

HB2978



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2978

Introduced 2/16/2023, by Rep. Adam M. Niemerg

SYNOPSIS AS INTRODUCED:

35 ILCS 5/201

Amends the Illinois Income Tax Act. Reduces the rate of tax on corporations from 7% to 5.5%. Effective immediately.

LRB103 25945 HLH 52297 b

A BILL FOR

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 Illinois Income Tax Act is amended by
5 changing Section 201 as follows:

6 (35 ILCS 5/201)

7 Sec. 201. Tax imposed.

8 (a) In general. A tax measured by net income is hereby
9 imposed on every individual, corporation, trust and estate for
10 each taxable year ending after July 31, 1969 on the privilege
11 of earning or receiving income in or as a resident of this
12 State. Such tax shall be in addition to all other occupation or
13 privilege taxes imposed by this State or by any municipal
14 corporation or political subdivision thereof.

15 (b) Rates. The tax imposed by subsection (a) of this
16 Section shall be determined as follows, except as adjusted by
17 subsection (d-1):

18 (1) In the case of an individual, trust or estate, for
19 taxable years ending prior to July 1, 1989, an amount
20 equal to 2 1/2% of the taxpayer's net income for the
21 taxable year.

22 (2) In the case of an individual, trust or estate, for
23 taxable years beginning prior to July 1, 1989 and ending

1 after June 30, 1989, an amount equal to the sum of (i) 2
2 1/2% of the taxpayer's net income for the period prior to
3 July 1, 1989, as calculated under Section 202.3, and (ii)
4 3% of the taxpayer's net income for the period after June
5 30, 1989, as calculated under Section 202.3.

6 (3) In the case of an individual, trust or estate, for
7 taxable years beginning after June 30, 1989, and ending
8 prior to January 1, 2011, an amount equal to 3% of the
9 taxpayer's net income for the taxable year.

10 (4) In the case of an individual, trust, or estate,
11 for taxable years beginning prior to January 1, 2011, and
12 ending after December 31, 2010, an amount equal to the sum
13 of (i) 3% of the taxpayer's net income for the period prior
14 to January 1, 2011, as calculated under Section 202.5, and
15 (ii) 5% of the taxpayer's net income for the period after
16 December 31, 2010, as calculated under Section 202.5.

17 (5) In the case of an individual, trust, or estate,
18 for taxable years beginning on or after January 1, 2011,
19 and ending prior to January 1, 2015, an amount equal to 5%
20 of the taxpayer's net income for the taxable year.

21 (5.1) In the case of an individual, trust, or estate,
22 for taxable years beginning prior to January 1, 2015, and
23 ending after December 31, 2014, an amount equal to the sum
24 of (i) 5% of the taxpayer's net income for the period prior
25 to January 1, 2015, as calculated under Section 202.5, and
26 (ii) 3.75% of the taxpayer's net income for the period

1 after December 31, 2014, as calculated under Section
2 202.5.

3 (5.2) In the case of an individual, trust, or estate,
4 for taxable years beginning on or after January 1, 2015,
5 and ending prior to July 1, 2017, an amount equal to 3.75%
6 of the taxpayer's net income for the taxable year.

7 (5.3) In the case of an individual, trust, or estate,
8 for taxable years beginning prior to July 1, 2017, and
9 ending after June 30, 2017, an amount equal to the sum of
10 (i) 3.75% of the taxpayer's net income for the period
11 prior to July 1, 2017, as calculated under Section 202.5,
12 and (ii) 4.95% of the taxpayer's net income for the period
13 after June 30, 2017, as calculated under Section 202.5.

14 (5.4) In the case of an individual, trust, or estate,
15 for taxable years beginning on or after July 1, 2017, an
16 amount equal to 4.95% of the taxpayer's net income for the
17 taxable year.

18 (6) In the case of a corporation, for taxable years
19 ending prior to July 1, 1989, an amount equal to 4% of the
20 taxpayer's net income for the taxable year.

21 (7) In the case of a corporation, for taxable years
22 beginning prior to July 1, 1989 and ending after June 30,
23 1989, an amount equal to the sum of (i) 4% of the
24 taxpayer's net income for the period prior to July 1,
25 1989, as calculated under Section 202.3, and (ii) 4.8% of
26 the taxpayer's net income for the period after June 30,

1 1989, as calculated under Section 202.3.

2 (8) In the case of a corporation, for taxable years
3 beginning after June 30, 1989, and ending prior to January
4 1, 2011, an amount equal to 4.8% of the taxpayer's net
5 income for the taxable year.

