



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5521

Introduced 1/31/2022, by Rep. Bradley Stephens

#### SYNOPSIS AS INTRODUCED:

35 ILCS 10/5-15

Amends the Economic Development for a Growing Economy Tax Credit Act. With respect to credits that are taken against the Taxpayer's withholding tax payments, provides that certain amounts shall be returned to the Department of Commerce and Economic Opportunity and reallocated to the local workforce investment area in which the project was located if, during the term of the Agreement or at any time within 20 years after the expiration of the Agreement, the Taxpayer sells its operations or the principal part of the portion of its operations that is located in the State. Provides that the provisions do not apply if the sale is at a loss to the Taxpayer.

LRB102 22293 HLH 31426 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 5. The Economic Development for a Growing Economy  
5 Tax Credit Act is amended by changing Section 5-15 as follows:

6 (35 ILCS 10/5-15)

7 Sec. 5-15. Tax Credit Awards. Subject to the conditions  
8 set forth in this Act, a Taxpayer is entitled to a Credit  
9 against or, as described in subsection (g) of this Section, a  
10 payment towards taxes imposed pursuant to subsections (a) and  
11 (b) of Section 201 of the Illinois Income Tax Act that may be  
12 imposed on the Taxpayer for a taxable year beginning on or  
13 after January 1, 1999, if the Taxpayer is awarded a Credit by  
14 the Department under this Act for that taxable year.

15 (a) The Department shall make Credit awards under this Act  
16 to foster job creation and retention in Illinois.

17 (b) A person that proposes a project to create new jobs in  
18 Illinois must enter into an Agreement with the Department for  
19 the Credit under this Act.

20 (c) The Credit shall be claimed for the taxable years  
21 specified in the Agreement.

22 (d) The Credit shall not exceed the Incremental Income Tax  
23 attributable to the project that is the subject of the

1 Agreement.

2 (e) Nothing herein shall prohibit a Tax Credit Award to an  
3 Applicant that uses a PEO if all other award criteria are  
4 satisfied.

5 (f) In lieu of the Credit allowed under this Act against  
6 the taxes imposed pursuant to subsections (a) and (b) of  
7 Section 201 of the Illinois Income Tax Act for any taxable year  
8 ending on or after December 31, 2009, for Taxpayers that  
9 entered into Agreements prior to January 1, 2015 and otherwise  
10 meet the criteria set forth in this subsection (f), the  
11 Taxpayer may elect to claim the Credit against its obligation  
12 to pay over withholding under Section 704A of the Illinois  
13 Income Tax Act.

14 (1) The election under this subsection (f) may be made  
15 only by a Taxpayer that (i) is primarily engaged in one of  
16 the following business activities: water purification and  
17 treatment, motor vehicle metal stamping, automobile  
18 manufacturing, automobile and light duty motor vehicle  
19 manufacturing, motor vehicle manufacturing, light truck  
20 and utility vehicle manufacturing, heavy duty truck  
21 manufacturing, motor vehicle body manufacturing, cable  
22 television infrastructure design or manufacturing, or  
23 wireless telecommunication or computing terminal device  
24 design or manufacturing for use on public networks and  
25 (ii) meets the following criteria:

26 (A) the Taxpayer (i) had an Illinois net loss or an

1 Illinois net loss deduction under Section 207 of the  
2 Illinois Income Tax Act for the taxable year in which  
3 the Credit is awarded, (ii) employed a minimum of  
4 1,000 full-time employees in this State during the  
5 taxable year in which the Credit is awarded, (iii) has  
6 an Agreement under this Act on December 14, 2009 (the  
7 effective date of Public Act 96-834), and (iv) is in  
8 compliance with all provisions of that Agreement;

9 (B) the Taxpayer (i) had an Illinois net loss or an  
10 Illinois net loss deduction under Section 207 of the  
11 Illinois Income Tax Act for the taxable year in which  
12 the Credit is awarded, (ii) employed a minimum of  
13 1,000 full-time employees in this State during the  
14 taxable year in which the Credit is awarded, and (iii)  
15 has applied for an Agreement within 365 days after  
16 December 14, 2009 (the effective date of Public Act  
17 96-834);

18 (C) the Taxpayer (i) had an Illinois net operating  
19 loss carryforward under Section 207 of the Illinois  
20 Income Tax Act in a taxable year ending during  
21 calendar year 2008, (ii) has applied for an Agreement  
22 within 150 days after the effective date of this  
23 amendatory Act of the 96th General Assembly, (iii)  
24 creates at least 400 new jobs in Illinois, (iv)  
25 retains at least 2,000 jobs in Illinois that would  
26 have been at risk of relocation out of Illinois over a

1 10-year period, and (v) makes a capital investment of  
2 at least \$75,000,000;

3 (D) the Taxpayer (i) had an Illinois net operating  
4 loss carryforward under Section 207 of the Illinois  
5 Income Tax Act in a taxable year ending during  
6 calendar year 2009, (ii) has applied for an Agreement  
7 within 150 days after the effective date of this  
8 amendatory Act of the 96th General Assembly, (iii)  
9 creates at least 150 new jobs, (iv) retains at least  
10 1,000 jobs in Illinois that would have been at risk of  
11 relocation out of Illinois over a 10-year period, and  
12 (v) makes a capital investment of at least  
13 \$57,000,000; or

14 (E) the Taxpayer (i) employed at least 2,500  
15 full-time employees in the State during the year in  
16 which the Credit is awarded, (ii) commits to make at  
17 least \$500,000,000 in combined capital improvements  
18 and project costs under the Agreement, (iii) applies  
19 for an Agreement between January 1, 2011 and June 30,  
20 2011, (iv) executes an Agreement for the Credit during  
21 calendar year 2011, and (v) was incorporated no more  
22 than 5 years before the filing of an application for an  
23 Agreement.

