
HOUSE BILL No. 1040

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-5-39; IC 6-3.1-25.

Synopsis: Energy efficiency tax incentives. Exempts sales of certain energy efficient electrical appliances, heating and cooling products, and fuel cells from the state gross retail tax. Entitles a taxpayer to a credit against the taxpayer's state tax liability if the taxpayer installs a qualified energy system in a building owned by the taxpayer. Provides that, for a single family dwelling, the credit amount is the lesser of: (1) \$3,000; or (2) 25% of the costs of the qualified energy system and its installation. Provides that, for a building that is not a single family dwelling, the credit amount is the lesser of: (1) \$10,000; or (2) 25% of the costs of the qualified energy system and its installation. Requires a taxpayer to obtain a qualified energy system certificate from the department of commerce to claim the credit.

Effective: Upon passage; January 1, 2004.

Ruppel

January 7, 2003, read first time and referred to Committee on Ways and Means.

C
o
p
y



First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

C
o
p
y

HOUSE BILL No. 1040



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 6-2.5-5-39 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2004]: **Sec. 39. (a) This section applies to retail**
4 **transactions that occur after December 31, 2003, and before**
5 **January 1, 2008.**

6 **(b) Sales of the following are exempt from the state gross retail**
7 **tax:**

8 **(1) Any of the following electrical appliances that meet or**
9 **exceed the applicable Energy Star efficiency standards**
10 **developed by the United States Environmental Protection**
11 **Agency and the United States Department of Energy:**

12 **(A) A clothes washer.**

13 **(B) A refrigerator.**

14 **(C) A dishwasher.**

15 **(D) A room air conditioner.**

16 **To qualify for the exemption provided by this subdivision, a**
17 **retail transaction must involve the sale of an electrical**



1 appliance that is manufactured in the United States. For
 2 purposes of this subdivision, an electrical appliance is
 3 manufactured in the United States if it meets the
 4 requirements for manufactured articles used in federal
 5 procurements under the Buy American Act (41 U.S.C. 10(a)
 6 et seq.).

7 (2) Any of the following heating and cooling products that
 8 meet or exceed the applicable Energy Star efficiency
 9 standards developed by the United States Environmental
 10 Protection Agency and the United States Department of
 11 Energy:

- 12 (A) Boilers.
- 13 (B) Central air conditioners.
- 14 (C) Electric air source heat pumps.
- 15 (D) Furnaces.
- 16 (E) Geothermal heat pumps.
- 17 (F) Programmable thermostats.

18 (3) A natural gas heat pump that has a coefficient of
 19 performance of at least 1.25 for heating and at least 0.70 for
 20 cooling.

21 (4) An electric heat pump that has a heating system
 22 performance factor of at least 7.5 and a cooling seasonal
 23 energy efficiency ratio of at least 13.5.

24 (5) An electric heat pump hot water heater that has an energy
 25 factor of at least 1.7.

26 (6) An advanced natural gas water heater that has an energy
 27 factor of at least 0.65.

28 (7) A central air conditioner that has a cooling seasonal
 29 energy efficiency ratio of at least 13.5.

30 (8) A fuel cell that:

- 31 (A) generates electricity and heat by using an
- 32 electrochemical process;
- 33 (B) has an electricity only generation efficiency greater
- 34 than thirty-five percent (35%); and
- 35 (C) has a generating capacity of at least two (2) kilowatts.

36 (c) The department may adopt rules under IC 4-22-2 to
 37 implement this section.

38 (d) This section expires January 1, 2008.

39 SECTION 2. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
 40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 41 JANUARY 1, 2004]:

42 Chapter 25. Energy System Credits

C
O
P
Y



1 **Sec. 1.** As used in this chapter, "energy device" means
 2 equipment designed primarily for the collection, transfer,
 3 distribution, storage, or control of solar or wind energy. The term
 4 does not include the parts of a heating, a cooling, or an electric
 5 supply system that would be required regardless of the energy
 6 source being used.

7 **Sec. 2.** As used in this chapter, "home builder" means a person
 8 who:

- 9 (1) constructs; or
 10 (2) causes to be constructed;
 11 homes for the purpose of reselling the homes to others.

