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# HOUSE BILL No. 2002

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3-3; IC 6-3.5.

**Synopsis:** Qualified education expense tax credits. Provides income tax credits related to elementary and secondary education for charitable contributions to foundations that provide tuition scholarships for nonpublic schools and expenditures for out of school education of dependents who attend public schools.

**Effective:** January 1, 2003 (retroactive).

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January 23, 2003, read first time and referred to Committee on Ways and Means.

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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.

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## HOUSE BILL No. 2002



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 6-3-3-5.3 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 5.3. (a) As used in this**
- 4 **section, "dependent" has the meaning set forth in Section**
- 5 **151(c)(1)(B) of the Internal Revenue Code.**
- 6 **(b) As used in this section, "qualified home school expense"**
- 7 **means an expense for academic instruction, including instructional**
- 8 **materials, in the core curriculum areas of language arts,**
- 9 **mathematics, science, social studies, or foreign language.**
- 10 **(c) As used in this section, "qualified nonpublic school" means**
- 11 **a nonpublic school (as defined in IC 20-10.1-1-3) that:**
- 12 **(1) is an elementary or a secondary school;**
- 13 **(2) does not discriminate on the basis of race, gender, color,**
- 14 **familial status, or national origin; and**
- 15 **(3) agrees to accept students who receive scholarships from a**
- 16 **school scholarship organization.**
- 17 **(d) As used in this section, "qualified nonpublic school expense"**



1 means an expense for:

- 2 (1) tuition;
- 3 (2) academic instruction, including instructional materials, in
- 4 the core curriculum areas of language arts, mathematics,
- 5 science, social studies, or foreign language; or
- 6 (3) school transportation.

7 (e) As used in this section, "school scholarship organization"

8 means a charitable organization in Indiana that meets the

9 following requirements:

10 (1) Is exempt from federal income taxation under Section

11 501(c)(3) of the Internal Revenue Code.

12 (2) Allocates at least ninety percent (90%) of its annual

13 revenue for scholarships for one (1) or more of the following

14 purposes:

15 (A) To pay qualified nonpublic school expenses of students

16 who attend qualified nonpublic schools.

17 (B) To pay qualified home school expenses of students who

18 are:

19 (i) eligible for enrollment in a public school in

20 kindergarten through grade 12;

21 (ii) not enrolled in a school (public or nonpublic); and

22 (iii) excused under IC 20-8.1-3-34 from compulsory

23 school attendance.

24 (3) Provides scholarships for more than one (1) nonpublic

25 school or home school family unrelated by blood or marriage.

26 (4) Files an annual financial report with the department of

27 education established by IC 20-1-1.1-2 that:

28 (A) the department of education makes available to the

29 public free of charge; and

30 (B) contains the following information:

31 (i) The total dollar amount of donations the school

32 scholarship organization received during the preceding

33 year.

34 (ii) The total dollar amount the school scholarship

35 organization awarded in scholarships to individuals

36 during the preceding year.

37 (iii) Qualifications, if any, that the school scholarship

38 organization requires for an individual to receive a

39 scholarship, including grade level and family income

40 qualifications.

41 (f) A taxpayer may claim a credit against the adjusted gross

42 income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable

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1 year in an amount (subject to the applicable limitations provided  
2 by this section) equal to the total amount of charitable  
3 contributions:

4 (1) made by the taxpayer during the year to a school  
5 scholarship organization; and

6 (2) not designated by the taxpayer to be used for the direct  
7 benefit of a dependent of the taxpayer.

8 (g) In the case of a taxpayer other than a corporation, the  
9 amount allowable as a credit under this section for any taxable  
10 year may not exceed five hundred dollars (\$500) in the case of a  
11 single return or one thousand dollars (\$1,000) in the case of a joint  
12 return.

13 (h) In the case of a corporation, the amount allowable as a credit  
14 under this section for any taxable year may not exceed the lesser  
15 of:

16 (1) ten percent (10%) of the corporation's total adjusted gross  
17 income tax liability under IC 6-3-1 through IC 6-3-7 for the  
18 year (as determined without regard to any credits against that  
19 tax liability); or

20 (2) five hundred dollars (\$500).

21 (i) The credit under this section may not exceed the amount of  
22 the adjusted gross income tax liability imposed by IC 6-3-1 through  
23 IC 6-3-7 for the taxable year, reduced by the sum of all credits (as  
24 determined without regard to this section) allowed by IC 6-3-1  
25 through IC 6-3-7.

26 (j) For purposes of IC 1-1-1-8, if this section is held invalid,  
27 section 5.5 of this chapter is void.

28 SECTION 2. IC 6-3-3-5.5 IS ADDED TO THE INDIANA CODE  
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
30 JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 5.5. (a) As used in this**  
31 **section, "dependent" has the meaning set forth in Section**  
32 **151(c)(1)(B) of the Internal Revenue Code.**

33 (b) As used in this section, "public school" has the meaning set  
34 forth in IC 20-10.1-1-2.

