

**IC 6-3.1-34 Chapter 34. Redevelopment Tax Credit**

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**IC 6-3.1-34-1 "Board"**

Sec. 1. As used in this chapter, "board" means the board of the Indiana economic development corporation.

*As added by P.L.158-2019, SEC.29.*

**IC 6-3.1-34-2 "Corporation"**

Sec. 2. As used in this chapter, "corporation" refers to the Indiana economic development corporation established under IC 5-28-3, unless the context clearly denotes otherwise.

*As added by P.L.158-2019, SEC.29.*

**IC 6-3.1-34-3 "Floor space"**

Sec. 3. As used in this chapter, "floor space" means the usable interior floor space of a building.

*As added by P.L.158-2019, SEC.29.*

**IC 6-3.1-34-3.5 "Mine reclamation site"**

Sec. 3.5. As used in this chapter, "mine reclamation site" means:

- (1) land that has been mined using surface mining methods or underground mining methods, specifically and primarily for the removal of coal; and
- (2) land that is contiguous to land described in subdivision (1).

*As added by P.L.154-2020, SEC.21.*

**IC 6-3.1-34-4 "Pass through entity"**

Sec. 4. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;

- (4) limited liability company; or
- (5) limited liability partnership.

*As added by P.L.158-2019, SEC.29.*

**IC 6-3.1-34-5 "Placed in service"**

Sec. 5. As used in this chapter, "placed in service" means that property is placed in a condition or state of readiness and available to be occupied. In the case of a qualified redevelopment site comprised of a complex of buildings, the entire qualified redevelopment site shall be considered to have been placed in service on the date that a building was placed in service if the building has floor space that, when aggregated with the floor space of all buildings in the complex placed in service on earlier dates, exceeds fifty percent (50%) of the total floor space of all buildings in the complex.

*As added by P.L.158-2019, SEC.29.*

**IC 6-3.1-34-6 "Qualified redevelopment site"**

Sec. 6. As used in this chapter, "qualified redevelopment site" means a vacant or underutilized property in Indiana as determined by the corporation.

*As added by P.L.158-2019, SEC.29. Amended by P.L.154-2020, SEC.22; P.L.135-2022, SEC.13.*

**IC 6-3.1-34-7 "Qualified investment"**

Sec. 7. As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures that are:

- (1) for the redevelopment or rehabilitation of real property located within a qualified redevelopment site; and
- (2) approved by the corporation before the expenditure is made.

*As added by P.L.158-2019, SEC.29.*

**IC 6-3.1-34-8 "Rehabilitation"**

Sec. 8. As used in this chapter, "rehabilitation" means the betterment of real property in any way.

*As added by P.L.158-2019, SEC.29. Amended by P.L.135-2022, SEC.14.*

**IC 6-3.1-34-9 "State tax liability"**

Sec. 9. As used in this chapter, "state tax liability" means the taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax); and
- (3) IC 6-5.5 (the financial institutions tax) or IC 6-8-15 (the nonprofit agricultural organization health coverage tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

*As added by P.L.158-2019, SEC.29. Amended by P.L.154-2020, SEC.23.*

**IC 6-3.1-34-10 "Taxpayer"**

Sec. 10. As used in this chapter, "taxpayer" means any person, corporation, limited liability company, partnership, or other entity that has any state tax liability. The term includes the owner or the developer of the qualified development site property, a pass through entity, and an assignee that is assigned part or all of a credit under section 14 of this chapter.

*As added by P.L.158-2019, SEC.29. Amended by P.L.154-2020, SEC.24.*

**IC 6-3.1-34-11 Application; amount of credit; pass through entity**

Sec. 11. (a) Subject to IC 5-28-6-9, a taxpayer may claim a credit against the taxpayer's state tax liability for a taxable year only if the corporation awards a credit to the taxpayer and enters into an agreement with the taxpayer as set forth under this chapter. The corporation may establish an application period for applying for awards. If an application period is established, the corporation shall establish policies and procedures necessary to administer the application period. The corporation may deny an application for a credit under this chapter 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.

