DEPARTMENT OF STATE REVENUE

Information Bulletin #95
Income Tax
March 2023
Effective Date: Upon Publication
(Replaces Bulletin #95, dated July 2016)

SUBJECT: Hoosier Business Investment Tax Credit (HBI)
Hoosier Business Investment Tax Credit - Logistics (HBI-L)

REFERENCES: IC 6-3.1-26

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SUMMARY OF CHANGES
Aside from nonsubstantive, technical changes, this bulletin has been updated to reflect legislation affecting this credit that has passed since the last time this bulletin was published, including removing and revising the time limitations to make qualified expenditures and to claim the credit (Senate Enrolled Act 507 (2017)), removing the dollar limitations on the credit (Senate Enrolled Act SEA 361 (2022)), adding newer types of qualified investments (Senate Enrolled Act 563 (2019)), and adding new carryforward provisions (House Enrolled Act 1001 (2021)).

INTRODUCTION
The purpose of this bulletin is to describe the Hoosier Business Investment Tax Credit. The credit is administered by the Indiana Economic Development Corporation (IEDC). Once it is approved in the manner described within this bulletin, it may be claimed on the taxpayer's income tax return.

QUALIFIED ENTITIES
A taxpayer is defined as an individual, a corporation, a pass-through entity, or another entity that has an adjusted gross income tax liability, a financial institution tax liability, or an insurance premium tax liability.

Pass-through entities are defined as S corporations, partnerships, trusts, limited liability companies, or limited liability partnerships. If a pass-through entity does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass-through entity is entitled to the credit.

QUALIFIED INVESTMENTS
The qualified investment is determined to be the amount of a taxpayer's expenditure in Indiana for any of the following items:

- Costs associated with the modernization or construction of facilities and equipment used for telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution.
- Costs associated with the purchase of machinery, equipment, or special-purpose buildings used to make a motion picture or audio production. Motion picture or audio production includes a feature-length film, a video, a television series, a commercial, a music video, or an audio recording. The term also includes a corporate production for any combination of theatrical, television, or other media viewing or a television pilot.
- Expenditures for onsite infrastructure improvements, the purchase of retooled or refurbished machinery, and costs associated with retooling existing machinery and equipment. Costs associated with the construction of special-purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry are also qualified investments.
- Expenditures for a logistics investment, which means an expenditure for one or more of the following purposes:
    - Making an improvement to real property in Indiana that is related to constructing a new, or modernizing an existing, transportation or logistical facility.
    - Improving the transportation of goods on Indiana highways, but limited to upgrading terminal facilities, improving paved access to terminal facilities, adding new maintenance areas, or purchasing new shop equipment that has a useful life of at least 5 years.
    - Improving the transportation of goods by rail, but limited to upgrading or building mainline, secondary,

yard, or spur trackage; upgrading bridges to obtain higher load-bearing capacity; upgrading or repairing grade crossings to increase visibility for motorists; upgrading fueling facilities; upgrading team track facilities; upgrading shop facilities; and upgrading or building passing lines or automated switches on a rail line.
    ° Improving the transportation of goods by water, but limited to upgrading or replacing a permanent waterside dock, upgrading or building a new terminal facility, improving paved access to a waterborne terminal facility, and purchasing new equipment that has a useful life of at least 5 years.
    ° Improving the transportation of goods by air, but limited to upgrading or building a new cargo building, apron, hangar, warehouse facility, or aircraft maintenance facility; improving paved access to a terminal or cargo facility; or upgrading a fueling facility.
    ° Improving warehousing and logistical facilities, but limited to upgrading warehousing facilities, including loading docks, fueling equipment, and fueling installations, and improving logistical distribution by purchasing new equipment such as picking modules; racking equipment; scanning or coding equipment; security equipment; temperature control and monitoring equipment; dock levelers; pallet levelers and inverters; conveyors; scales; packaging equipment; and moving, separating, sorting, and picking equipment.
- Expenditures for the purchase of new pollution control and abatement, energy conservation, or renewable energy generation equipment.
- Expenditures for the purchase of new onsite digital manufacturing equipment, meaning any production equipment utilized within an integrated computer network system that provides for the onsite manufacturing of a three-dimensional part or product using material that is joined or solidified using multiple layers under computer control pursuant to a computer aided design for rapid or on demand production.

Property that can be readily moved outside of Indiana is not a qualified investment; however, qualified investments can include programmable logic controller property. An expenditure for maintenance expenses is not a qualified logistics investment.

CREDIT CALCULATION

The credit may be calculated differently depending on whether the qualified investment is determined by the Indiana Economic Development Corporation (IEDC) to be a logistics investment. If the qualified investment is not a logistics investment, the amount of credit that can be claimed by a taxpayer for a taxable year is a percentage determined by the IEDC not to exceed 10% of the amount of the qualified investment made by the taxpayer during the taxable year.

