

## **IC 2-5-3.2**

### **Chapter 3.2. Review, Analysis, and Evaluation of Tax Incentives**

#### **IC 2-5-3.2-1**

##### **Review, analysis, and evaluation of tax incentives**

Sec. 1. (a) As used in this section, "tax incentive" means a benefit provided through a state or local tax that is intended to alter, reward, or subsidize a particular action or behavior by the tax incentive recipient, including a benefit intended to encourage economic development. The term includes the following:

(1) An exemption, deduction, credit, preferential rate, or other tax benefit that:

(A) reduces the amount of a tax that would otherwise be due to the state;

(B) results in a tax refund in excess of any tax due; or

(C) reduces the amount of property taxes that would otherwise be due to a political subdivision of the state.

(2) The dedication of revenue by a political subdivision to provide improvements or to retire bonds issued to pay for improvements in an economic or sports development area, a community revitalization area, an enterprise zone, a tax increment financing district, or any other similar area or district.

(b) The general assembly intends that each tax incentive effectuate the purposes for which it was enacted and that the cost of tax incentives should be included more readily in the biennial budgeting process. To provide the general assembly with the information it needs to make informed policy choices about the efficacy of each tax incentive, the legislative services agency shall conduct a regular review, analysis, and evaluation of all tax incentives according to a schedule developed by the legislative services agency.

(c) The legislative services agency shall conduct a systematic and comprehensive review, analysis, and evaluation of each tax incentive scheduled for review. The review, analysis, and evaluation must include information about each tax incentive that is necessary to achieve the goals described in subsection (b), which may include any of the following:

(1) The basic attributes and policy goals of the tax incentive, including the statutory and programmatic goals of the tax incentive, the economic parameters of the tax incentive, the original scope and purpose of the tax incentive, and how the scope or purpose has changed over time.

(2) The tax incentive's equity, simplicity, competitiveness, public purpose, adequacy, and extent of conformance with the original purposes of the legislation enacting the tax incentive.

(3) The types of activities on which the tax incentive is based and how effective the tax incentive has been in promoting these targeted activities and in assisting recipients of the tax incentive.

- (4) The count of the following:
  - (A) Applicants for the tax incentive.
  - (B) Applicants that qualify for the tax incentive.
  - (C) Qualified applicants that, if applicable, are approved to receive the tax incentive.
  - (D) Taxpayers that actually claim the tax incentive.
  - (E) Taxpayers that actually receive the tax incentive.
- (5) The dollar amount of the tax incentive benefits that has been actually claimed by all taxpayers over time, including the following:
  - (A) The dollar amount of the tax incentive, listed by the North American Industrial Classification System (NAICS) Code associated with the tax incentive recipients, if an NAICS Code is available.
  - (B) The dollar amount of income tax credits that can be carried forward for the next five (5) state fiscal years.
- (6) An estimate of the economic impact of the tax incentive, including the following:
  - (A) A return on investment calculation for the tax incentive. For purposes of this clause, "return on investment calculation" means analyzing the cost to the state or political subdivision of providing the tax incentive, analyzing the benefits realized by the state or political subdivision from providing the tax incentive.
  - (B) A cost-benefit comparison of the state and local revenue foregone and property taxes shifted to other taxpayers as a result of allowing the tax incentive, compared to tax revenue generated by the taxpayer receiving the incentive, including direct taxes applied to the taxpayer and taxes applied to the taxpayer's employees.
  - (C) An estimate of the number of jobs that were the direct result of the tax incentive.
  - (D) For any tax incentive that is reviewed or approved by the Indiana economic development corporation, a statement by the chief executive officer of the Indiana economic development corporation as to whether the statutory and programmatic goals of the tax incentive are being met, with obstacles to these goals identified, if possible.
- (7) The methodology and assumptions used in carrying out the reviews, analyses, and evaluations required under this subsection.
- (8) The estimated cost to the state to administer the tax incentive.
- (9) An estimate of the extent to which benefits of the tax incentive remained in Indiana or flowed outside Indiana.
- (10) Whether the effectiveness of the tax incentive could be determined more definitively if the general assembly were to clarify or modify the tax incentive's goals and intended purpose.
- (11) Whether measuring the economic impact is significantly

limited due to data constraints and whether any changes in statute would facilitate data collection in a way that would allow for better review, analysis, or evaluation.

