
HOUSE BILL No. 1354

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3-1-3.5; IC 6-3.1-25; IC 22-2-13.

Synopsis: Health benefit plans. Requires an employer with at least 10 full-time employees to offer at least one health benefit plan. Requires an employer to allow an employee: (1) to choose whether to participate in the plan; and (2) to pay the employee's cost of the plan through payroll deduction. Permits an employer to pay or reimburse all or a part of the employee's cost to participate in the plan on an equal basis. Provides a credit of up to \$500 against state tax liability for the first year in which an employer offers a health benefit plan. Requires an employer that claims the credit to notify employees who participate in the health benefit plan that the employee's contributions to the plan are included in the employee's state adjusted gross income.

Effective: July 1, 2004; January 1, 2005.

Orentlicher, Kersey

January 15, 2004, read first time and referred to Committee on Insurance, Corporations and Small Business.

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Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1354



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 6-3-1-3.5, AS AMENDED BY P.L.105-2003,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 3.5. When used in this article, the term "adjusted
4 gross income" shall mean the following:

5 (a) In the case of all individuals, "adjusted gross income" (as
6 defined in Section 62 of the Internal Revenue Code), modified as
7 follows:

8 (1) Subtract income that is exempt from taxation under this article
9 by the Constitution and statutes of the United States.

10 (2) Add an amount equal to any deduction or deductions allowed
11 or allowable pursuant to Section 62 of the Internal Revenue Code
12 for taxes based on or measured by income and levied at the state
13 level by any state of the United States.

14 (3) Subtract one thousand dollars (\$1,000), or in the case of a
15 joint return filed by a husband and wife, subtract for each spouse
16 one thousand dollars (\$1,000).

17 (4) Subtract one thousand dollars (\$1,000) for:



- 1 (A) each of the exemptions provided by Section 151(c) of the
- 2 Internal Revenue Code;
- 3 (B) each additional amount allowable under Section 63(f) of
- 4 the Internal Revenue Code; and
- 5 (C) the spouse of the taxpayer if a separate return is made by
- 6 the taxpayer and if the spouse, for the calendar year in which
- 7 the taxable year of the taxpayer begins, has no gross income
- 8 and is not the dependent of another taxpayer.
- 9 (5) Subtract:
- 10 (A) one thousand five hundred dollars (\$1,500) for each of the
- 11 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 12 Revenue Code for taxable years beginning after December 31,
- 13 1996; and
- 14 (B) five hundred dollars (\$500) for each additional amount
- 15 allowable under Section 63(f)(1) of the Internal Revenue Code
- 16 if the adjusted gross income of the taxpayer, or the taxpayer
- 17 and the taxpayer's spouse in the case of a joint return, is less
- 18 than forty thousand dollars (\$40,000).
- 19 This amount is in addition to the amount subtracted under
- 20 subdivision (4).
- 21 (6) Subtract an amount equal to the lesser of:
- 22 (A) that part of the individual's adjusted gross income (as
- 23 defined in Section 62 of the Internal Revenue Code) for that
- 24 taxable year that is subject to a tax that is imposed by a
- 25 political subdivision of another state and that is imposed on or
- 26 measured by income; or
- 27 (B) two thousand dollars (\$2,000).
- 28 (7) Add an amount equal to the total capital gain portion of a
- 29 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 30 Internal Revenue Code) if the lump sum distribution is received
- 31 by the individual during the taxable year and if the capital gain
- 32 portion of the distribution is taxed in the manner provided in
- 33 Section 402 of the Internal Revenue Code.
- 34 (8) Subtract any amounts included in federal adjusted gross
- 35 income under Section 111 of the Internal Revenue Code as a
- 36 recovery of items previously deducted as an itemized deduction
- 37 from adjusted gross income.
- 38 (9) Subtract any amounts included in federal adjusted gross
- 39 income under the Internal Revenue Code which amounts were
- 40 received by the individual as supplemental railroad retirement
- 41 annuities under 45 U.S.C. 231 and which are not deductible under
- 42 subdivision (1).

