102ND GENERAL ASSEMBLY
State of Illinois
2021 and 2022
HB3475

Introduced 2/22/2021, by Rep. Delia C. Ramirez

SYNOPSIS AS INTRODUCED:
New Act

Creates the Extremely High Wealth Mark-to-Market Tax Act. Contains provisions concerning gains or losses of assets for individual taxpayers with net assets worth $50,000,000 or more. Effective immediately.

LRB102 14998 HLH 20353 b

FISCAL NOTE ACT
MAY APPLY
AN ACT concerning revenue.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Extremely High Wealth Mark-to-Market Tax Act.

Section 5. Tax imposed; tax years beginning on or after January 1, 2020 and beginning prior to January 1, 2021.

(a) Notwithstanding any other provision of law, resident individual taxpayers with net assets worth $50,000,000 or more on December 31, 2020, shall recognize gain or loss as if each asset owned by the individual taxpayer were sold for its fair market value on that date. Any resulting net gains from these deemed sales, up to the phase-in cap amount, shall be included in the taxpayer's income for tax years beginning on or after January 1, 2020 and beginning prior to January 1, 2021. Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gains or losses taken into account under this subsection. At the taxpayer's option, the tax payable as a result of this Section shall either be payable in one installment or else shall be payable annually in 10 equal installments beginning in the year of the effective date of this Act and with all such installment payments commencing after the initial installment payment also being subject to an
annual nondeductible deferral charge of 7.5% annually. For resident individual taxpayers who would recognize net gains as a result of this Section except for the operation of this sentence, if the taxpayer can show that any portion of such gains was accumulated prior to the taxpayer becoming a resident individual of Illinois, and if the taxpayer can also show that such portion of such gains was previously taxed by any prior state or jurisdiction in which the taxpayer was a resident prior to becoming a resident individual of Illinois, then credit shall be provided in the amount of any such tax on such gains paid to any such prior states or jurisdictions in which the taxpayer was a resident prior to becoming a resident individual of Illinois. Any credits so provided by this subsection, however, shall not exceed the lesser of the total tax owed under this Section on such gains and the tax imposed on such gains by such other prior states or jurisdictions in which the taxpayer was a resident prior to becoming a resident individual of Illinois.

(b) For tax years included in this Section, whether an individual is a resident individual for purposes of this Act shall be determined using the pursuant to the criteria in the Illinois Income Tax Act.

Section 10. Tax imposed; subsequent years. For taxable years beginning on or after January 1, 2021, resident individual taxpayers with net assets that are worth
$50,000,000 or more at the end of the last day of any tax year shall recognize gains or losses as if each asset owned by such taxpayer on such date were sold for its fair market value on such date, but with adjustment made for tax paid on gain in previous years. Any resulting net gains from these deemed sales, up to the phase-in cap amount, shall be included in the taxpayer's income for such taxable year. Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the this Section. To the extent that the losses of a taxpayer exceed such taxpayer's gains, such net losses shall not be recognized in such taxable year and shall instead carry forward indefinitely. For resident individual taxpayers who would recognize net gains as a result of this section except for the operation of this sentence, but who were not resident individuals for all of the preceding five tax years, solely for purposes of deemed sales pursuant to this section, the tax basis of each asset owned on the last day of the last tax year before the resident individual became an Illinois resident shall be the fair market value of the asset as of that day.

Section 15. Phase-in cap amount. For each date on which gains or losses are recognized as a result of this Act, the phase-in cap amount shall be equal to a quarter of the worth of a taxpayer's net assets in excess of $50,000,000 on such date.
Section 20. Net worth calculation. For the purposes of determining whether a resident individual taxpayer has net assets worth $50,000,000 or more, the term "assets" shall include all of the following, but only to the extent allowable under the Illinois Constitution, the United States Constitution, and any other governing federal law: all owned real or personal, tangible or intangible, property, wherever situated that is: (1) owned by the taxpayer; (2) owned by the taxpayer's spouse, minor children, or any trust or estate of which the taxpayer is a beneficiary; (3) contributed by the taxpayer, or the taxpayer's spouse, minor children, or any trust or estate of which the taxpayer is a beneficiary, to any private foundation, donor advised fund, and any other entity described in section 501(c) or section 527 of the Internal Revenue Code of which the taxpayer, or the taxpayer's spouse, minor children, or any trust or estate of which the taxpayer is a beneficiary, is a substantial contributor (as such term is defined in Section 4958(c)(3)(B)(i) of the Internal Revenue Code); and (4) without duplication, all gifts and donations made within the past 5 years by the taxpayer, or the taxpayer's spouse, minor children, or any trust or estate of which the taxpayer is a beneficiary, as if such gifts and donations were still owned by the taxpayer. For the purpose of this section, "net assets" shall include the fair market value of assets less the fair market value of liabilities of the taxpayer and, in appropriate cases as determined by the Department of
Revenue, liabilities of such other persons described in the
definition of assets.