(b) The amount of the credit that a taxpayer may claim is equal to:

- (1) the qualified investment made by the taxpayer and certified and approved by the corporation in accordance with an agreement entered into under section 17 of this chapter for a taxable year; multiplied by
- (2) the applicable credit percentage determined by the corporation under section 17(b) and 17(c) of this chapter.

(c) If a pass through entity may claim a credit under this section but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, beneficiary, or member of the pass through entity may claim a credit equal to:

- (1) the credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income that the shareholder, partner, beneficiary, or member may claim.

The credit provided under this subsection is in addition to a credit that a shareholder, partner, beneficiary, or member of a pass through entity may claim. However, a pass through entity and a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified investment.

(d) Notwithstanding subsections (a), (b), and (c), a pass through entity (other than an entity described in IC 6-3-1-35(1)) and its partners, beneficiaries, or members may allocate the credit among its partners, beneficiaries, or members of the pass through entity as provided by written agreement without regard to their sharing of other tax or economic attributes. Such agreements shall be filed with the corporation not later than fifteen (15) days after execution. The pass through entity shall also provide a copy of such agreements, a list of partners, beneficiaries, or members of the pass through entity, and their respective shares of the credit resulting from such agreements in the manner prescribed by the department of state revenue. *As added by P.L.158-2019, SEC.29. Amended by P.L.159-2021, SEC.19; P.L.213-2025, SEC.82.*

#### **IC 6-3.1-34-12      Allocation of credit against taxes owed; order; computation**

Sec. 12. (a) A tax credit that a taxpayer may claim under this chapter shall be applied against taxes owed by the taxpayer in the following order:

- (1) First, against the taxpayer's adjusted gross income tax liability (IC 6-3-1 through IC 6-3-7) for the taxable year.
- (2) Second, against the taxpayer's insurance premiums tax liability (IC 27-1-18-2) or nonprofit agricultural organization health coverage tax liability (IC 6-8-15) for the taxable year.
- (3) Third, against the taxpayer's financial institutions tax liability (IC 6-5.5) for the taxable year.

(b) If the tax paid by the taxpayer under a tax provision listed in subsection (a) is a credit against the liability or a deduction in determining the tax base under another Indiana tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer may claim under this chapter.

*As added by P.L.158-2019, SEC.29. Amended by P.L.154-2020, SEC.25.*

#### **IC 6-3.1-34-13      Credit carryover**

Sec. 13. (a) If the amount of the credit determined under section 11 of this chapter for a

taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess credit over for a period not to exceed the taxpayer's following nine (9) taxable years, beginning with the taxable year after the year in which the corporation certifies the taxpayer's expenditures as a qualified investment. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

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

*As added by P.L.158-2019, SEC.29.*

#### **IC 6-3.1-34-14 Credit assignment**

Sec. 14.(a) If a taxpayer is awarded a credit under this chapter before July 1, 2029, the taxpayer may assign any part of the credit that the taxpayer may claim under this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(b) If a taxpayer assigns a part of a credit during a taxable year, the assignee may not subsequently assign all or part of the credit to another taxpayer. A taxpayer may make only one (1) assignment of a credit. Before a credit may be assigned, the taxpayer must notify the corporation of the assignment of the credit in the manner prescribed by the corporation. An assignment of a credit must be in writing, and both the taxpayer and assignee shall report the assignment on the taxpayer's and assignee's state tax returns for the year in which the assignment is made, in the manner prescribed by the department. A taxpayer may not receive value in connection with an assignment under this section that exceeds the value of that part of the credit assigned.

(c) The corporation shall collect and compile data on the assignments of tax credits under this chapter and determine the effectiveness of each assignment in getting projects completed. The corporation shall report its findings under this subsection to the legislative council in an electronic format under IC 5-14-6 before November 1, 2022.

*As added by P.L.158-2019, SEC.29. Amended by P.L.154-2020, SEC.26.*

#### **IC 6-3.1-34-15 Requirements to be awarded a credit**

Sec. 15. To be awarded a credit under this chapter, a taxpayer must file an application with the corporation and enter into an agreement with the corporation as set forth under this chapter.