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- 1 (10) Add an amount equal to the deduction allowed under Section
- 2 221 of the Internal Revenue Code for married couples filing joint
- 3 returns if the taxable year began before January 1, 1987.
- 4 (11) Add an amount equal to the interest excluded from federal
- 5 gross income by the individual for the taxable year under Section
- 6 128 of the Internal Revenue Code if the taxable year began before
- 7 January 1, 1985.
- 8 (12) Subtract an amount equal to the amount of federal Social
- 9 Security and Railroad Retirement benefits included in a taxpayer's
- 10 federal gross income by Section 86 of the Internal Revenue Code.
- 11 (13) In the case of a nonresident taxpayer or a resident taxpayer
- 12 residing in Indiana for a period of less than the taxpayer's entire
- 13 taxable year, the total amount of the deductions allowed pursuant
- 14 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
- 15 which bears the same ratio to the total as the taxpayer's income
- 16 taxable in Indiana bears to the taxpayer's total income.
- 17 (14) In the case of an individual who is a recipient of assistance
- 18 under IC 12-10-6-1, IC 12-10-6-2, IC 12-15-2-2, or IC 12-15-7,
- 19 subtract an amount equal to that portion of the individual's
- 20 adjusted gross income with respect to which the individual is not
- 21 allowed under federal law to retain an amount to pay state and
- 22 local income taxes.
- 23 (15) In the case of an eligible individual, subtract the amount of
- 24 a Holocaust victim's settlement payment included in the
- 25 individual's federal adjusted gross income.
- 26 (16) For taxable years beginning after December 31, 1999,
- 27 subtract an amount equal to the portion of any premiums paid
- 28 during the taxable year by the taxpayer for a qualified long term
- 29 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
- 30 taxpayer's spouse, or both.
- 31 (17) Subtract an amount equal to the lesser of:
- 32 (A) two thousand five hundred dollars (\$2,500); or
- 33 (B) the amount of property taxes that are paid during the
- 34 taxable year in Indiana by the individual on the individual's
- 35 principal place of residence.
- 36 (18) Subtract an amount equal to the amount of a September 11
- 37 terrorist attack settlement payment included in the individual's
- 38 federal adjusted gross income.
- 39 (19) Add or subtract the amount necessary to make the adjusted
- 40 gross income of any taxpayer that owns property for which bonus
- 41 depreciation was allowed in the current taxable year or in an
- 42 earlier taxable year equal to the amount of adjusted gross income

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1 that would have been computed had an election not been made
2 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
3 apply bonus depreciation to the property in the year that it was
4 placed in service.

5 **(20) In the case of an individual who is employed by a**
6 **taxpayer that claims a credit under IC 6-3.1-25-7, add the**
7 **amount of the individual's eligible benefits as provided in**
8 **IC 6-3.1-25-12(a).**

9 (b) In the case of corporations, the same as "taxable income" (as
10 defined in Section 63 of the Internal Revenue Code) adjusted as
11 follows:

12 (1) Subtract income that is exempt from taxation under this article
13 by the Constitution and statutes of the United States.

14 (2) Add an amount equal to any deduction or deductions allowed
15 or allowable pursuant to Section 170 of the Internal Revenue
16 Code.

17 (3) Add an amount equal to any deduction or deductions allowed
18 or allowable pursuant to Section 63 of the Internal Revenue Code
19 for taxes based on or measured by income and levied at the state
20 level by any state of the United States.

21 (4) Subtract an amount equal to the amount included in the
22 corporation's taxable income under Section 78 of the Internal
23 Revenue Code.

24 (5) Add or subtract the amount necessary to make the adjusted
25 gross income of any taxpayer that owns property for which bonus
26 depreciation was allowed in the current taxable year or in an
27 earlier taxable year equal to the amount of adjusted gross income
28 that would have been computed had an election not been made
29 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
30 apply bonus depreciation to the property in the year that it was
31 placed in service.

32 (c) In the case of life insurance companies (as defined in Section
33 816(a) of the Internal Revenue Code) that are organized under Indiana
34 law, the same as "life insurance company taxable income" (as defined
35 in Section 801 of the Internal Revenue Code), adjusted as follows:

36 (1) Subtract income that is exempt from taxation under this article
37 by the Constitution and statutes of the United States.

38 (2) Add an amount equal to any deduction allowed or allowable
39 under Section 170 of the Internal Revenue Code.

