**Section 580.90 Tax Credit Agreement**

The Department and each taxpayer whom the Department determines qualifies for a credit under the Act shall enter into an Agreement that specifies terms and conditions regarding the provision of the credit and defines the rights and responsibilities of the taxpayer and the Department. Provisions that the taxpayer will be contractually bound to comply with include, but are not limited to, the following:

a) *A detailed description of the project that is the subject of the agreement, including the location and amount of the investment and jobs created or retained.*

b) *The duration of the credit, the first taxable year for which the credit may be awarded, and the first taxable year in which the credit may be used by the taxpayer.*

c) *The credit amount that will be allowed for each taxable year.*

d) *For a project qualified under paragraphs (1), (2), or (4) of subsection (c) of Section 20* of the Act*, a requirement that the taxpayer shall maintain operations at the project location a minimum number of years not to exceed 15. For project qualified under paragraph (3) of subsection (c) of Section 20* of the Act*, a requirement that the taxpayer shall maintain operations at the project location a minimum number of years not to exceed 10.*

e) *A specific method for determining the number of new employees and if applicable, retained employees, employed during a taxable year.* The agreement will specify that an employee of the taxpayer who was previously employed in Illinois by the taxpayer and whose employment was shifted to the project after the taxpayer entered into the tax credit agreement are not considered new employees.

1) An employee may be considered a new employee under the agreement if the employee performs a job that was previously performed by an employee who was:

A) treated under the agreement as a new employee; and

B) promoted by the taxpayer to another job.

2) The agreement will specify that the Department may award a credit to the taxpayer with respect to an employee hired prior to the date of the agreement if:

A) the applicant is in receipt of a letter from the Department stating an intent to enter into a credit agreement;

B) the letter described in the first indented paragraph under the employees that are not included in the term "new employees" is issued by the Department not later than 15 days after the effective date of the Act; and

C) the employee was hired after the date the letter described in the first indented paragraph under the employees that are not included in the term "New Employees" was issued.

3) The agreement will address that an employee shall be considered a new employee under the agreement if the employee fills a job vacancy that had been continuously vacant for the 184 day period immediately preceding the date of the agreement. A job vacancy whose incumbent is on approved leave, is locked out or is on strike is not a vacancy.

f) *A requirement that the taxpayer shall annually report to the Department the number of new employees, the incremental income tax withheld in connection with the new employees, and any other information the Department deems necessary and appropriate to perform its duties under this Act.*

g) *A requirement that the Director is authorized to verify with the appropriate State agencies the amounts reported under* subsection (f)*, and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.*

h) *A requirement that the taxpayer shall provide written notification to the Director not more than 30 days after the taxpayer makes or receives a proposal that would transfer the taxpayer's State tax liability obligations to a successor taxpayer.*

i) *A detailed description of the number of new employees to be hired, and the occupation and payroll of full-time jobs to be created or retained because of the project.*

j) *The minimum investment the taxpayer will make in capital improvements, the time period for placing the property in service, and the designated location in Illinois for the investment.*

k) *A requirement that the taxpayer shall provide written notification to the Director and the Director's designee not more than 30 days after the taxpayer determines that the minimum job creation or retention, employment payroll, or investment no longer is or will be achieved or maintained as set forth in the terms and conditions of the agreement. Additionally, the notification should outline to the Department the number of layoffs, date of the layoffs, and detail taxpayer's efforts to provide career and training counseling for the impacted workers with industry-related certifications and trainings.*

l) *A provision that, if the total number of new employees falls below a specified level, the allowance of credit shall be suspended until the number of new employees equals or exceeds the agreement amount.*

m) *If applicable, a provision that specifies the statewide baseline at the time of application for retained employees. Additionally, the agreement must have a provision addressing if the total number retained employees falls below the statewide baseline, the allowance of the credit shall be suspended until the number of retained employees equals or exceeds the agreement amount.*

n) *A detailed description of the items for which the costs incurred by the taxpayer will be included in the limitation on the Credit provided in Section 40* of the Act*.*

o) *A provision stating that if the taxpayer fails to meet either the investment or job creation and retention requirements specified in the agreement during the entire 5-year period beginning on the first day of the first taxable year in which the agreement is executed and ending on the last day of the fifth taxable year after the agreement is executed, then the agreement is automatically terminated on the last day of the fifth taxable year after the agreement is executed, and the taxpayer is not entitled to the award of any credits for any of that 5-year period.* (Section 45 of the Act)

p) A requirement that the taxpayer shall annually report to the Department the number of new employees, if applicable, the number of retained employees, and the incremental income tax withheld in connection with the new employees.

q) *A provision stating that the taxpayer must provide the reports outlined in Sections 50(a) and (b) and 55 on or before April 15 each year.* The agreement shall state that *any taxpayer seeking to claim a credit under this Act that fails to timely submit the report required under Section 50(a) shall not receive a credit for that taxable year unless and until such report is finalized and submitted to the Department.*

r) *A provision requiring the taxpayer to report annually its contractual obligations or other relationship with a recycling facility for its operations,* and report on its own recycling capabilities. Additionally, the taxpayer shall report annually the percentage of batteries used in electric vehicles recycled throughout the term of the agreement.

s) *Any other performance conditions or contract provisions the Department determines are necessary or appropriate.*

t) *A provision stating that each taxpayer under paragraph (1) of subsection (c) of Section 20* of the Act *above shall maintain labor neutrality toward any union organizing campaign for any employees of the taxpayer assigned to work on the premises of the REV Illinois project site. This subsection shall not apply to an electric vehicle manufacturer, electric vehicle component part manufacturer, electric vehicle power supply manufacturer or any joint venture including an electric vehicle manufacturer, electric vehicle component part manufacturer, an electric vehicle power supply manufacturer,* or renewable energy manufacturer, *who is subject to collective bargaining agreement entered into prior to the taxpayer filing an application pursuant to the Act.* [20 ILCS 686/45]

u) A provision that the taxpayer *must annually report to the Department the total project tax benefits received to date. The report is due no later than May 31 of each year and shall cover the previous calendar year.* [20 ILCS 686/30(f)]

v) A provision that the *taxpayer shall at all times keep proper books of record and account in accordance with generally accepted accounting principles consistently applied, with the books, records, or papers related to the agreement in the custody or control of the taxpayer open for reasonable Department inspection and audits, and including without limitation, the making of copies of the books, records, or papers, and inspection or appraisal of any the taxpayer or project assets.* [20 ILCS 686/15]