24 (1.5) The election under this subsection (f) may also  
25 be made by a Taxpayer for any Credit awarded pursuant to an  
26 agreement that was executed between January 1, 2011 and

1 June 30, 2011, if the Taxpayer (i) is primarily engaged in  
2 the manufacture of inner tubes or tires, or both, from  
3 natural and synthetic rubber, (ii) employs a minimum of  
4 2,400 full-time employees in Illinois at the time of  
5 application, (iii) creates at least 350 full-time jobs and  
6 retains at least 250 full-time jobs in Illinois that would  
7 have been at risk of being created or retained outside of  
8 Illinois, and (iv) makes a capital investment of at least  
9 \$200,000,000 at the project location.

10 (1.6) The election under this subsection (f) may also  
11 be made by a Taxpayer for any Credit awarded pursuant to an  
12 agreement that was executed within 150 days after the  
13 effective date of this amendatory Act of the 97th General  
14 Assembly, if the Taxpayer (i) is primarily engaged in the  
15 operation of a discount department store, (ii) maintains  
16 its corporate headquarters in Illinois, (iii) employs a  
17 minimum of 4,250 full-time employees at its corporate  
18 headquarters in Illinois at the time of application, (iv)  
19 retains at least 4,250 full-time jobs in Illinois that  
20 would have been at risk of being relocated outside of  
21 Illinois, (v) had a minimum of \$40,000,000,000 in total  
22 revenue in 2010, and (vi) makes a capital investment of at  
23 least \$300,000,000 at the project location.

24 (1.7) Notwithstanding any other provision of law, the  
25 election under this subsection (f) may also be made by a  
26 Taxpayer for any Credit awarded pursuant to an agreement

1 that was executed or applied for on or after July 1, 2011  
2 and on or before March 31, 2012, if the Taxpayer is  
3 primarily engaged in the manufacture of original and  
4 aftermarket filtration parts and products for automobiles,  
5 motor vehicles, light duty motor vehicles, light trucks  
6 and utility vehicles, and heavy duty trucks, (ii) employs  
7 a minimum of 1,000 full-time employees in Illinois at the  
8 time of application, (iii) creates at least 250 full-time  
9 jobs in Illinois, (iv) relocates its corporate  
10 headquarters to Illinois from another state, and (v) makes  
11 a capital investment of at least \$4,000,000 at the project  
12 location.

13 (2) An election under this subsection shall allow the  
14 credit to be taken against payments otherwise due under  
15 Section 704A of the Illinois Income Tax Act during the  
16 first calendar year beginning after the end of the taxable  
17 year in which the credit is awarded under this Act.

18 (3) The election shall be made in the form and manner  
19 required by the Illinois Department of Revenue and, once  
20 made, shall be irrevocable.

21 (4) If a Taxpayer who meets the requirements of  
22 subparagraph (A) of paragraph (1) of this subsection (f)  
23 elects to claim the Credit against its withholdings as  
24 provided in this subsection (f), then, on and after the  
25 date of the election, the terms of the Agreement between  
26 the Taxpayer and the Department may not be further amended

1 during the term of the Agreement.

2 (5) If a Taxpayer makes an election under this  
3 subsection (f) for a calendar year beginning on or after  
4 the effective date of this amendatory Act of the 102nd  
5 General Assembly, and, during the term of the Agreement or  
6 at any time within 20 years after the expiration of the  
7 Agreement, the Taxpayer sells its operations or the  
8 principal part of the portion of its operations that is  
9 located in the State, then the entire credit amount  
10 awarded to the Taxpayer prior to the date the Taxpayer  
11 sells its operations shall be returned to the Department  
12 and shall be reallocated to the local workforce investment  
13 area in which the project was located. This paragraph (5)  
14 shall not apply if: (i) the Taxpayer as a whole is sold at  
15 a loss to its owners; or (ii) the principal part of that  
16 portion of its operations that is located in the State is  
17 sold at a loss to the Taxpayer. For purposes of this  
18 subparagraph, "loss" shall be as defined in 26 U.S.C. 65.

19 (g) A pass-through entity that has been awarded a credit  
20 under this Act, its shareholders, or its partners may treat  
21 some or all of the credit awarded pursuant to this Act as a tax  
22 payment for purposes of the Illinois Income Tax Act. The term  
23 "tax payment" means a payment as described in Article 6 or  
24 Article 8 of the Illinois Income Tax Act or a composite payment  
25 made by a pass-through entity on behalf of any of its  
26 shareholders or partners to satisfy such shareholders' or



1 partners' taxes imposed pursuant to subsections (a) and (b) of  
2 Section 201 of the Illinois Income Tax Act. In no event shall  
3 the amount of the award credited pursuant to this Act exceed  
4 the Illinois income tax liability of the pass-through entity  
5 or its shareholders or partners for the taxable year.

6 (Source: P.A. 100-511, eff. 9-18-17.)