40 (3) Add an amount equal to a deduction allowed or allowable
41 under Section 805 or Section 831(c) of the Internal Revenue Code
42 for taxes based on or measured by income and levied at the state

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1 level by any state.
 2 (4) Subtract an amount equal to the amount included in the
 3 company's taxable income under Section 78 of the Internal
 4 Revenue Code.
 5 (5) Add or subtract the amount necessary to make the adjusted
 6 gross income of any taxpayer that owns property for which bonus
 7 depreciation was allowed in the current taxable year or in an
 8 earlier taxable year equal to the amount of adjusted gross income
 9 that would have been computed had an election not been made
 10 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
 11 apply bonus depreciation to the property in the year that it was
 12 placed in service.
 13 (d) In the case of insurance companies subject to tax under Section
 14 831 of the Internal Revenue Code and organized under Indiana law, the
 15 same as "taxable income" (as defined in Section 832 of the Internal
 16 Revenue Code), adjusted as follows:
 17 (1) Subtract income that is exempt from taxation under this article
 18 by the Constitution and statutes of the United States.
 19 (2) Add an amount equal to any deduction allowed or allowable
 20 under Section 170 of the Internal Revenue Code.
 21 (3) Add an amount equal to a deduction allowed or allowable
 22 under Section 805 or Section 831(c) of the Internal Revenue Code
 23 for taxes based on or measured by income and levied at the state
 24 level by any state.
 25 (4) Subtract an amount equal to the amount included in the
 26 company's taxable income under Section 78 of the Internal
 27 Revenue Code.
 28 (5) Add or subtract the amount necessary to make the adjusted
 29 gross income of any taxpayer that owns property for which bonus
 30 depreciation was allowed in the current taxable year or in an
 31 earlier taxable year equal to the amount of adjusted gross income
 32 that would have been computed had an election not been made
 33 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
 34 apply bonus depreciation to the property in the year that it was
 35 placed in service.
 36 (e) In the case of trusts and estates, "taxable income" (as defined for
 37 trusts and estates in Section 641(b) of the Internal Revenue Code)
 38 adjusted as follows:
 39 (1) Subtract income that is exempt from taxation under this article
 40 by the Constitution and statutes of the United States.
 41 (2) Subtract an amount equal to the amount of a September 11
 42 terrorist attack settlement payment included in the federal

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1 adjusted gross income of the estate of a victim of the September
2 11 terrorist attack or a trust to the extent the trust benefits a victim
3 of the September 11 terrorist attack.

4 (3) Add or subtract the amount necessary to make the adjusted
5 gross income of any taxpayer that owns property for which bonus
6 depreciation was allowed in the current taxable year or in an
7 earlier taxable year equal to the amount of adjusted gross income
8 that would have been computed had an election not been made
9 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
10 apply bonus depreciation to the property in the year that it was
11 placed in service.

12 SECTION 2. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
14 JANUARY 1, 2005]:

15 **Chapter 25. Credit for Offering Health Benefit Plans**

16 **Sec. 1.** As used in this chapter, "health benefit plan" means a
17 health benefit plan offered under IC 22-2-13-6 that satisfies the
18 requirements of Section 125 of the Internal Revenue Code.

19 **Sec. 2.** As used in this chapter, "eligible benefits" means, with
20 respect to an employee of a taxpayer that claims a credit under
21 section 7 of this chapter, the total amount of health insurance
22 premiums withheld from the employee's federal adjusted gross
23 income (as defined in section 62 of the Internal Revenue Code)
24 during a taxable year under the health benefit plan offered by the
25 employer.

26 **Sec. 3.** As used in this chapter, "eligible taxpayer" means a
27 taxpayer that did not provide health insurance to the taxpayer's
28 employees in the taxable year immediately preceding the taxable
29 year for which the taxpayer claims a credit under this chapter.

30 **Sec. 4.** As used in this chapter, "pass through entity" means:

- 31 (1) a corporation that is exempt from the adjusted gross
32 income tax under IC 6-3-2-2.8(2);
33 (2) a partnership;
34 (3) a limited liability company; or
35 (4) a limited liability partnership.

36 **Sec. 5.** As used in this chapter, "state tax liability" means a
37 taxpayer's total tax liability that is incurred under:

- 38 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
39 (2) IC 6-5.5 (financial institutions tax); and
40 (3) IC 27-1-18-2 (insurance premiums tax);

41 as computed after the application of the credits that under
42 IC 6-3.1-1-2 are to be applied before the credit provided by this

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chapter.

