

# HOUSE BILL No. 1080

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1; IC 6-6-2.5-1.5.

**Synopsis:** Biofuel tax credits. Provides tax credits for: (1) the sale of higher ethanol blend; and (2) the: (A) sale of blended biodiesel; and (B) blending of biodiesel. Provides that the amount of the higher ethanol blend tax credit is \$0.05 per gallon of higher ethanol blend sold at the taxpayer's fueling station. Provides that the total amount of higher ethanol blend tax credits that may be awarded for a state fiscal year may not exceed \$10,000,000. Provides that the amount of the biodiesel tax credit is computed as follows: (1) \$0.05 per gallon of blended biodiesel of at least 5% but not more than 10%: (A) sold at the taxpayer's fueling station; or (B) sold by a distributor directly to the final user. (2) \$0.10 per gallon of blended biodiesel that is more than 10% but not more than 20%: (A) sold at the taxpayer's fueling station; or (B) sold by a distributor directly to the final user. (3) \$0.18 per gallon of blended biodiesel that is more than 20%: (A) sold at the taxpayer's fueling station; or (B) sold by a distributor directly to the final user. (4) For a person who blends biodiesel, the product of: (A) \$0.035; multiplied by (B) the number of gallons of blended biodiesel that are produced by blending biodiesel at a terminal located in Indiana. Provides that the biodiesel tax credit is refundable. Provides that the total amount of biodiesel tax credits that may be awarded for a state fiscal year may not exceed \$5,000,000.

**Effective:** July 1, 2023.

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January 9, 2023, read first time and referred to Committee on Ways and Means.

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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.

## HOUSE BILL No. 1080

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 6-3.1-37 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]:

4 **Chapter 37. Higher Ethanol Blend 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, "fueling station" means a retail**  
8 **location within Indiana from which higher ethanol blend is sold to**  
9 **the public and is dispensed directly into the fuel tank of a**  
10 **customer's motor vehicle.**

11 **Sec. 3. As used in this chapter, "higher ethanol blend" means an**  
12 **ethanol blend that is at least fifteen percent (15%) but not more**  
13 **than eighty-five percent (85%) ethanol and is dispensed directly**  
14 **into the fuel tank of a motor vehicle.**

15 **Sec. 4. As used in this chapter, "metered pump" means a**  
16 **stationary pump that is capable of metering the amount of**  
17 **gasoline, special fuel, or higher ethanol blend dispensed from it and**



that is capable of simultaneously calculating and displaying the price of the gasoline, special fuel, or higher ethanol blend dispensed.

Sec. 5. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income 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.

Sec. 6. As used in this chapter, "taxpayer" means any person, corporation, limited liability company, partnership, or other entity that:

- (1) owns a fueling station;
- (2) sells higher ethanol blend at the fueling station; and
- (3) has state tax liability.

Sec. 7. A taxpayer is entitled to a credit against the taxpayer's state tax liability for higher ethanol blend sold at the taxpayer's fueling station during a particular taxable year. The amount of the credit provided by this chapter equals five cents (\$0.05) per gallon of higher ethanol blend that the retail dealer sells and dispenses through a metered pump at the taxpayer's fueling station during the taxable year.

Sec. 8. (a) The credit must be used for the taxable year in which the credit accrued. However, if the amount of the credit determined under this chapter for a taxpayer's taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year must be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent year. A credit may not be carried forward for more than three (3) taxable years following the taxable year in which the taxpayer is first entitled to claim the credit.

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

(c) A taxpayer may not sell, assign, convey, or otherwise transfer the credit provided by this chapter.

Sec. 9. If a pass through entity that qualifies for the credit does not have state tax liability against which the credit may be applied, a shareholder, partner, or member of the pass through entity may claim a credit under this chapter equal to:

- (1) the credit determined for the pass through entity under this chapter 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.

**Sec. 10.** The total amount of tax credits that may be awarded under this chapter for a state fiscal year may not exceed ten million dollars (\$10,000,000).

**Sec. 11.** This chapter expires January 1, 2030.

SECTION 2. IC 6-3.1-38 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

**Chapter 38. Biodiesel Tax Credit**

**Sec. 1.** This chapter applies to taxable years beginning after December 31, 2023.

**Sec. 2.** As used in this chapter, "biodiesel" has the meaning set forth in IC 6-6-2.5-1.5(a).

**Sec. 3.** As used in this chapter, "blender" means a person, corporation, limited liability company, partnership, or other entity that blends biodiesel at a terminal located in Indiana.

**Sec. 4.** As used in this chapter, "blended biodiesel" has the meaning set forth in IC 6-6-2.5-1.5(b).

**Sec. 5.** As used in this chapter, "distributor" means a person, corporation, limited liability company, partnership, or other entity in Indiana that:

- (1) produces, refines, blends, compounds, or manufactures motor fuel;
- (2) imports motor fuel; or
- (3) is engaged in distribution of motor fuel.

**Sec. 6.** As used in this chapter, "fueling station" means a retail location within Indiana from which blended biodiesel is sold to the public and is dispensed directly into the fuel tank of a customer's motor vehicle.