*As added by P.L.158-2019, SEC.29.*

#### **IC 6-3.1-34-16 Factors considered in determining whether to award a credit**

Sec. 16. The corporation shall consider the following factors in deciding whether to award a credit under this chapter for a proposed qualified investment:

- (1) Evidence that the project aligns with the community's development plans.
- (2) The economic development potential for the project for which the taxpayer proposes to make the qualified investment.
- (3) Evidence of barriers preventing the development or redevelopment of the qualified redevelopment site in which the qualified investment is made, such as significant environmental contamination requiring remediation.
- (4) The level of commitment by the public sector and local government to assist in the financing of improvements or redevelopment activities benefiting the qualified redevelopment site in which the qualified investment is made.
- (5) Evidence of support by residents, businesses, and private organizations in the surrounding community for the project for which the taxpayer proposes to make the qualified investment.
- (6) The level of economic distress in the surrounding community and the extent to which the project for which the taxpayer proposes to make the qualified investment mitigates the economic distress.
- (7) The extent to which the project is estimated to enhance the economic opportunity,

health, safety, aesthetics, or amenities of the community in a manner that:

(A) improves quality of life factors for residents of the region; and

(B) increases the ability of the region to attract and retain a talented workforce.

(8) Any other factors as determined by the corporation.

*As added by P.L.158-2019, SEC.29. Amended by P.L.135-2022, SEC.15.*

**IC 6-3.1-34-17 Requirement that taxpayer enter into agreement with the corporation; applicable credit percentage**

Sec. 17. (a) The following apply if the corporation determines that a credit should be awarded under this chapter:

(1) The corporation shall require the taxpayer to enter into an agreement with the corporation as a condition of receiving a credit under this chapter.

(2) The agreement with the corporation must:

(A) prescribe the method of certifying the taxpayer's qualified investment; and

(B) include provisions that authorize the corporation to work with the department and the taxpayer, if the corporation determines that the taxpayer is noncompliant with the terms of the agreement or the provisions of this chapter, to bring the taxpayer into compliance or to protect the interests of the state.

(3) The corporation shall specify the taxpayer's expenditures that will be considered a qualified investment.

(4) The corporation shall determine the applicable credit percentage under subsections (b) and (c).

(b) If the corporation determines that a credit should be awarded under this chapter, the corporation shall determine the applicable credit percentage for a qualified investment certified by the corporation. However, and except as provided in subsection (c), the applicable credit percentage may not exceed thirty percent (30%).

(c) The corporation may increase the credit amount by not more than an additional five percent (5%) if:

(1) the qualified redevelopment site is located in a federally designated qualified opportunity zone (Section 1400Z-1 and 1400Z-2 of the Internal Revenue Code); or

(2) the project qualifies for federal new markets tax credits under Section 45D of the Internal Revenue Code.

(d) To be eligible for the credit for a qualified investment, a taxpayer's expenditures that are considered a qualified investment must be certified by the corporation not later than two (2) taxable years after the end of the calendar year in which the taxpayer's expenditures are made.

*As added by P.L.158-2019, SEC.29. Amended by P.L.154-2020, SEC.27; P.L.135-2022, SEC.16.*

**IC 6-3.1-34-18 Repayment provisions**

Sec. 18. (a) Except as provided in subsection (b), if the corporation awards a tax credit to a taxpayer under this chapter that exceeds twenty million dollars (\$20,000,000), the corporation shall include in an agreement entered into under section 17 of this chapter a provision that requires the taxpayer to repay to the corporation the portion of the credit that exceeds twenty million dollars (\$20,000,000) with interest. Notwithstanding the date on which a tax credit is awarded under this chapter, any repayment of any part of a credit awarded under this chapter shall be deposited in the state general fund.

(b) Notwithstanding subsection (a), the corporation may exclude from its agreement entered into under section 17 of this chapter a repayment provision for any portion of the credit if the award is for a qualified redevelopment site subject to a proposal that will result in a qualified investment of at least one hundred million dollars (\$100,000,000).