Sec. 6. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

Sec. 7. (a) An eligible taxpayer that makes health insurance available to the eligible taxpayer's employees through a health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first taxable year in which at least one (1) employee enrolls in the health benefit plan.

(b) The credit allowed under this chapter equals the lesser of:

(1) five hundred dollars (\$500); or

(2) the sum of:

(A) two hundred dollars (\$200) for the first enrolled employee; plus

(B) fifty dollars (\$50) multiplied by the number of additional employees enrolled during the taxable year.

Sec. 8. (a) If the amount determined under section 7 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following 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. A taxpayer is not entitled to a carryback.

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

Sec. 9. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined 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 or partner is entitled.

Sec. 10. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 11. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four

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1 (24) consecutive months beginning on the day after the last day of
2 the taxable year in which the taxpayer first offers the health benefit
3 plan.

4 (b) If the taxpayer terminates the health benefit plan before the
5 expiration of the period required under subsection (a), the
6 taxpayer shall repay the department the amount of the credit
7 received under section 7 of this chapter.

8 Sec. 12. (a) An employee of a taxpayer that claims a credit under
9 this chapter shall include in the employee's state adjusted gross
10 income (as defined in IC 6-3-1-3.5(a)) the employee's eligible
11 benefits for:

12 (1) the first taxable year in which the taxpayer offers the
13 health benefit plan; and

14 (2) the taxable year immediately following the first taxable
15 year in which the taxpayer offers the health benefit plan.

16 An employee's eligible benefits are not included in the employees
17 state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the
18 second and subsequent taxable years immediately following the
19 first taxable year in which the taxpayer offers the health benefit
20 plan.

21 (b) A taxpayer that claims a credit under this chapter shall
22 notify each of the taxpayer's employees of the amount included in
23 the employee's state adjusted gross income (as defined in
24 IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer
25 provides the employee with the employee's W-2 federal income tax
26 withholding statement for the taxable year.

27 SECTION 3. IC 22-2-13 IS ADDED TO THE INDIANA CODE AS
28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
29 1, 2004]:

30 **Chapter 13. Health Benefit Plans**

31 **Sec. 1.** Except as provided in section 8(b) of this chapter, this
32 chapter applies to an employer that:

33 (1) employs at least ten (10) full-time employees who are
34 located in Indiana; and

35 (2) does not offer coverage for health care services under a
36 self-funded health benefit plan that complies with the federal
37 Employee Retirement Income Security Act of 1974 (29 U.S.C.
38 1001 et seq.).

39 **Sec. 2.** As used in this chapter, "department" means the
40 department of labor created by IC 22-1-1-1.

41 **Sec. 3.** As used in this chapter, "full-time employee" means an
42 employee who is normally scheduled to work at least thirty (30)

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hours each week.

Sec. 4. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:

(1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or

(2) a contract with a health maintenance organization for coverage of basic health care services under IC 27-13.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy issued as an individual policy.

(5) A limited benefit health insurance policy issued as an individual policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

Sec. 5. As used in this chapter, "part-time employee" means an employee who is normally scheduled to work less than thirty (30) hours each week.

Sec. 6. (a) After December 31, 2004, an employer shall make available to the employer's full-time and part-time employees and their dependents at least one (1) health benefit plan that meets the following requirements:

(1) An employee's participation in the health benefit plan is at the employee's election.

(2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.

(b) If a health benefit plan made available under subsection (a) is regulated under IC 27-8-15, the employer's full-time and part-time employees must be treated as eligible employees for purposes of IC 27-8-15.

Sec. 7. (a) An employer may pay or provide reimbursement for

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all or a part of the cost of a health benefit plan made available under section 6 of this chapter.

(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

Sec. 8. (a) An employer other than an employer described in subsection (b) shall file evidence of compliance with this chapter annually with the department.

(b) An employer that offers coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) shall submit proof of self-insurance annually to the department.

Sec. 9. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 4. [EFFECTIVE JULY 1, 2004] (a) The department of labor shall adopt rules to carry out the duties imposed under IC 22-2-13, as added by this act, not later than December 31, 2004.

(b) The SECTION expires January 1, 2005.

SECTION 5. [EFFECTIVE JULY 1, 2004] IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2004.

SECTION 6. [EFFECTIVE JULY 1, 2004] IC 6-3.1-25, as added by this act, applies only to taxable years that begin after December 31, 2004.

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