**Sec. 7.** As used in this chapter, "metered pump" means a stationary pump that is capable of metering the amount of gasoline, special fuel, or blended biodiesel dispensed from it and that is capable of simultaneously calculating and displaying the price of the gasoline, special fuel, or blended biodiesel dispensed.

**Sec. 8.** As used in this chapter, "retail dealer" means a person, corporation, limited liability company, partnership, or other entity that owns or operates a fueling station.

**Sec. 9.** As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income 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.

Sec. 10. As used in this chapter, "taxpayer" means a:

- (1) retail dealer;
- (2) distributor; or
- (3) blender;

that has state tax liability.

Sec. 11. As used in this chapter, "terminal" has the meaning set forth in IC 6-6-2.5-24.

Sec. 12. (a) A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if any of the following apply:

- (1) The taxpayer is a retail dealer that sells blended biodiesel at a fueling station.
- (2) The taxpayer is a distributor that sells blended biodiesel directly to the final user located in Indiana.
- (3) Subject to the limitation set forth in subsection (c), the taxpayer is a blender that blends biodiesel at a terminal located in Indiana.

(b) This subsection applies to the calculation of the amount of the credit for a retail dealer or distributor. The amount of the credit is equal to the following:

- (1) Five cents (\$0.05) per gallon of blended biodiesel of at least five percent (5%) but not more than ten percent (10%) sold by a:

- (A) retail dealer through a metered pump at the retail dealer's fueling station; or

- (B) distributor directly to the final user located in Indiana; during the taxable year for which the credit is claimed.

- (2) Ten cents (\$0.10) per gallon of blended biodiesel that is more than ten percent (10%) but not more than twenty percent (20%) sold by a:

- (A) retail dealer through a metered pump at the retail dealer's fueling station; or

- (B) distributor directly to the final user located in Indiana; during the taxable year for which the credit is claimed.

- (3) Eighteen cents (\$0.18) per gallon of blended biodiesel that is more than twenty percent (20%) sold by a:

- (A) retail dealer through a metered pump at the retail dealer's fueling station; or

- (B) distributor directly to the final user located in Indiana; during the taxable year for which the credit is claimed.



(c) This subsection applies to the calculation of the amount of the credit for a blender. The amount of the credit is equal to the product of:

- (1) three and one-half cents (\$0.035); multiplied by
- (2) the number of gallons of blended biodiesel that are produced by blending biodiesel at a terminal located in Indiana;

during the taxable year for which the credit is claimed. However, the amount of the credit allowed under this subsection shall be reduced by any subsidy that the taxpayer is entitled to receive from the federal government for the taxpayer's production of blended biodiesel.

(d) The credit must be used for the taxable year in which the credit accrued.

Sec. 13. A taxpayer is not entitled to carryback any unused credit.

Sec. 14. A taxpayer may not sell, assign, convey, or otherwise transfer the credit provided by this chapter.

Sec. 15. If a pass through entity that qualifies for the credit does not have state tax liability against which the credit may be applied, a shareholder, partner, or member of the pass through entity may claim a credit under this chapter equal to:

- (1) the credit determined for the pass through entity under this chapter 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.

Sec. 16. If the amount of the tax credit exceeds the taxpayer's state tax liability, the taxpayer is entitled to a refundable credit, and the excess shall be refunded to the taxpayer.

Sec. 17. The total amount of tax credits that may be awarded under this chapter for a state fiscal year may not exceed five million dollars (\$5,000,000). However, if the total amount of tax credits exceeds the amount of available credits permitted by this section, the credits shall be apportioned among taxpayers who claim a credit before the taxpayer's due date for filing a return for the taxable year.

Sec. 18. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit.



(b) The department may consult with the Indiana department of health to validate that any blended biodiesel for which a taxpayer claims a credit under this chapter contains a sufficient percentage of biodiesel fuel.

**Sec. 19. The department shall adopt rules under IC 4-22-2 to implement this chapter.**

**Sec. 20. This chapter expires January 1, 2030.**

SECTION 3. IC 6-6-2.5-1.5, AS ADDED BY P.L.122-2006, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1.5. (a) As used in this chapter, "biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats that meets American Society for Testing and Materials specifications D6751-03a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, as well as other fuels of the same derivation capable of use in the generation of power for the propulsion of a motor vehicle, airplane, or motorboat.

(b) As used in this chapter, "blended biodiesel" means a blend of biodiesel with petroleum diesel fuel so that the volume percentage of biodiesel in the blend is at least two percent (2%). A biodiesel blend may be described as "Bxx" where "xx" represents the volume percentage of biodiesel fuel. "B2" is the type of biodiesel blend with the least volume percentage of biodiesel fuel, and "B99" is the type of biodiesel fuel with the most volume percentage of biodiesel fuel. The term does not include biodiesel (B100).

(c) As used in this chapter, "B99" means a blend of ninety-nine percent (99%) biodiesel fuel that meets the most recent version of the American Society for Testing and Materials International D6751 Standard Specification for Biodiesel Fuel Blend Stock with a minimum of one-tenth of one percent (0.1%) and maximum of one percent (1%) diesel fuel that meets the most recent version of the American Society for Testing and Materials International D975 Standard Specification for Diesel Fuel.