(c) If the corporation enters into an agreement with a taxpayer under section 17 of this chapter that includes a repayment provision under subsection (a), the corporation shall

include in the repayment provision a provision establishing the interest rate that will be applied. The interest rate shall be determined by the board and approved by the budget agency.

(d) This subsection applies to an active multi-phased project occurring on a defined footprint for which the taxpayer has received approval for at least the first phase of the active multi-phased project from the corporation's board before July 1, 2018, for a tax credit under IC 6-3.1-11 (industrial recovery tax credit) before its expiration. The following apply to a project described in this subsection:

(1) Only qualified investments that are made after June 30, 2021, are eligible for a credit award under this chapter.

(2) The annual amount of credits awarded under this chapter for the project may not exceed five million dollars (\$5,000,000).

(3) The corporation may not include a repayment provision as part of an agreement entered into under section 17 of this chapter for the credits awarded for the project.

(e) The part of any credit that is subject to a repayment provision under this section must be included in the calculation of the aggregate amount of applicable tax credits that the corporation may certify for a state fiscal year under IC 5-28-6-9.

*As added by P.L.158-2019, SEC.29. Amended by P.L.135-2022, SEC.17; P.L.201-2023, SEC.102.*

#### **IC 6-3.1-34-19 Procedure to claim a credit**

Sec. 19. To receive a credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit the following to the department:

(1) The certification of the corporation stating the applicable credit percentage approved by the corporation under section 17(b) of this chapter.

(2) All other information that the department determines is necessary for:

(A) the calculation for the credit provided by this chapter; and

(B) the determination of whether an expenditure was a qualified investment.

*As added by P.L.158-2019, SEC.29.*

#### **IC 6-3.1-34-20 Notice of noncompliance; assessment**

Sec. 20. (a) If the corporation determines that a taxpayer that has claimed a credit under this chapter is not entitled to the credit because of the taxpayer's noncompliance with the requirements of the tax credit agreement or any of the provisions of this chapter, the corporation shall, after giving the taxpayer an opportunity to explain the noncompliance:

(1) notify the department of the noncompliance; and

(2) request the department to impose an assessment on the taxpayer in an amount that may not exceed the sum of any previously allowed credits under this chapter together with interest and penalties required or permitted by law.

(b) If a credit was assigned under section 14 of this chapter, the assessment under this section shall be issued against the taxpayer that could have claimed the credit had no assignment occurred. If an assessment is issued to a taxpayer, other than an assignee of a credit that was assigned, the assessment shall not be offset by any nonrefundable credit. An assessment may not be made against an assignee of a credit except in the case of fraud by the assignee in the assignment of the credit. Notwithstanding the provisions of IC 6-8.1-5-2, an assessment is considered timely if the department issues a proposed assessment:

(1) not later than one hundred eighty (180) days from the date the department is notified of the noncompliance; or

(2) the date on which the proposed assessment could otherwise be issued in a timely manner under IC 6-8.1-5-2;

whichever is later.

*As added by P.L.158-2019, SEC.29. Amended by P.L.156-2020, SEC.25.*

**IC 6-3.1-34-21            Evaluation of the performance of the tax credit program;  
report**

Sec. 21. (a) The board shall establish measurements for evaluating the performance of the tax credit program under this chapter.

(b) Beginning in 2023, and each odd-numbered year thereafter, the corporation shall provide for an evaluation of the tax credit program. The evaluation shall include an assessment of the effectiveness of the program, and the evaluation shall specifically report on the extent to which the tax credit program met the measurements established by the board under subsection (a). The corporation shall include information received or compiled under this section in the economic incentives and compliance report submitted under IC 5-28-28 for the calendar year in which the evaluation is completed.

*As added by P.L.158-2019, SEC.29.*

**IC 6-3.1-34-22            Repealed**

*As added by P.L.158-2019, SEC.29. Repealed by P.L.135-2022, SEC.18.*

**IC 6-3.1-34-23            Credit subject to annual aggregate credit limit**

Sec. 23. A tax credit awarded under this chapter is subject to the limitations set forth in IC 5-28-6-9.

*As added by P.L.213-2025, SEC.83.*