DEPARTMENT OF STATE REVENUE

Information Bulletin #97
Income Tax
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SUBJECT: Headquarters Relocation Tax Credit

REFERENCES: IC 6-3.1-30

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SUMMARY OF CHANGES
Aside from nonsubstantive, technical changes, this bulletin has been changed to reflect legislation that has been enacted since the last time this bulletin was updated that affects the Headquarters Relocation Tax Credit, including the removal of the employee threshold and expansion of the definition of "eligible business," which affects further elements of the credit depending on how the taxpayer fits within that definition.

INTRODUCTION
The purpose of this bulletin is to provide guidance regarding the Headquarters Relocation Tax Credit, which is intended to provide an incentive for a business to relocate its corporate headquarters into Indiana.

DEFINITIONS
"Corporate headquarters" means the building where the principal offices of the principal executive officers of the business are located; the principal offices of a division; or a research development center of an eligible business.

"Eligible business" means a business that is engaged in intrastate or interstate commerce, maintains a corporate headquarters outside Indiana, has not previously maintained a headquarters inside Indiana, and meets either of the following thresholds:

(1) had annual worldwide revenues of at least $50,000,000 for the immediately preceding taxable year; or
(2) commits contractually to relocating its corporate headquarters to Indiana or the number of jobs that equals 80% of the business's total payroll during the immediately preceding quarter to a location in Indiana, and either:

- received at least $4,000,000 in venture capital in the six months immediately preceding the business's application for this tax credit; or
- closes on at least $4,000,000 in venture capital not later than six months after submitting the business's application for this tax credit.

"Pass through entity" means an S Corporation, partnership, limited liability company, or a limited liability partnership.

"Qualifying project" means the relocation of the corporate headquarters from a location outside Indiana to a location in Indiana.

"Relocation costs" means the reasonable and necessary expenses incurred by the business for a project. The term includes moving expenses, the purchase of new or replacement equipment, capital investment costs, purchase, lease or construction of buildings and land, infrastructure improvements and site development costs.

"Taxpayer" means an individual or entity that has any Indiana state income tax liability, or, in the case of a business that qualifies under the second threshold within the definition of "eligible business," that has any state tax liability or that submits incremental income tax withholdings.

"Venture capital" means financing provided by investors that may include equity, convertible debt, or other forms of equity-like investment instruments.

DETERMINATION OF TAXPAYER ELIGIBILITY

The Indiana Economic Development Corporation (IEDC) is required to:

(1) Evaluate a taxpayer's relocation project for the taxpayer's eligibility;
(2) Certify the eligibility of taxpayers that meet the requirements for a tax credit;
(3) Determine the percentage used to calculate the amount of a tax credit; and
(4) Certify proof of the taxpayer's relocation costs, proof that the taxpayer is employing the required number of employees in Indiana, and all other information that the department determines is necessary for the calculation of the credit.

To be awarded the credit, a taxpayer must submit an application to the IEDC and enter into an agreement with the corporation. IEDC may deny an application for a credit in its sole discretion. A taxpayer may not seek judicial review of a decision by the corporation to deny a taxpayer's application for a credit.

ENTITLEMENT TO THE CREDIT

If the IEDC determines that a taxpayer is an eligible business that completes a qualifying project and incurs relocation costs, the taxpayer is entitled to a credit against the taxpayer's state tax liability for the year in which the relocation costs are incurred.

The amount of the credit the taxpayer is entitled to, as determined by the IEDC, may not exceed 50% of the amount of the relocation costs incurred in the taxable year. However, if the taxpayer qualifies as an eligible business under the first threshold within the definition of "eligible business," the amount claimed may not result in an Indiana tax liability that is lower than the Indiana tax liability in the taxable year immediately preceding the taxable year in which the taxpayer first incurred the relocation costs.

Any unused credit amount can be carried forward and applied to the nine succeeding taxable years. A taxpayer that qualifies as an eligible business within the first threshold under the definition of "eligible business" is not entitled to a refund or carryback of any unused credit. However, a taxpayer that qualifies as an eligible business under the second threshold within the definition of "eligible business" with a credit exceeding their state tax liability may, at their discretion, be refunded their credit. However, they are not entitled to carryback any unused credit.

> *Example*: A taxpayer falls within the first threshold under the definition of "eligible business." Their relocation costs are $5,0000,000 and the IEDC has approved a credit percentage of 25%. The amount of the taxpayer's credit is $1,250,000. The taxpayer's tax liability for the year before the relocation costs were incurred was $500,000. The current tax year liability is calculated at $750,000, so the taxpayer is eligible to claim a credit of $250,000 with a $1,000,000 credit carryforward.

If a pass through entity is entitled to the credit, a shareholder, partner or member of the pass through entity is entitled to claim the credit. The amount that the shareholder, partner or member may claim is the percentage of the pass through entity's distributive income to which the shareholder, partner or member is entitled.

CLAIMING THE TAX CREDIT

A taxpayer must claim the credit on the taxpayer's state tax return and must provide proof of the taxpayer's relocation costs. A taxpayer may claim a credit awarded after June 30, 2019, against the taxpayer's state tax liability for a taxable year only if IEDC awards a credit to the taxpayer and enters into an agreement with the taxpayer (prior to July 1, 2019, entering into an agreement with the IEDC was not a statutory requirement). For 2022 and later, the credit must be reported on Schedule IN-OCC and must include the specific project number and PIN provided by IEDC.

If you have any questions concerning this bulletin, please contact the Tax Policy Division at taxpolicy@dor.in.gov.

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Commissioner

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