12 **Sec. 3.** (a) As used in this chapter, "qualified energy system"
 13 means energy devices that are:

- 14 (1) installed after December 31, 2003; and
 15 (2) used in an energy producing system for space heating or
 16 cooling, water heating, or generating electricity.

17 (b) The term includes the following:

- 18 (1) Active thermal systems that use solar devices thermally
 19 isolated from the living space to provide for the collection,
 20 storage, and distribution of solar energy for heating or
 21 cooling.
 22 (2) Passive thermal systems that are not augmented by
 23 mechanical components and that use the structural elements
 24 of the building to provide for the collection, storage, and
 25 distribution of solar energy for heating or cooling.
 26 (3) Semipassive thermal systems that use the structure of a
 27 building and are augmented by mechanical components to
 28 provide for the collection, storage, and distribution of solar
 29 energy for heating or cooling.
 30 (4) Energy conservation measures applied in conjunction with
 31 a solar or wind energy device to increase the efficiency of the
 32 energy device.
 33 (5) Geothermal systems that are designed to use the natural
 34 heat from the earth to provide hot water, produce electricity,
 35 or generate heating or cooling.
 36 (6) Hydroelectric power systems that are designed to use the
 37 kinetic power of moving water to provide mechanical energy
 38 or to produce electricity.

39 **Sec. 4.** As used in this chapter, "state tax liability" has the
 40 meaning set forth in IC 6-3.1-5-2.

41 **Sec. 5.** As used in this chapter, "taxpayer" means a person,
 42 corporation, partnership, or other entity that is subject to the taxes

C
 O
 P
 Y



1 imposed by the following statutes:

- 2 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).
 3 (2) IC 6-5.5 (the financial institutions tax).
 4 (3) IC 27-1-18-2 (the insurance premiums tax).

5 Sec. 6. (a) A taxpayer who is:

- 6 (1) the owner of an existing building; or
 7 (2) the purchaser of a new building;

8 that is located in Indiana and in which a qualified energy system is
 9 installed is entitled to a credit against the taxpayer's state tax
 10 liability for the year during which the qualified energy system is
 11 installed.

12 (b) This subsection applies if the qualified energy system is
 13 installed in a building that is a single family dwelling. The amount
 14 of the credit a taxpayer is entitled to under this chapter is
 15 determined in STEP THREE of the following formula:

16 STEP ONE: Add:

17 (A) the costs paid by the taxpayer for the qualified energy
 18 system; and

19 (B) the amount paid for:

- 20 (i) the installation of the qualified energy system; and
 21 (ii) the materials used in the installation of the qualified
 22 energy system.

23 STEP TWO: Reduce the amount determined under STEP
 24 ONE by any amount the taxpayer received as a grant from
 25 any public entity for installing the qualified energy system.

26 STEP THREE: Determine the lesser of:

- 27 (A) three thousand dollars (\$3,000); or
 28 (B) the amount determined under STEP TWO multiplied
 29 by twenty-five hundredths (0.25).

30 (c) This subsection applies if the qualified energy system is
 31 installed in a building that is not a single family dwelling. The
 32 amount of the credit that a taxpayer is entitled to under this
 33 chapter is determined in STEP THREE of the following formula:

34 STEP ONE: Add:

35 (A) the costs paid by the taxpayer for the qualified energy
 36 system; and

37 (B) the amount paid for:

- 38 (i) the installation of the qualified energy system; and
 39 (ii) the materials used in the installation of the qualified
 40 energy system.

41 STEP TWO: Reduce the amount determined under STEP
 42 ONE by any amount the taxpayer received as a grant from

C
O
P
Y



1 any public entity for installing the qualified energy system.

2 **STEP THREE: Determine the lesser of:**

3 (A) ten thousand dollars (\$10,000); or

4 (B) the amount determined under STEP TWO multiplied
5 by twenty-five hundredths (0.25).