35 (c) As used in this section, "qualified education expense" means  
36 an expense for academic instruction incurred by a taxpayer for a  
37 dependent who is enrolled in a public school for a grade from  
38 kindergarten through grade 12. The academic instruction must be:

39 (1) in grade or age appropriate curricula outside a regular  
40 school year or school day; and

41 (2) in the core curriculum areas of language arts,  
42 mathematics, science, or social studies.



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1 (d) As used in this section, "taxpayer" means an individual who  
2 has any adjusted gross income tax liability.

3 (e) A taxpayer may claim a credit against the adjusted gross  
4 income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable  
5 year in an amount (subject to the applicable limitations provided  
6 by this section) equal to the total amount of qualified education  
7 expense incurred by a taxpayer for a dependent of the taxpayer  
8 who is enrolled in a public school for a grade from kindergarten  
9 through grade 12.

10 (f) In the case of a taxpayer other than a corporation, the credit  
11 under this section for a taxable year may not exceed five hundred  
12 dollars (\$500) for each dependent in the case of a single return or  
13 a joint return.

14 (g) A corporation may not receive a credit under this section for  
15 any taxable year.

16 (h) The credit under this section may not exceed the amount of  
17 the adjusted gross income tax liability imposed by IC 6-3-1 through  
18 IC 6-3-7 for the taxable year, reduced by the sum of all credits (as  
19 determined without regard to this section) allowed by IC 6-3-1  
20 through IC 6-3-7.

21 (i) For purposes of IC 1-1-1-8, if this section is held invalid,  
22 section 5.3 of this chapter is void.

23 SECTION 3. IC 6-3.5-1.1-18 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:  
25 Sec. 18. (a) Except as otherwise provided in this chapter, all provisions  
26 of the adjusted gross income tax law (IC 6-3) concerning:

- 27 (1) definitions;
- 28 (2) declarations of estimated tax;
- 29 (3) filing of returns;
- 30 (4) remittances;
- 31 (5) incorporation of the provisions of the Internal Revenue Code;
- 32 (6) penalties and interest;
- 33 (7) exclusion of military pay credits for withholding; and
- 34 (8) exemptions and deductions;

35 apply to the imposition, collection, and administration of the tax  
36 imposed by this chapter.

37 (b) The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5,  
38 **IC 6-3-3-5.3, IC 6-3-3-5.5**, and IC 6-3-5-1 do not apply to the tax  
39 imposed by this chapter.

40 (c) Notwithstanding subsections (a) and (b), each employer shall  
41 report to the department the amount of withholdings attributable to  
42 each county. This report shall be submitted annually along with the

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1 employer's annual withholding report.

2 SECTION 4. IC 6-3.5-6-22 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:  
4 Sec. 22. (a) Except as otherwise provided in subsection (b) and the  
5 other provisions of this chapter, all provisions of the adjusted gross  
6 income tax law (IC 6-3) concerning:

- 7 (1) definitions;  
8 (2) declarations of estimated tax;  
9 (3) filing of returns;  
10 (4) deductions or exemptions from adjusted gross income;  
11 (5) remittances;  
12 (6) incorporation of the provisions of the Internal Revenue Code;  
13 (7) penalties and interest; and  
14 (8) exclusion of military pay credits for withholding;

15 apply to the imposition, collection, and administration of the tax  
16 imposed by this chapter.

17 (b) The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5,  
18 **IC 6-3-3-5.3, IC 6-3-3-5.5**, and IC 6-3-5-1 do not apply to the tax  
19 imposed by this chapter.

20 (c) Notwithstanding subsections (a) and (b), each employer shall  
21 report to the department the amount of withholdings attributable to  
22 each county. This report shall be submitted along with the employer's  
23 other withholding report.

24 SECTION 5. IC 6-3.5-7-18 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:  
26 Sec. 18. (a) Except as otherwise provided in this chapter, all provisions  
27 of the adjusted gross income tax law (IC 6-3) concerning:

- 28 (1) definitions;  
29 (2) declarations of estimated tax;  
30 (3) filing of returns;  
31 (4) remittances;  
32 (5) incorporation of the provisions of the Internal Revenue Code;  
33 (6) penalties and interest;  
34 (7) exclusion of military pay credits for withholding; and  
35 (8) exemptions and deductions;

36 apply to the imposition, collection, and administration of the tax  
37 imposed by this chapter.

38 (b) The provisions of ~~IC~~ IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5,  
39 **IC 6-3-3-5.3, IC 6-3-3-5.5**, and IC 6-3-5-1 do not apply to the tax  
40 imposed by this chapter.

41 (c) Notwithstanding subsections (a) and (b), each employer shall  
42 report to the department the amount of withholdings attributable to

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1 each county. This report shall be submitted annually along with the  
2 employer's annual withholding report.

3 SECTION 6. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]  
4 **IC 6-3-3-5.3 and IC 6-3-3-5.5, both as added by this act, apply only**  
5 **to taxable years beginning after December 31, 2002.**

6 SECTION 7. **An emergency is declared for this act.**

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