

TITLE 45 INDIANA DEPARTMENT OF STATE REVENUE

Emergency Rule

LSA Document #09- 988 (E)

DIGEST

Temporarily adds provisions to explain and implement the School Scholarship Tax Credit as contained in IC 6-3.1-30.5 effective July 1, 2009 and applying to taxable years beginning after December 31, 2009. Authority: P.L. 182-2009(ss), SECTION 487.

Effective January 1, 2010.

SECTION 1. (a) The definitions in this SECTION apply throughout this document.

(b) “Department” means the department of state revenue.

(c) “Pass through entity” has the meaning set forth in IC 6-3-1-35.

(d) “Scholarship granting organization” means an organization that meets the requirements of:

(1) IC 6-3.1-30.5-3;

(2) IC 20-51-1-7; and

(3) IC 20-51-3.

(e) “School scholarship program” refers to a school scholarship program certified by the department of education under IC 20-51.

(f) “State tax liability” has the meaning set forth in IC 6-3.1-30.5-5.

(g) “Taxpayer” means an individual or entity that has any state tax liability.

SECTION 2. (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) The amount of the taxpayer’s credit is equal to fifty percent (50%) of the amount of contribution made to the scholarship granting organization for a school scholarship program.

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

(d) If a pass through entity is entitled to a credit 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.

(e) A taxpayer must claim the credit on the taxpayer's annual state tax return, and include the certification number provided by the scholarship granting organization.

SECTION 3. A contribution 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.

SECTION 4. (a) The department of education shall notify the department when a scholarship granting organization enters into an agreement with the department of education in accordance with IC 20-51-3.

(b) The department will provide the scholarship granting organization with instructions so that the scholarship granting organization can access an email address that would give a certification number for each contribution that is made and is eligible for the credit.

(c) The scholarship granting organization shall provide the department with the following information for each contribution:

(1) taxpayer's name;

(2) address;

(3) federal identification number;

(4) Indiana taxpayer identification number

(5) amount of contribution;

(6) date of contribution; and

(7) the name of the scholarship granting organization receiving the contribution.

(d) The department shall notify the scholarship granting organization when a contribution is eligible for the credit. The notification shall include a certification number that the scholarship granting organization shall include with the information on the application for the credit.

(e) A contribution is eligible for the credit only if the contribution has been made by the taxpayer. Pledges of future donations are not eligible for the school scholarship tax credit.

(f) The department shall email every scholarship granting organization on a daily basis the total value of credits awarded for the fiscal year to date, and the remaining value of credits available to be claimed until the total amount of tax credits available for the fiscal year have been claimed.

(g) The total amount of tax credits awarded may not exceed two million five hundred thousand dollars (\$2,500,000) in any state fiscal year.

(h) For calendar year 2010, five million dollars (\$5,000,000) in credits will be available as follows:

(1) two million five hundred thousand dollars (\$2,500,000) from January 1, 2010 through June 30, 2010; and

(2) two million five hundred thousand dollars (\$2,500,000) from July 1, 2010 through June 30, 2011.

(i) If all available credits are claimed during calendar year 2010, additional credits will not be available for calendar year 2010 until

July 1, 2011.

SECTION 5. This document expires at the earliest of the following:

(1) The date that a permanent rule adopted under IC 4-22-2 supersedes or repeals this document.

(2) June 30, 2011