

SENATE BILL No. 478

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-17.1.

Synopsis: Historic rehabilitation tax credit. Allows a taxpayer to claim a historic rehabilitation tax credit equal to 25% or 30% of the qualified expenditures incurred in the restoration and preservation of a qualified historic structure, depending on the type of historic structure.

Effective: January 1, 2024.

Busch

January 19, 2023, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 478

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 6-3.1-17.1 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2024]:
4 **Chapter 17.1. Historic Rehabilitation Tax Credit**
5 **Sec. 1. This chapter applies to taxable years beginning after**
6 **December 31, 2023.**
7 **Sec. 2. As used in this chapter, "pass through entity" means:**
8 (1) a corporation that is exempt from the adjusted gross
9 income tax under IC 6-3-2-2.8(2);
10 (2) a partnership;
11 (3) a limited liability company; or
12 (4) a limited liability partnership.
13 **Sec. 3. As used in this chapter, "qualified historic structure"**
14 **means any building that is:**
15 (1) a certified historic structure (as defined in Section 47(c)(3)
16 of the Internal Revenue Code);
17 (2) individually listed on the register of Indiana historic



1 places; or

2 (3) located in, and contributes to, a district listed in the
3 register of Indiana historic places.

4 Sec. 4. As used in this chapter, "qualified rehabilitation
5 expenditure" means the costs and expenses incurred by a qualified
6 taxpayer in the restoration and preservation of a qualified historic
7 structure that are defined as a qualified rehabilitation expenditure
8 in Section 47(c)(2) of the Internal Revenue Code.

9 Sec. 5. As used in this chapter, "qualified taxpayer" means the
10 owner of a qualified historic structure or any other person who
11 may qualify for the federal rehabilitation tax credit allowable
12 under Section 47 of the Internal Revenue Code.

13 Sec. 6. As used in this chapter, "state tax liability" means a
14 taxpayer's total tax liability incurred under IC 6-3-1 through
15 IC 6-3-7 (the adjusted gross income tax), as computed after the
16 application of all credits that under IC 6-3.1-1-2 are to be applied
17 before the credit provided by this chapter.

18 Sec. 7. (a) A qualified taxpayer is entitled to a credit against the
19 taxpayer's state tax liability in the taxable year in which the
20 taxpayer completes restoration and preservation of a qualified
21 historic structure if the total amount of qualified rehabilitation
22 expenditures incurred by the taxpayer equals five thousand dollars
23 (\$5,000) or more.

24 (b) The amount of the credit is equal to:

25 (1) twenty-five percent (25%) of the qualified rehabilitation
26 expenditures that the taxpayer makes for the restoration and
27 preservation of a qualified historic structure; or

28 (2) thirty percent (30%) of the qualified rehabilitation
29 expenditures that the taxpayer makes for the restoration and
30 preservation of a qualified historic structure that is:

31 (A) exempt from federal income taxation under Section
32 501(3) of the Internal Revenue Code; and

33 (B) not income producing.

34 Sec. 8. (a) If a pass through entity is entitled to a credit under
35 section 7 of this chapter but does not have state tax liability against
36 which the credit may be applied, a shareholder, partner, or
37 member of the pass through entity is entitled to a credit equal to:

38 (1) the credit determined for the pass through entity for the
39 taxable year; multiplied by

40 (2) the percentage of the pass through entity's distributive
41 income to which the shareholder, partner, or member is
42 entitled.



1 (b) The credit provided under subsection (a) is in addition to a
2 credit to which a shareholder, partner, or member of a pass
3 through entity is otherwise entitled under this chapter. However,
4 a pass through entity and a shareholder, partner, or member of the
5 pass through entity may not claim more than one (1) credit for the
6 same qualified expenditure.

7 (c) A pass through entity (other than a pass through entity
8 described in section 2(1) of this chapter) and its partners,
9 beneficiaries, or members may allocate the credit among its
10 partners, beneficiaries, or members of the pass through entity as
11 provided by written agreement without regard to their sharing of
12 other tax or economic attributes. The pass through entity shall
13 provide to the department a copy of such agreements, a list of
14 partners, beneficiaries, or members of the pass through entity, and
15 their respective shares of the credit resulting from such agreements
16 in the manner prescribed by the department.

17 Sec. 9. To obtain a credit under this chapter, a taxpayer must
18 claim the credit on the taxpayer's annual state tax return or
19 returns in the manner prescribed by the department. The taxpayer
20 shall submit to the department all information that the department
21 determines is necessary for the allowance and calculation of the
22 credit provided by this chapter.

23 Sec. 10. (a) If the credit provided by this chapter exceeds a
24 taxpayer's state tax liability for the taxable year for which the
25 credit is first claimed, the excess may be carried over to succeeding
26 taxable years and used as a credit against the tax otherwise due
27 and payable by the taxpayer under IC 6-3 during those taxable
28 years. Each time that the credit is carried over to a succeeding
29 taxable year, the credit is to be reduced by the amount that was
30 used as a credit during the immediately preceding taxable year.
31 The credit provided by this chapter may be carried forward and
32 applied to succeeding taxable years for ten (10) taxable years
33 following the unused credit year.

34 (b) A taxpayer is not entitled to any carryback or refund of any
35 unused credit.

36 Sec. 11. (a) A taxpayer may assign any part of the credit that the
37 taxpayer may claim under this chapter. A credit that is assigned
38 under this section remains subject to this chapter. If a taxpayer
39 assigns a part of a credit during a taxable year, the assignee may
40 not subsequently assign all or part of the credit to another
41 taxpayer. A taxpayer may make only one (1) assignment of a
42 credit.



1 **(b) An assignment of a credit must be in writing, and both the**
2 **taxpayer and assignee shall report the assignment on the**
3 **taxpayer's and the assignee's state tax returns for the year in which**
4 **the assignment is made, in the manner prescribed by the**
5 **department. A taxpayer may not receive value in connection with**
6 **an assignment under this section that exceeds the value of the part**
7 **of the credit assigned.**

8 **Sec. 12. For each state fiscal year beginning after June 30, 2023,**
9 **and ending before July 1, 2033, the aggregate amount of state tax**
10 **credits allowed under this chapter may not exceed ten million**
11 **dollars (\$10,000,000).**

12 **Sec. 13. The department may adopt rules under IC 4-22-2,**
13 **including emergency rules under IC 4-22-2-37.1, governing this**
14 **chapter.**

15 **Sec. 14. This chapter expires January 1, 2033.**

