

## **IC 6-3.1-30.5**

### **Chapter 30.5. School Scholarship Tax Credit**

#### **IC 6-3.1-30.5-0.5**

##### **Severability**

Sec. 0.5. Each provision of P.L.92-2011 is presumed to be and is severable from the remainder to the fullest extent and under IC 1-1-1-8. If any phrase, clause, sentence, or provision of IC 6-3.1-30.5 or IC 20-51, as added and amended, is held invalid for any reason, the invalidity does not affect the other provisions that are to be given effect without the invalid provision or application. The general assembly intends each provision to be passed into law individually and as a whole, without any provisions later found to be invalid or otherwise counter to constitutional or other legal requirements.

*As added by P.L.63-2012, SEC.6.*

#### **IC 6-3.1-30.5-1**

##### **"Credit"**

Sec. 1. As used in this chapter, "credit" refers to a credit granted under this chapter.

*As added by P.L.182-2009(ss), SEC.205.*

#### **IC 6-3.1-30.5-2**

##### **"Pass through entity"**

Sec. 2. As used in this chapter, "pass through entity" has the meaning set forth in IC 6-3-1-35.

*As added by P.L.182-2009(ss), SEC.205.*

#### **IC 6-3.1-30.5-3**

##### **"Scholarship granting organization"**

Sec. 3. As used in this chapter, "scholarship granting organization" refers to an organization that:

- (1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and
- (2) conducts a school scholarship program without limiting the availability of scholarships to students of only one (1) participating school (as defined in IC 20-51-1-6).

*As added by P.L.182-2009(ss), SEC.205. Amended by P.L.92-2011, SEC.2.*

#### **IC 6-3.1-30.5-4**

##### **"School scholarship program"**

Sec. 4. As used in this chapter, "school scholarship program" refers to a scholarship program certified by the department of education under IC 20-51.

*As added by P.L.182-2009(ss), SEC.205.*

**IC 6-3.1-30.5-5****"State tax liability"**

Sec. 5. As used in this chapter, "state tax liability" means a 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 6-5.5 (the financial institutions tax); and
- (3) IC 27-1-18-2 (the insurance premiums 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.182-2009(ss), SEC.205.*

**IC 6-3.1-30.5-6****"Taxpayer"**

Sec. 6. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

*As added by P.L.182-2009(ss), SEC.205.*

**IC 6-3.1-30.5-7****Credit**

Sec. 7. (a) A taxpayer that makes a contribution to a scholarship granting organization for use by the scholarship granting organization in a school scholarship program is entitled to a credit against the taxpayer's state tax liability in the taxable year in which the taxpayer makes the contribution.

(b) A taxpayer is not entitled to a credit under this chapter for a contribution to a scholarship granting organization that is used to provide a scholarship or other assistance to a child participating in the early education grant pilot program under IC 12-17.2-7.2.

*As added by P.L.182-2009(ss), SEC.205. Amended by P.L.202-2014, SEC.1.*

**IC 6-3.1-30.5-8****Amount of credit**

Sec. 8. The amount of a taxpayer's credit is equal to fifty percent (50%) of the amount of the contribution made to the scholarship granting organization for a school scholarship program.

*As added by P.L.182-2009(ss), SEC.205.*

**IC 6-3.1-30.5-9****Carryover, carryback, or refund not allowed**

Sec. 9. (a) This section applies to a taxpayer that is entitled to a tax credit under this chapter for a taxable year beginning before January 1, 2013.

(b) A taxpayer is not entitled to a carryover, carryback, or refund of an unused credit.

(c) This section expires January 1, 2017.

*As added by P.L.182-2009(ss), SEC.205. Amended by P.L.211-2013, SEC.1.*

#### **IC 6-3.1-30.5-9.5**

##### **Unused credit carried forward; taxable years beginning after December 31, 2012**

Sec. 9.5. (a) This section applies to a taxpayer that is entitled to a tax credit under this chapter for a taxable year beginning after December 31, 2012.

(b) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the taxpayer's state tax liability during those taxable years. Each time the credit is carried forward to a succeeding taxable year, the credit is reduced by the amount that was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for nine (9) taxable years following the unused credit year.

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

*As added by P.L.211-2013, SEC.2.*

#### **IC 6-3.1-30.5-10**

##### **Pass through entities**

Sec. 10. If a pass through entity is entitled to a credit under section 7 of this chapter but 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 a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

*As added by P.L.182-2009(ss), SEC.205.*

#### **IC 6-3.1-30.5-11**

##### **Claim of credit; submission of information**

Sec. 11. To apply a credit against the taxpayer's state tax liability, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department the information that the department determines is necessary for the department to determine whether the taxpayer is eligible for the credit.

*As added by P.L.182-2009(ss), SEC.205.*

#### **IC 6-3.1-30.5-12**

##### **Use of contribution**

Sec. 12. A contribution to a scholarship granting organization shall be treated as having been made for use in a school scholarship program if:

- (1) the contribution is made directly to a scholarship granting organization; and

(2) either:

(A) not later than the date of the contribution, the taxpayer designates in writing to the scholarship granting organization that the contribution is to be used only for a school scholarship program; or

(B) the scholarship granting organization provides the taxpayer with written confirmation that the contribution will be dedicated solely for use in a school scholarship program.

*As added by P.L.182-2009(ss), SEC.205. Amended by P.L.92-2011, SEC.3.*

### **IC 6-3.1-30.5-13**

#### **Maximum amount of credit**

Sec. 13. (a) This subsection applies to a state fiscal year beginning before July 1, 2015. The total amount of tax credits awarded under this chapter may not exceed seven million five hundred thousand dollars (\$7,500,000) in a state fiscal year.

(b) This subsection applies to the state fiscal year beginning July 1, 2015. The total amount of tax credits awarded under this chapter may not exceed eight million five hundred thousand dollars (\$8,500,000) in the state fiscal year.

(c) This subsection applies to a state fiscal year beginning after June 30, 2016. The total amount of tax credits awarded under this chapter may not exceed nine million five hundred thousand dollars (\$9,500,000) in a state fiscal year.

*As added by P.L.182-2009(ss), SEC.205. Amended by P.L.92-2011, SEC.4; P.L.205-2013, SEC.84; P.L.213-2015, SEC.86.*

### **IC 6-3.1-30.5-14**

#### **Information posted by the department**

Sec. 14. The department, on an Internet web site used by the department to provide information to the public, shall provide the following information:

(1) The application for the credit provided in this chapter.

(2) A timeline for receiving the credit provided in this chapter.

(3) The total amount of credits awarded under this chapter during the current state fiscal year.

*As added by P.L.182-2009(ss), SEC.205.*

### **IC 6-3.1-30.5-15**

#### **Adoption of rules**

Sec. 15. The department shall adopt rules under IC 4-22-2 to implement this chapter.

*As added by P.L.182-2009(ss), SEC.205.*