(12) An estimate of the indirect economic benefit or activity stimulated by the tax incentive.

(13) Any additional review, analysis, or evaluation that the legislative services agency considers advisable, including comparisons with tax incentives offered by other states if those comparisons would add value to the review, analysis, and evaluation.

The legislative services agency may request a state or local official or a state agency, a political subdivision, a body corporate and politic, or a county or municipal redevelopment commission to furnish information necessary to complete the tax incentive review, analysis, and evaluation required by this section. An official or entity presented with a request from the legislative services agency under this subsection shall cooperate with the legislative services agency in providing the requested information. An official or entity may require that the legislative services agency adhere to the provider's rules, if any, that concern the confidential nature of the information.

(d) The legislative services agency shall, before October 1 of each year, submit a report to the legislative council, in an electronic format under IC 5-14-6, and to the interim study committee on fiscal policy established by IC 2-5-1.3-4 containing the results of the legislative services agency's review, analysis, and evaluation. The report must include at least the following:

(1) A detailed description of the review, analysis, and evaluation for each tax incentive reviewed.

(2) Information to be used by the general assembly to determine whether a reviewed tax incentive should be continued, modified, or terminated, the basis for the recommendation, and the expected impact of the recommendation on the state's economy.

(3) Information to be used by the general assembly to better align a reviewed tax incentive with the original intent of the legislation that enacted the tax incentive.

The report required by this subsection must not disclose any proprietary or otherwise confidential taxpayer information.

(e) The interim study committee on fiscal policy shall do the following:

(1) Hold at least one (1) public hearing after September 30 and before November 1 of each year at which:

(A) the legislative services agency presents the review, analysis, and evaluation of tax incentives; and

(B) the interim study committee receives information concerning tax incentives.

(2) Submit to the legislative council, in an electronic format under IC 5-14-6, any recommendations made by the interim study committee that are related to the legislative services agency's review, analysis, and evaluation of tax incentives

prepared under this section.

(f) The general assembly shall use the legislative services agency's report under this section and the interim study committee on fiscal policy's recommendations under this section to determine whether a particular tax incentive:

- (1) is successful;
- (2) is provided at a cost that can be accommodated by the state's biennial budget; and
- (3) should be continued, amended, or repealed.

(g) The legislative services agency shall establish and maintain a system for making available to the public information about the amount and effectiveness of tax incentives.

(h) The legislative services agency shall develop and publish on the general assembly's Internet web site a multi-year schedule that lists all tax incentives and indicates the year when the report will be published for each tax incentive reviewed. The legislative services agency may revise the schedule as long as the legislative services agency provides for a systematic review, analysis, and evaluation of all tax incentives and that each tax incentive is reviewed at least once every five (5) years.

(i) This section expires December 31, 2023.

*As added by P.L.114-2014, SEC.1. Amended by P.L.36-2015, SEC.1.*

#### **IC 2-5-3.2-2**

##### **Tax expenditure report**

Sec. 2. (a) As used in this section, "tax expenditure" means a tax exemption, tax deduction, tax credit, preferential tax rate, or tax provision that reduces a person's state tax liability.

(b) The legislative services agency shall, before November 1 of each even numbered year, prepare and publish a tax expenditure report.

(c) The tax expenditure report must include at least the following:

- (1) A listing and explanation of each tax expenditure.
- (2) The history of each tax expenditure.
- (3) An estimate for each state fiscal year of the next biennial budget of the cost of each tax expenditure.
- (4) A discussion of the criteria used to determine whether a tax provision is or is not a tax expenditure.

(d) The legislative services agency shall submit the tax expenditure report to:

- (1) the legislative council;
- (2) the interim study committee on fiscal policy established by IC 2-5-1.3-4; and
- (3) the chairpersons and ranking minority members of:
  - (A) the house committee on ways and means; and
  - (B) the senate committee on appropriations;for use in the preparation of and consideration of the state biennial budget.

(e) This section expires December 31, 2023.

*As added by P.L.36-2015, SEC.2.*