 2 may carry the excess credit over for a period not to exceed the eligible taxpayer's following three (3) taxable years. The amount 4 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 6 under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback or a refund of any unused credit amount.

(b) A taxpayer may not assign any part of a credit to which the taxpayer is entitled under this chapter.

Sec. 12. To obtain a credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter.

16 Sec. 13. (a) If a recapture event occurs with respect to an 17 Indiana qualified child care facility within ten (10) years after the 18 end of the taxable year in which a credit was allowed, the taxpayer 19 is responsible for payment to the department of a recapture 20 amount. The recapture amount is equal to the following:

21 (1) One hundred percent (100%) of the credit if the use is 22 converted not later than three (3) years after the end of the 23 taxable year in which the credit was allowed.

24 (2) Eighty-five percent (85%) of the credit if the use is 25 converted after three (3) years but not later than four (4) 26 years after the end of the taxable year in which the credit was 27 allowed.

28 (3) Seventy percent (70%) of the credit if the use is converted 29 after four (4) years but not later than five (5) years after the 30 end of the taxable year in which the credit was allowed.

31 (4) Fifty-five percent (55%) of the credit if the use is 32 converted after five (5) years but not later than six (6) years 33 after the end of the taxable year in which the tax credit was 34 allowed.

35 (5) Forty percent (40%) of the credit if the use is converted 36 after six (6) years but not later than seven (7) years after the 37 end of the taxable year in which the credit was allowed.

38 (6) Twenty-five percent (25%) of the credit if the use is 39 converted after seven (7) years but not later than eight (8) 40 years after the end of the taxable year in which the credit was 41 allowed.

(7) Ten percent (10%) of the credit if the use is converted



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1	after eight (8) years and not later than ten (10) years after the
2	end of the taxable year in which the credit was allowed.
3	(b) Any recapture tax liability must be reported by the taxpayer
4	on the taxpayer's annual state income tax return for the taxable
5	year during which the use was converted.
6	Sec. 14. A taxpayer that claims a credit under this chapter is not
7	liable for any act or omission occurring at an Indiana qualified
8	child care facility that contracts with the taxpayer to provide child
9	care services to employees of the taxpayer if the Indiana qualified
10	child care facility is not owned or operated by the taxpayer.
11	SECTION 2. [EFFECTIVE JULY 1, 2023] IC 6-3.1-39, as added
12	by this act, applies only to taxable years beginning after December
13	31, 2023.