Section 25. Fair market value.

(a) The fair market value of each asset owned by the
taxpayer shall be the price at which such asset would change
hands between a willing buyer and a willing seller, neither
being under any compulsion to buy or to sell, and both having
reasonable knowledge of relevant facts. The value of a
particular asset shall not be the price that a forced sale of
the property would produce. Further, the fair market value of
an asset shall not be the sale price in a market other than
that in which such item is most commonly sold to the public,
taking into account the location of the item wherever
appropriate. In the case of an asset which is generally
obtained by the public in the retail market, the fair market
value of such an asset shall be the price at which such item or
a comparable item would be sold at retail.

(b) For purposes of this Section, any feature of an asset,
such as a poison pill, that was added with the intent, and has
the effect, of reducing the value of the asset shall be
disregarded, and no valuation or other discount shall be taken
into account if it would have the effect of reducing the value
of a pro rata economic interest in an asset below the pro rata
portion of the value of the entire asset.
Section 30. Administration.

(a) The Department of Revenue shall amend or create tax forms as necessary for the reporting of gains by assets. Assets shall be listed with (i) a description of the asset, (ii) the asset category, (iii) the year the asset was acquired, (iv) the adjusted Illinois basis of the asset as of December 31 of the tax year, (v) the fair market value of the asset as of December 31 of the tax year, and (vi) the amount of gain that would be taxable under this Act, unless the Department shall determine that one or more categories is not appropriate for a particular type of asset.

(b) Asset categories separately listed shall include, but not be limited to, the following:

(1) stock held in any publicly traded corporation;
(2) stock held in any private traded C corporation;
(3) stock held in any S corporation;
(4) interests in any private equity or hedge fund organized as a partnership;
(5) interests in any other partnerships;
(6) interests in any other noncorporate businesses;
(7) bonds and interest bearing savings accounts, cash and deposits;
(8) interests in mutual funds or index funds;
(9) put and call options;
(10) futures contracts;
(11) financial assets held offshore reported on IRS
tax form 8938;
(12) real property;
(13) art and collectibles;
(14) pension funds;
(15) other assets;
(16) debts and liabilities; and
(17) assets not owned by the taxpayer but which count
toward the $50,000,000 threshold pursuant to Section 20.

(c) The Department shall specifically request the filing
of such forms by any resident individual expected to have net
assets in excess of $50,000,000. Such taxpayers shall include,
but not be limited to, taxpayers with an adjusted gross income
summed over the previous 10 years in excess of $30,000,000.

Section 35. Mark-to-market in other states. In the event
that any resident individual taxpayer becomes an Illinois
resident subsequent to paying tax to another state as a result
of recognizing gain or loss pursuant to any mark-to-market or
deemed-realization regime of that other state, proper
adjustment shall be made in the amount of any gain or loss
subsequently realized for gain or loss taken into account
under such mark-to-market or deemed-realization regime of that
other state for purposes of computing gain or loss under
Sections 5 or 10 of this Act.

Section 40. Collection. The Department of Revenue shall
collect the mark-to-market taxes imposed by this Act. Money
collected, after deducting amounts necessary for
administration and enforcement by the Department, shall be
paid into the General Revenue Fund in the State treasury.

Section 45. Rules. The Department of Revenue shall adopt
rules necessary or appropriate to carry out the purposes of
this Act, including rules to prevent the use of year-end
transfers, related parties, or other arrangements to avoid its
provisions.

Section 99. Effective date. This Act takes effect upon
becoming law.