



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5401

Introduced 1/31/2022, by Rep. Norine K. Hammond

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 5/205

from Ch. 120, par. 2-205

35 ILCS 5/232 new

Creates the Endow Illinois Tax Credit Act and amends the Illinois Income Tax Act. Requires the Department of Revenue to authorize an income tax credit to taxpayers who provide an endowment gift to a permanent endowment fund. Sets forth procedures and criteria for authorizing the credits. Provides that the aggregate amount of all credits that the Department of Revenue may authorize may not exceed \$10,000,000 in 2022, \$25,000,000 in 2023, or \$50,000,000 in 2024 and each calendar year thereafter. Provides conditions for eligibility. Requires the Department of Revenue to make an annual report concerning the credits. Provides that the credit may be carried forward for 5 years. Exempts the credit from the Act's sunset provisions. Further amends the Illinois Income Tax Act to provide that provisions concerning the unrelated business taxable income of an exempt organization apply for taxable years beginning on or after January 1, 2021 (currently, January 1, 2019). Effective immediately.

LRB102 25010 HLH 34267 b

1 AN ACT concerning revenue.

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

4 Section 1. Short title. This Act may be cited as the Endow
5 Illinois Tax Credit Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Department" means the Department of Revenue.

8 "Endowment gift" means an irrevocable contribution to a
9 permanent endowment fund held by a qualified community
10 foundation.

11 "Permanent endowment fund" means a fund that (i) is held
12 by a qualified community foundation to provide benefit to
13 charitable causes in the State, (ii) is intended to exist in
14 perpetuity, and (iii) has an annual spending rate based on the
15 foundation spending policy, but not to exceed 7%.

16 "Qualified community foundation" means a community
17 foundation or similar publicly-supported organization
18 described in Section 170 (b) (1) (A) (vi) of the Internal Revenue
19 Code of 1986 that is organized or operating in this State and
20 that substantially complies with the national standards for
21 U.S. community foundations that are established by the
22 National Council on Foundations, as determined by the
23 Department.

1 Section 10. Tax credit awards.

2 (a) The Department shall authorize an income tax credit to
3 taxpayers who provide an endowment gift to a permanent
4 endowment fund. The amount of the credit that may be
5 authorized to a taxpayer by the Department under this Act is an
6 amount equal to 50% of the endowment gift. A taxpayer that is a
7 business entity is not eligible to receive a credit under this
8 Act for the taxable year if the taxpayer's gross business
9 receipts exceed \$10,000,000 for taxable years ending in 2022,
10 \$25,000,000 for taxable years ending in 2023, or \$50,000,000
11 for taxable years ending in 2024 or thereafter.

12 (b) The aggregate amount of all credits that the
13 Department may authorize under this Act may not exceed
14 \$10,000,000 in 2022, \$25,000,000 in 2023, or \$50,000,000 in
15 2024 and each calendar year thereafter. The aggregate amount
16 of all credits that the Department may authorize to any single
17 taxpayer in a calendar year may not exceed 5% of the aggregate
18 amount of all credits authorized by the Department in that
19 calendar year. The aggregate amount of all credits that the
20 Department may authorize in any calendar year based on
21 endowment gifts to any specific community foundation may not
22 exceed 25% of aggregate credits authorized for that year.

23 (c) If the Department receives applications for tax credit
24 in excess of the amount available, then the applications must
25 be prioritized by the date that the Department received them.

1 If the number of applications exceeds the amount of annual tax
2 credits available, then the Department must establish a wait
3 list for the next year's allocation of tax credits, and
4 applications must first be funded in the order listed on that
5 wait list.

6 Section 15. Applications for tax credits.

7 (a) The Department shall develop and make available a
8 standardized application pertaining to the allocation of tax
9 credits under this Act.

10 (b) Of the annual amount available for tax credits, 10%
11 must be reserved for those endowment gifts of \$30,000 or less.
12 If the entire 10% that is reserved for permanent endowment
13 gifts totalling \$30,000 or less is not allocated, then the
14 remaining amount is available in the following years for
15 endowment gifts of \$30,000 or less.

16 (c) The Department must accept applications and authorize
17 credits in an ongoing basis. The Department must make public,
18 by June 1 and by December 1 of each year, the total number of
19 requests for tax credits and the total amount of requested tax
20 credits that have been submitted and awarded.

21 Section 20. Annual report. By January 31 of each year, the
22 Department must submit an annual report to the Governor and
23 the General Assembly concerning the activities conducted under
24 this Act during the previous calendar year. The report must

1 include a detailed listing of tax credits authorized under
2 this Act by the Department.

3 Section 90. The Illinois Income Tax Act is amended by
4 changing Section 205 and by adding Section 232 as follows:

5 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

6 Sec. 205. Exempt organizations.

7 (a) Charitable, etc. organizations. For tax years
8 beginning before January 1, 2022 ~~January 1, 2019~~, the base
9 income of an organization which is exempt from the federal
10 income tax by reason of the Internal Revenue Code shall not be
11 determined under section 203 of this Act, but shall be its
12 unrelated business taxable income as determined under section
13 512 of the Internal Revenue Code, without any deduction for
14 the tax imposed by this Act. The standard exemption provided
15 by section 204 of this Act shall not be allowed in determining
16 the net income of an organization to which this subsection
17 applies.

