

SENATE BILL No. 92

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-19.

Synopsis: Credit for poverty related contributions. Provides a tax credit to individuals for charitable contributions to organizations providing poverty assistance.

Effective: Upon passage; July 1, 1998.

Long

January 8, 1998, read first time and referred to Committee on Finance.



Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

SENATE BILL No. 92

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 6-3.1-19 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]:

4 **Chapter 19. Tax Credit for Contributions Aiding the Poor**
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, "division" refers to the division**
8 **of family and children.**

9 **Sec. 3. As used in this chapter, "qualified charitable**
10 **contribution" means a cash contribution to a qualified charity for**
11 **a purpose described in section 13 of this chapter.**

12 **Sec. 4. As used in this chapter, "qualified charity" means an**
13 **entity that is certified by the division as a qualified charity under**
14 **section 11 of this chapter.**

15 **Sec. 5. As used in this chapter, "state tax liability" means a**
16 **taxpayer's total tax liability that is incurred under IC 6-3-1**
17 **through IC 6-3-7 (the adjusted gross income tax) as computed after**

1998

IN 92—LS 6460/DI 51+



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

3 Sec. 6. As used in this chapter, "taxpayer" means an individual
4 that has any state tax liability.

5 Sec. 7. (a) A taxpayer is entitled to a credit against the
6 taxpayer's state tax liability for a taxable year beginning after
7 December 31, 1998, if:

8 (1) the taxpayer makes; or

9 (2) in the case of a taxpayer that files a joint return, the
10 taxpayer or the taxpayer's spouse, or both, make;

11 one (1) or more qualified charitable contributions that total in the
12 aggregate at least the minimum amount specified in section 8 of
13 this chapter in that taxable year, including, if the taxpayer makes
14 an election under subsection (b), the additional time allowed under
15 subsection (b).

16 (b) At the election of the taxpayer, a contribution that is made
17 not later than the time prescribed by law for filing a return for the
18 taxable year (not including any extension periods) shall be treated
19 as made on the last day of the taxable year. The election must be
20 made on the forms prescribed by the department and in
21 conformity with the rules adopted by the department under
22 IC 4-22-2.

23 Sec. 8. (a) Subject to this section, the amount of the tax credit
24 allowed under section 7 of this chapter is equal to one hundred
25 percent (100%) of the amount of qualified charitable contributions
26 made in the period specified in section 7 of this chapter.

27 (b) To qualify for the credit allowed under section 7 of this
28 chapter, the total of qualified charitable contributions made by:

29 (1) the taxpayer; or

30 (2) in the case of a taxpayer that files a joint return, the
31 taxpayer or the taxpayer's spouse, or both;

32 in the period specified in section 7 of this chapter must be at least
33 one hundred dollars (\$100).

34 (c) The maximum amount of tax credits that may be claimed
35 under section 7 of this chapter for a taxable year is the following:

36 (1) One hundred dollars (\$100), if the taxpayer does not file a
37 joint return.

38 (2) In the case of a taxpayer that files a joint return, the lesser
39 of the following:

40 (A) The amount of qualified charitable contributions made
41 by the taxpayer or the taxpayer's spouse, or both, in the
42 period specified in section 7 of this chapter.



1 **(B) Two hundred dollars (\$200).**

2 **Sec. 9. (a) If the amount of tax credits determined under section**
3 **8 of this chapter for a taxpayer in a taxable year exceeds the**
4 **taxpayer's state tax liability for that taxable year, the taxpayer**
5 **may carry the excess over to the following taxable years. The**
6 **amount of the credit carryover from a taxable year shall be**
7 **reduced to the extent that the carryover is used by the taxpayer to**
8 **obtain a credit under this chapter for any subsequent taxable year.**

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

11 **Sec. 10. To receive the credit provided by this chapter, a**
12 **taxpayer must claim the credit on the taxpayer's state tax return**
13 **or returns in the manner prescribed by the department. The**
14 **taxpayer shall submit to the department the amount of each**
15 **qualified charitable contribution, the name of the recipient, and all**
16 **information that the department determines is necessary for the**
17 **calculation of the credit provided by this chapter.**

18 **Sec. 11. (a) An organization may apply to the division to be**
19 **certified as a qualified charity.**

20 **(b) The division shall certify an entity that meets the**
21 **qualifications specified in section 12 of this chapter as a qualified**
22 **charity.**

23 **(c) A certification under this section does not expire. However,**
24 **the division may, under IC 4-21.5, decertify an entity that fails to**
25 **meet the qualifications specified in section 12 of this chapter.**

26 **(d) Decertification of a qualified charity does not affect the**
27 **availability of a credit under this chapter for qualified donations**
28 **made to the entity before the division's decertification order is**
29 **effective under IC 4-21.5-3 or IC 4-21.5-4.**

30 **(e) The division shall notify the applicant and the department**
31 **when an applicant is certified or decertified under this section.**

32 **Sec. 12. (a) To qualify for certification under section 11 of this**
33 **chapter, an entity must apply to the division for certification on the**
34 **forms, with the supporting documentation, and in the manner**
35 **specified by the division. The applicant must demonstrate to the**
36 **division that the entity meets the following requirements:**

37 **(1) That the entity is a charity that is exempt from federal**
38 **income taxation under the Internal Revenue Code.**

39 **(2) That the activity of the entity is to provide some or all of**
40 **the direct services described in section 13 of this chapter to**
41 **individuals whose annual gross income is not more than one**
42 **hundred eighty-five percent (185%) of the federal income**



1 poverty level as determined annually by the federal Office of
2 Management and Budget under 42 U.S.C. 9902.

