
SENATE BILL No. 141

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3-3-12.

Synopsis: Income tax credit for college 529 plan. Provides that a contribution to a college choice 529 education savings plan does not qualify for the 20% income tax credit if the contribution occurs after the beneficiary becomes 32 years of age, for accounts opened after December 31, 2011. Reduces the amount of contributions that qualify for the tax credit in a year by the amount of any qualified withdrawals that occur in the same year. (Current law provides for the recapture of any credit granted when a nonqualified withdrawal is made.)

Effective: January 1, 2012 (retroactive).

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January 4, 2012, read first time and referred to Committee on Appropriations.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 141



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 6-3-3-12, AS AMENDED BY P.L.182-2009(ss),
2 SECTION 198, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JANUARY 1, 2012 (RETROACTIVE)]: Sec. 12. (a) As
4 used in this section, "account" has the meaning set forth in IC 21-9-2-2.
5 (b) As used in this section, "account beneficiary" has the meaning
6 set forth in IC 21-9-2-3.
7 (c) As used in this section, "account owner" has the meaning set
8 forth in IC 21-9-2-4.
9 (d) As used in this section, "college choice 529 education savings
10 plan" refers to a college choice 529 investment plan established under
11 IC 21-9.
12 (e) As used in this section, "contribution" means the amount of
13 money directly provided to a college choice 529 education savings plan
14 account by a taxpayer. A contribution does not include any of the
15 following:
16 (1) Money credited to an account as a result of bonus points or
17 other forms of consideration earned by the taxpayer that result in



1 a transfer of money to the account.

2 (2) Money transferred from any other qualified tuition program
3 under Section 529 of the Internal Revenue Code or from any other
4 similar plan.

5 **(3) Money contributed to an account after the beneficiary of
6 the account becomes thirty-two (32) years of age, for an
7 account opened after December 31, 2011.**

8 (f) As used in this section, "nonqualified withdrawal" means a
9 withdrawal or distribution from a college choice 529 education savings
10 plan that is not a qualified withdrawal.

11 (g) As used in this section, "qualified higher education expenses"
12 has the meaning set forth in IC 21-9-2-19.5.

13 (h) As used in this section, "qualified withdrawal" means a
14 withdrawal or distribution from a college choice 529 education savings
15 plan that is made:

16 (1) to pay for qualified higher education expenses, excluding any
17 withdrawals or distributions used to pay for qualified higher
18 education expenses if the withdrawals or distributions are made
19 from an account of a college choice 529 education savings plan
20 that is terminated within twelve (12) months after the account is
21 opened;

22 (2) as a result of the death or disability of an account beneficiary;

23 (3) because an account beneficiary received a scholarship that
24 paid for all or part of the qualified higher education expenses of
25 the account beneficiary, to the extent that the withdrawal or
26 distribution does not exceed the amount of the scholarship; or

27 (4) by a college choice 529 education savings plan as the result of
28 a transfer of funds by a college choice 529 education savings plan
29 from one (1) third party custodian to another.

30 A qualified withdrawal does not include a rollover distribution or
31 transfer of assets from a college choice 529 education savings plan to
32 any other qualified tuition program under Section 529 of the Internal
33 Revenue Code or to any other similar plan.

34 (i) As used in this section, "taxpayer" means:

35 (1) an individual filing a single return; or

36 (2) a married couple filing a joint return.

37 (j) A taxpayer is entitled to a credit against the taxpayer's adjusted
38 gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable
39 year equal to the least of the following:

40 (1) Twenty percent (20%) of the **remainder of the** amount of the
41 total contributions made by the taxpayer to an account or accounts
42 of a college choice 529 education savings plan during the taxable

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1 year **minus qualified withdrawals made from the account**
 2 **during the taxable year.**

3 (2) One thousand dollars (\$1,000).

4 (3) The amount of the taxpayer's adjusted gross income tax
 5 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,
 6 reduced by the sum of all credits (as determined without regard to
 7 this section) allowed by IC 6-3-1 through IC 6-3-7.

8 (k) A taxpayer is not entitled to a carryback, carryover, or refund of
 9 an unused credit.

10 (l) A taxpayer may not sell, assign, convey, or otherwise transfer the
 11 tax credit provided by this section.

12 (m) To receive the credit provided by this section, a taxpayer must
 13 claim the credit on the taxpayer's annual state tax return or returns in
 14 the manner prescribed by the department. The taxpayer shall submit to
 15 the department all information that the department determines is
 16 necessary for the calculation of the credit provided by this section.

17 (n) An account owner of an account of a college choice 529
 18 education savings plan must repay all or a part of the credit in a taxable
 19 year in which any nonqualified withdrawal is made from the account.
 20 The amount the taxpayer must repay is equal to the lesser of:

21 (1) twenty percent (20%) of the total amount of nonqualified
 22 withdrawals made during the taxable year from the account; or

23 (2) the excess of:

24 (A) the cumulative amount of all credits provided by this
 25 section that are claimed by any taxpayer with respect to the
 26 taxpayer's contributions to the account for all prior taxable
 27 years beginning on or after January 1, 2007; over

28 (B) the cumulative amount of repayments paid by the account
 29 owner under this subsection for all prior taxable years
 30 beginning on or after January 1, 2008.

31 (o) Any required repayment under subsection ~~(o)~~ **(n)** shall be
 32 reported by the account owner on the account owner's annual state
 33 income tax return for any taxable year in which a nonqualified
 34 withdrawal is made.

35 (p) A nonresident account owner who is not required to file an
 36 annual income tax return for a taxable year in which a nonqualified
 37 withdrawal is made shall make any required repayment on the form
 38 required under IC 6-3-4-1(2). If the nonresident account owner does
 39 not make the required repayment, the department shall issue a demand
 40 notice in accordance with IC 6-8.1-5-1.

41 (q) The executive director of the Indiana education savings authority
 42 shall submit or cause to be submitted to the department a copy of all

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1 information returns or statements issued to account owners, account
2 beneficiaries, and other taxpayers for each taxable year with respect to:
3 (1) nonqualified withdrawals made from accounts of a college
4 choice 529 education savings plan for the taxable year; or
5 (2) account closings for the taxable year.
6 **SECTION 2. An emergency is declared for this act.**

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