18 For tax years beginning on or after January 1, 2022
19 ~~January 1, 2019~~, the base income of an organization which is
20 exempt from the federal income tax by reason of the Internal
21 Revenue Code shall not be determined under Section 203 of this
22 Act, but shall be its unrelated business taxable income as
23 determined under Section 512 of the Internal Revenue Code,
24 without regard to Section 512(a)(7) of the Internal Revenue

1 Code and without any deduction for the tax imposed by this Act.
2 The standard exemption provided by Section 204 of this Act
3 shall not be allowed in determining the net income of an
4 organization to which this subsection applies. This exclusion
5 is exempt from the provisions of Section 250.

6 (b) Partnerships. A partnership as such shall not be
7 subject to the tax imposed by subsection 201 (a) and (b) of
8 this Act, but shall be subject to the replacement tax imposed
9 by subsection 201 (c) and (d) of this Act and shall compute its
10 base income as described in subsection (d) of Section 203 of
11 this Act. For taxable years ending on or after December 31,
12 2004, an investment partnership, as defined in Section
13 1501(a)(11.5) of this Act, shall not be subject to the tax
14 imposed by subsections (c) and (d) of Section 201 of this Act.
15 A partnership shall file such returns and other information at
16 such time and in such manner as may be required under Article 5
17 of this Act. The partners in a partnership shall be liable for
18 the replacement tax imposed by subsection 201 (c) and (d) of
19 this Act on such partnership, to the extent such tax is not
20 paid by the partnership, as provided under the laws of
21 Illinois governing the liability of partners for the
22 obligations of a partnership. Persons carrying on business as
23 partners shall be liable for the tax imposed by subsection 201
24 (a) and (b) of this Act only in their separate or individual
25 capacities.

26 (c) Subchapter S corporations. A Subchapter S corporation

1 shall not be subject to the tax imposed by subsection 201 (a)
2 and (b) of this Act but shall be subject to the replacement tax
3 imposed by subsection 201 (c) and (d) of this Act and shall
4 file such returns and other information at such time and in
5 such manner as may be required under Article 5 of this Act.

6 (d) Combat zone, terrorist attack, and certain other
7 deaths. An individual relieved from the federal income tax for
8 any taxable year by reason of section 692 of the Internal
9 Revenue Code shall not be subject to the tax imposed by this
10 Act for such taxable year.

11 (e) Certain trusts. A common trust fund described in
12 Section 584 of the Internal Revenue Code, and any other trust
13 to the extent that the grantor is treated as the owner thereof
14 under sections 671 through 678 of the Internal Revenue Code
15 shall not be subject to the tax imposed by this Act.

16 (f) Certain business activities. A person not otherwise
17 subject to the tax imposed by this Act shall not become subject
18 to the tax imposed by this Act by reason of:

19 (1) that person's ownership of tangible personal
20 property located at the premises of a printer in this
21 State with which the person has contracted for printing,
22 or

23 (2) activities of the person's employees or agents
24 located solely at the premises of a printer and related to
25 quality control, distribution, or printing services
26 performed by a printer in the State with which the person

1 has contracted for printing.

2 (g) A nonprofit risk organization that holds a certificate
3 of authority under Article VIID of the Illinois Insurance Code
4 is exempt from the tax imposed under this Act with respect to
5 its activities or operations in furtherance of the powers
6 conferred upon it under that Article VIID of the Illinois
7 Insurance Code.

8 (Source: P.A. 101-545, eff. 8-23-19.)

9 (35 ILCS 5/232 new)

10 Sec. 232. The Endow Illinois tax credit.

11 (a) For taxable years ending on or after December 31,
12 2022, each taxpayer for whom a tax credit has been authorized
13 by the Department of Revenue under the Endow Illinois Tax
14 Credit Act, is entitled to a credit against the tax imposed
15 under subsections (a) and (b) of Section 201 in an amount equal
16 to the amount authorized under that Act.

17 (b) For partners, shareholders of Subchapter S
18 corporations, and members of limited liability companies, if
19 the liability company is treated as a partnership for purposes
20 of federal and State income taxation, there is allowed a
21 credit under this Section to be determined in accordance with
22 the determination of income and distributive share of income
23 under Sections 702 and 704 and Subchapter S of the Internal
24 Revenue Code.

25 (c) The credit may not be carried back and may not reduce

1 the taxpayer's liability to less than zero. If the amount of
2 the credit exceeds the tax liability for the year, the excess
3 may be carried forward and applied to the tax liability of the
4 5 taxable years following the excess credit year. The tax
5 credit shall be applied to the earliest year for which there is
6 a tax liability. If there are credits for more than one year
7 that are available to offset a liability, the earlier credit
8 shall be applied first.

9 (d) This Section is exempt from the provisions of Section
10 250.

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