3 (3) That substantially all of the entity's annual expenditures
4 are for the provision of services described in subdivision (2).

5 (4) That the entity does not engage in any of the following
6 activities:

7 (A) An activity for the purpose of influencing legislation.

8 (B) Litigation on behalf of an individual described in
9 subsection (a)(2).

10 (C) Voter registration, political organizing, public policy
11 advocacy, or public policy research.

12 (5) That the entity is organized or registered to do business in
13 Indiana.

14 (6) That the entity provides services described in subdivision
15 (2) in Indiana.

16 (7) That the entity is required or elects to be treated as being
17 required to file returns under Section 6033 of the Internal
18 Revenue Code.

19 (b) To retain a certification issued under section 11 of this
20 chapter, an entity must for each of its taxable years:

21 (1) comply with subsection (a)(1) through (a)(7);

22 (2) provide the division with the information reasonably
23 required by the division to carry out this chapter; and

24 (3) comply with section 17 of this chapter.

25 Sec. 13. A contribution for the following services provided by a
26 qualified charity shall be allowed as a qualified charitable
27 contribution:

28 (1) Distribution of clothing.

29 (2) Services related to any of the following:

30 (A) Foster care.

31 (B) Guardianships.

32 (3) Employment for the elderly.

33 (4) Any of the following provided by an organization other
34 than a public or private elementary, secondary, or
35 post-secondary school:

36 (A) Employment and job training.

37 (B) Employment and job placement.

38 (C) Employment and job counseling.

39 (5) Any of the following:

40 (A) Public food assistance (in kind or food stamp).

41 (B) Food pantries.

42 (C) Soup kitchens.



- 1 **(6) Any of the following:**
 2 (A) Housing for the elderly.
 3 (B) Housing subsidies.
 4 (C) Housing in kind.
 5 (D) Housing counseling.
 6 (E) Housing mediation.
- 7 **(7) Any of the following:**
 8 (A) Emergency shelter for psychiatric emergencies.
 9 (B) Other emergency shelter or housing, or both.
- 10 **(8) Delivery of cash aid, such as assistance (as defined in**
 11 **IC 12-7-2-18), or poor relief.**
- 12 **(9) Delivery of child care.**
- 13 **(10) Any of the following:**
 14 (A) Alcohol or substance abuse counseling, or both.
 15 (B) Alcohol or substance abuse care, or both.
- 16 **(11) Services related to child abuse or neglect, or both.**
- 17 **(12) Youth development for the disadvantaged.**
- 18 **Sec. 14. Temporary:**
 19 (1) donations of food or meals to individuals; or
 20 (2) shelter provided to homeless individuals;
 21 as determined under the rules adopted by the division under
 22 IC 4-22-2 shall be treated as direct services to which section
 23 12(a)(2) of this chapter applies if the location and operation of the
 24 services are such that the division may reasonably conclude that
 25 the beneficiaries are predominantly individuals whose annual gross
 26 income is described in section 12(a)(2) of this chapter.
- 27 **Sec. 15. An entity does not fail to comply with section 12(a)(3)**
 28 **of this chapter if the sum of its expenditures on:**
 29 (1) administrative expenditures in support of direct services
 30 described in section 12(a)(2) of this chapter; and
 31 (2) fundraising;
 32 is less than twenty-five percent (25%) of the entity's aggregate
 33 total expenditures in the entity's taxable year.
- 34 **Sec. 16. The division shall establish a procedure for an entity**
 35 **that:**
 36 (1) has not been previously certified by the department;
 37 (2) has not operated for more than one (1) taxable year; and
 38 (3) agrees to meet the requirements of section 12(a) of this
 39 chapter;
 40 to be certified under section 11 of this chapter.
- 41 **Sec. 17. Upon request of an individual, a qualified charity shall**
 42 **provide the individual with written proof, as determined under the**



1 rules of the department, that the qualified charity is certified under
2 section 11 of this chapter as a qualified charity.

3 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) The department
4 of state revenue shall prescribe forms and adopt rules under
5 IC 4-22-2 to implement IC 6-3.1-19, as added by this act, before
6 December 31, 1998.

7 (b) The division of family and children shall prescribe forms
8 and adopt rules under IC 4-22-2 to certify qualified charities under
9 IC 6-3.1-19, as added by this act, before July 1, 1998. The division
10 of family and children may adopt emergency rules in the same
11 manner as provided in IC 4-22-2-37.1 to implement this SECTION.
12 An emergency rule adopted under this SECTION expires on the
13 earlier of the following:

14 (1) The date that another emergency rule adopted under this
15 SECTION or a permanent rule adopted under IC 4-22-2
16 superseded it.

17 (2) July 1, 1998.

18 (b) IC 6-3.1-19, as added by this act, applies only to taxable
19 years beginning after December 31, 1998.

20 SECTION 3. An emergency is declared for this act.