6 **Sec. 7. (a) The amount of the credit provided by this chapter**
7 **that a taxpayer uses during a particular taxable year may not**
8 **exceed the taxpayer's state tax liability for that taxable year. If the**
9 **credit provided by this chapter exceeds a taxpayer's state tax**
10 **liability for the taxable year for which it is first claimed, the excess**
11 **of the credit may be carried over to succeeding taxable years and**
12 **used as a credit against the taxpayer's state tax liability for those**
13 **taxable years. The amount of the credit carryover from a taxable**
14 **year shall be reduced to the extent that the carryover is used by the**
15 **taxpayer to obtain a credit under this chapter for any subsequent**
16 **taxable year. The credit provided by this chapter may be carried**
17 **over until it is completely used.**

18 (b) If a credit is carried over and used in a later taxable year
19 under subsection (a), the taxpayer claiming the credit must provide
20 the department with proof that the taxpayer is entitled to the
21 carryover amount.

22 (c) A taxpayer is not entitled to a carryback or refund of any
23 unused credit.

24 **Sec. 8. Except in the case of a husband and wife filing a joint**
25 **return, if there is more than one (1) taxpayer who owns a building**
26 **for which a qualified energy system is installed, each taxpayer may**
27 **use the credit provided by this chapter in proportion to the**
28 **taxpayer's ownership interest in the building. In the case of a**
29 **husband and wife who own a building jointly and who file separate**
30 **tax returns, each may claim the credit in equal shares, or either of**
31 **them may claim the entire credit.**

32 **Sec. 9. If an energy device is used in conjunction with two (2) or**
33 **more qualified energy systems, the credit allowed under this**
34 **chapter for the energy device may be:**

35 (1) claimed for any one (1) of the qualified energy systems; or

36 (2) divided equally among all of the qualified energy systems.

37 **Sec. 10. A home builder may not claim a credit under this**
38 **chapter for the installation of a qualified energy system in a home**
39 **that the home builder has constructed for sale or has caused to be**
40 **constructed for sale. However, the original purchaser of the home**
41 **may claim the credit under this chapter. The original purchaser**
42 **must first claim the credit for the taxable year during which the**

C
o
p
y



1 purchaser acquires legal title to the home.

2 **Sec. 11. (a)** Except as provided in subsection (b), the department
3 may adopt rules under IC 4-22-2 to implement this chapter.

4 **(b)** The department of commerce shall adopt rules under
5 IC 4-22-2 for determining performance and quality standards for
6 purposes of the determination of whether an energy system is a
7 qualified energy system.

8 **Sec. 12. (a)** In order to claim the credit allowed under this
9 chapter for a particular energy system, the taxpayer must obtain
10 a qualified energy system certificate from the department of
11 commerce. To obtain a qualified energy system certificate, the
12 taxpayer must file an application with the department of
13 commerce. The department of commerce shall prescribe the form
14 and contents of the application.

15 **(b)** Upon receipt of an application filed under subsection (a), the
16 department of commerce shall determine whether the energy
17 system in question is a qualified energy system. If the department
18 of commerce determines that the energy system is a qualified
19 energy system, the department of commerce shall issue a qualified
20 energy system certificate to the applicant.

21 **Sec. 13.** To obtain the credit allowed under this chapter, the
22 taxpayer must file with the department:

- 23 (1) proof of the taxpayer's costs for the purchase and
24 installation of the qualified energy system;
25 (2) a list of the persons or corporations that supplied labor or
26 materials for the installation; and
27 (3) a qualified energy system certificate issued by the
28 department of commerce under section 12 of this chapter.

29 **Sec. 14.** This chapter expires January 1, 2013. However,
30 notwithstanding the expiration of this chapter, any part of a credit
31 obtained under this chapter that is carried forward to succeeding
32 tax years may be claimed until the total amount of the credit is
33 used in the manner provided by section 7 of this chapter.

34 **SECTION 3.** [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-25, as
35 added by this act, applies to taxable years beginning after
36 December 31, 2003.

37 **SECTION 4.** [EFFECTIVE UPON PASSAGE] **(a)** The department
38 of commerce shall adopt the rules required under
39 IC 6-3.1-25-11(b), as added by this act, for determining whether an
40 energy system is a qualified energy system not later than December
41 31, 2003.

C
O
P
Y



1 **(b) This SECTION expires December 31, 2004.**
2 **SECTION 5. An emergency is declared for this act.**

C
o
p
y

