

HOUSE BILL No. 1323

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-31.2.

Synopsis: Small employer qualified wellness program tax credit. Provides that the small employer qualified wellness program tax credit (program) is extended for taxable years beginning after December 31, 2013, and before January 1, 2020. Expands the program to include small employers with not more than 250 eligible employees. Eliminates the carryforward of any unused tax credit under the program for expenditures incurred after December 31, 2013. Imposes a maximum of \$5,000 on the amount of the credit that a small employer may claim in a taxable year. Provides that an aggregate of not more than \$5,000,000 in tax credits may be claimed under the program during any budget biennium after December 31, 2013. Repeals a redundant definition of "pass through entity".

Effective: January 1, 2014.

Morrison, Friend, Morris

January 17, 2013, read first time and referred to Committee on Ways and Means.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1323



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 IC 6-3.1-31.2-1 IS REPEALED [EFFECTIVE
- 2 JANUARY 1, 2014]. ~~Sec. 1. As used in this chapter, "pass through~~
- 3 ~~entity" means:~~
- 4 ~~(1) a corporation that is exempt from the adjusted gross income~~
- 5 ~~tax under IC 6-3-2-2.8(2);~~
- 6 ~~(2) a partnership;~~
- 7 ~~(3) a limited liability company; or~~
- 8 ~~(4) a limited liability partnership.~~
- 9 SECTION 2. IC 6-3.1-31.2-3, AS AMENDED BY P.L.42-2011,
- 10 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 JANUARY 1, 2014]: Sec. 3. (a) As used in this chapter, "small
- 12 employer" means an employer that:
- 13 (1) is actively engaged in business; and
- 14 (2) on at least fifty percent (50%) of the working days of the
- 15 employer during the preceding calendar year, employed at least
- 16 two (2) but not more than:
- 17 (A) one hundred (100) eligible employees, **for taxable years**



1 **beginning before January 1, 2014; and**
 2 **(B) two hundred fifty (250) eligible employees, for taxable**
 3 **years beginning after December 31, 2013;**
 4 the majority of whom work in Indiana.

5 (b) In determining the number of eligible employees for purposes of
 6 subsection (a), employers that are affiliated employers or that are
 7 eligible to file a combined tax return for purposes of state taxation are
 8 considered one (1) employer.

9 SECTION 3. IC 6-3.1-31.2-6, AS ADDED BY P.L.218-2007,
 10 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JANUARY 1, 2014]: Sec. 6. **(a) This subsection applies only to**
 12 **taxable years beginning before January 1, 2012.** A taxpayer is
 13 entitled to a credit against the taxpayer's state tax liability for a taxable
 14 year in an amount equal to fifty percent (50%) of the costs incurred by
 15 the taxpayer during the taxable year for providing a qualified wellness
 16 program for the taxpayer's employees during the taxable year.

17 **(b) This subsection applies only to taxable years beginning after**
 18 **December 31, 2013. A small employer that receives approval from**
 19 **the Indiana economic development corporation under section 6.5**
 20 **of this chapter is entitled to a credit against the small employer's**
 21 **state tax liability for the first taxable year beginning after**
 22 **December 31, 2013, in which the small employer provides a**
 23 **qualified wellness program for the small employer's employees.**
 24 **The amount of the credit provided by this subsection is equal to the**
 25 **lesser of:**

26 **(1) the amount of the small employer's expenditures during**
 27 **the taxable year for the qualified wellness program; or**
 28 **(2) five thousand dollars (\$5,000).**

29 **(c) A small employer is not entitled to the credit provided by this**
 30 **chapter for expenditures incurred for a qualified wellness program**
 31 **during a taxable year beginning after December 31, 2011, and**
 32 **before January 1, 2014.**

33 SECTION 4. IC 6-3.1-31.2-6.5 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JANUARY 1, 2014]: Sec. 6.5. **(a) This section applies**
 36 **only to small employers that are seeking approval to claim the**
 37 **credit provided by this chapter for a taxable year beginning after**
 38 **December 31, 2013.**