If the qualified investment is a qualified logistics investment, the amount of the credit may not exceed 25% of the amount of the qualified investment by the taxpayer during that taxable year. The amount of the qualified logistics investment is limited to the difference of:

(A) the amount of the qualified investments made by the taxpayer during the taxable year; minus
(B) 105% of the average annual qualified investments made by the taxpayer during the two taxable years immediately preceding the taxable year for which the credit is being claimed.

However, if the total of the qualified investments for the earlier year of the two-year average is zero and the taxpayer has not claimed the credit for a year that precedes that year, the taxpayer shall subtract only 105% of the amount of the qualified investments made during the taxable year immediately preceding the taxable year for which the credit is being claimed.

If the qualified investment is the purchase of new onsite digital manufacturing equipment, the amount of the credit may not exceed 15% of the amount of the qualified investment by the taxpayer during that taxable year. This portion of the credit is available for taxable years beginning after December 31, 2018, and before January 1, 2030.

ADMINISTRATION OF THE CREDIT

Application

A taxpayer that proposes a project to create new jobs; increase wage levels; or, in the case of a logistics investment, substantially enhance the logistics industry by creating new jobs or preserving existing jobs, increasing wages, or improving the overall economy in Indiana shall apply to the IEDC before the taxpayer makes the qualified investment.

Amount of Credit

The IEDC shall certify the amount of the qualified investment that is eligible for a credit. The IEDC may grant a credit that is up to 10% of the amount of qualified investment directly attributable to expanding the workforce in Indiana. If the qualified investment is a qualified logistics investment, the credit may be granted up to 25% of the qualified logistics investment.

Claiming the Credit
A taxpayer claiming a credit is required to submit to the department a copy of the certificate of verification when claiming the credit on the tax return the taxpayer files. The certificate of verification shall be supplied to the taxpayer by the IEDC. The taxpayer is required to report the credit on Schedule IN-OCC and report both the project number and PIN provided by IEDC on that schedule.

Carryforward of Credit
A taxpayer is allowed to carry forward an unused credit for the number of years determined by the IEDC but not to exceed nine consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment. The credit is a nonrefundable credit. The amount the taxpayer can claim for this credit in a taxable year, along with any other nonrefundable credits, cannot be greater than the taxpayer's state adjusted gross income tax liability for the taxable year.

The IEDC may, under written agreement, accelerate payment (at a discounted rate) of any unused excess tax credit certain taxpayers would be eligible to carry forward to a subsequent year. The total amount of accelerated tax credits that may be approved by the IEDC may not exceed $17,000,000 in a state fiscal year. If a Hoosier business investment tax credit exceeds a taxpayer's state income tax liability for the taxable year, IEDC may accelerate to that taxable year the excess amount of the tax credit that could otherwise be carried forward under these provisions. The excess amount of the tax credit accelerated shall be discounted as determined under a written agreement entered into by the taxpayer and IEDC. The discounted amount of the excess tax credit accelerated as determined by IEDC may be remitted to the taxpayer as provided in the written agreement between IEDC and the taxpayer.

Further, the IEDC may, under a written agreement, accelerate payment (at a discounted amount) of any unused excess tax credit that a taxpayer that is not a pass through entity would otherwise be eligible to carry forward to a subsequent tax year. To be eligible for this agreement for accelerated payment the taxpayer must propose at least $250,000,000 in total investment over a 5-year period, enter into a written agreement with IEDC before July 1, 2022, and agree to claim tax credits for not more than $170,000,000 of qualified investment that is made as part of the proposed investment in the agreement.

For taxpayers that are shareholders, members, or partners of a pass through entity that would otherwise be eligible to carry forward the credit to a subsequent tax year, the IEDC may, under a written agreement, accelerate payment (at a discounted amount) of any unused excess tax credit. To be eligible for this agreement for accelerated payment, the pass through entity must propose at least $250,000,000 in total investment over a 5-year period, enter into a written agreement with IEDC before July 1, 2022, and agree to claim tax credits for not more than $170,000,000 of qualified investment that is made as part of the proposed investment in the agreement.

The total aggregated amount of tax credits that a corporation may discount under the two scenarios above in a state fiscal year may not exceed $17,000,000, as determined before the discount is applied.

Recapture of Credit
If the IEDC determines that a taxpayer has claimed a credit that the taxpayer is not entitled to because of the taxpayer's noncompliance with the requirements of the tax credit agreement, the IEDC after giving the taxpayer an opportunity to explain the noncompliance, shall notify the department of the noncompliance and request the department to impose an assessment on the taxpayer in an amount not to exceed the sum of any previously allowed credits together with interest and penalties required by statute.

For further information concerning this tax credit, visit the IEDC at iedc.in.gov.

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Commissioner

Posted: 03/29/2023 by Legislative Services Agency
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