39 **(b) A small employer that wishes to obtain approval to claim the**
 40 **credit provided by this chapter must file an application with the**
 41 **Indiana economic development corporation in the manner**
 42 **prescribed by the Indiana economic development corporation. The**

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1 small employer must include with the application:

2 (1) a copy of the state department of health's certification of
3 the small employer's wellness program as a qualified wellness
4 program; or

5 (2) an indication that the small employer has submitted an
6 application to the state department of health to obtain
7 certification of the small employer's wellness program and
8 approval is pending.

9 (c) If:

10 (1) a small employer properly files the application required by
11 subsection (b); and

12 (2) the credit amount for which the small employer is seeking
13 approval would not cause the limit specified in subsection (d)
14 to be exceeded;

15 the Indiana economic development corporation shall approve the
16 small employer's application for a credit amount equal to the lesser
17 of the credit amount requested by the small employer or the limit
18 specified in section 6(b)(2) of this chapter. After the Indiana
19 economic development corporation completes its review of an
20 application under this section, the Indiana economic development
21 corporation shall promptly notify the applicant by letter of the
22 outcome of the review.

23 (d) The Indiana economic development corporation may not
24 approve more than five million dollars (\$5,000,000) of credits
25 under this section during each twenty-four (24) month period:

26 (1) beginning July 1 of an odd-numbered year; and

27 (2) ending on June 30 of the next odd-numbered year.

28 SECTION 5. IC 6-3.1-31.2-8, AS ADDED BY P.L.218-2007,
29 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JANUARY 1, 2014]: Sec. 8. (a) **This subsection applies to a credit
31 initially claimed under this chapter for a taxable year beginning
32 before January 1, 2012.** If the credit provided by this chapter exceeds
33 the taxpayer's state tax liability for the taxable year for which the credit
34 is first claimed, the excess may be carried forward to succeeding
35 taxable years and used as a credit against the taxpayer's state tax
36 liability during those taxable years. Each time that the credit is carried
37 forward to a succeeding taxable year, the credit is to be reduced by the
38 amount that was used as a credit during the immediately preceding
39 taxable year.

40 (b) **This subsection applies to a credit initially claimed under
41 this chapter for a taxable year beginning after December 31, 2013.
42 A taxpayer is not entitled to a carryforward of any unused credit.**

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1 (b) (c) A taxpayer is not entitled to any carryback or refund of any
2 unused credit.

3 SECTION 6. IC 6-3.1-31.2-9, AS ADDED BY P.L.218-2007,
4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 2014]: Sec. 9. To receive the credit provided by this
6 chapter, a taxpayer must:

7 (1) submit to the department with the taxpayer's state tax return or
8 returns a copy of:

9 (A) the certificate received from the state department of health
10 under IC 16-46-13; and

11 (B) **after December 31, 2013, the Indiana economic**
12 **development corporation's approval letter issued under**
13 **section 6.5 of this chapter; and**

14 (2) claim the credit on the taxpayer's state tax return or returns in
15 the manner prescribed by the department.

16 The taxpayer shall submit to the department all information that the
17 department determines is necessary for the calculation of the credit
18 provided by this chapter.

19 SECTION 7. IC 6-3.1-31.2-11, AS ADDED BY P.L.172-2011,
20 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JANUARY 1, 2014]: Sec. 11. (a) A tax credit may not be awarded
22 under this chapter for costs incurred **during a taxable year beginning**
23 **after December 31, 2011: 2019.**

24 (b) Any tax credit ~~previously~~ awarded but not claimed **under this**
25 **chapter before January 1, 2012,** may not be carried over to a taxable
26 year beginning during the period January 1, 2012, through December
27 31, 2013, and must be carried forward to a taxable year that begins
28 after December 31, 2013. ~~and before January 1, 2016.~~

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