6 (9) In the case of a corporation, for taxable years
7 beginning prior to January 1, 2011, and ending after
8 December 31, 2010, an amount equal to the sum of (i) 4.8%
9 of the taxpayer's net income for the period prior to
10 January 1, 2011, as calculated under Section 202.5, and
11 (ii) 7% of the taxpayer's net income for the period after
12 December 31, 2010, as calculated under Section 202.5.

13 (10) In the case of a corporation, for taxable years
14 beginning on or after January 1, 2011, and ending prior to
15 January 1, 2015, an amount equal to 7% of the taxpayer's
16 net income for the taxable year.

17 (11) In the case of a corporation, for taxable years
18 beginning prior to January 1, 2015, and ending after
19 December 31, 2014, an amount equal to the sum of (i) 7% of
20 the taxpayer's net income for the period prior to January
21 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
22 of the taxpayer's net income for the period after December
23 31, 2014, as calculated under Section 202.5.

24 (12) In the case of a corporation, for taxable years
25 beginning on or after January 1, 2015, and ending prior to
26 July 1, 2017, an amount equal to 5.25% of the taxpayer's

1 net income for the taxable year.

2 (13) In the case of a corporation, for taxable years
3 beginning prior to July 1, 2017, and ending after June 30,
4 2017, an amount equal to the sum of (i) 5.25% of the
5 taxpayer's net income for the period prior to July 1,
6 2017, as calculated under Section 202.5, and (ii) 7% of
7 the taxpayer's net income for the period after June 30,
8 2017, as calculated under Section 202.5.

9 (14) In the case of a corporation, for taxable years
10 beginning on or after July 1, 2017 and ending prior to
11 January 1, 2023, an amount equal to 7% of the taxpayer's
12 net income for the taxable year.

13 (15) In the case of a corporation, for taxable years
14 beginning prior to January 1, 2023, and ending after December
15 31, 2022, an amount equal to the sum of (i) 7% of the
16 taxpayer's net income for the period prior to January 1, 2023,
17 as calculated under Section 202.5, and (ii) 5.5% of the
18 taxpayer's net income for the period after December 31, 2022,
19 as calculated under Section 202.5.

20 (16) In the case of a corporation, for taxable years
21 beginning on or after January 1, 2023, an amount equal to 5.5%
22 of the taxpayer's net income for the taxable year.

23 The rates under this subsection (b) are subject to the
24 provisions of Section 201.5.

25 (b-5) Surcharge; sale or exchange of assets, properties,
26 and intangibles of organization gaming licensees. For each of

1 taxable years 2019 through 2027, a surcharge is imposed on all
2 taxpayers on income arising from the sale or exchange of
3 capital assets, depreciable business property, real property
4 used in the trade or business, and Section 197 intangibles (i)
5 of an organization licensee under the Illinois Horse Racing
6 Act of 1975 and (ii) of an organization gaming licensee under
7 the Illinois Gambling Act. The amount of the surcharge is
8 equal to the amount of federal income tax liability for the
9 taxable year attributable to those sales and exchanges. The
10 surcharge imposed shall not apply if:

11 (1) the organization gaming license, organization
12 license, or racetrack property is transferred as a result
13 of any of the following:

14 (A) bankruptcy, a receivership, or a debt
15 adjustment initiated by or against the initial
16 licensee or the substantial owners of the initial
17 licensee;

18 (B) cancellation, revocation, or termination of
19 any such license by the Illinois Gaming Board or the
20 Illinois Racing Board;

21 (C) a determination by the Illinois Gaming Board
22 that transfer of the license is in the best interests
23 of Illinois gaming;

24 (D) the death of an owner of the equity interest in
25 a licensee;

26 (E) the acquisition of a controlling interest in

1 the stock or substantially all of the assets of a
2 publicly traded company;

3 (F) a transfer by a parent company to a wholly
4 owned subsidiary; or

5 (G) the transfer or sale to or by one person to
6 another person where both persons were initial owners
7 of the license when the license was issued; or

8 (2) the controlling interest in the organization
9 gaming license, organization license, or racetrack
10 property is transferred in a transaction to lineal
11 descendants in which no gain or loss is recognized or as a
12 result of a transaction in accordance with Section 351 of
13 the Internal Revenue Code in which no gain or loss is
14 recognized; or

15 (3) live horse racing was not conducted in 2010 at a
16 racetrack located within 3 miles of the Mississippi River
17 under a license issued pursuant to the Illinois Horse
18 Racing Act of 1975.

19 The transfer of an organization gaming license,
20 organization license, or racetrack property by a person other
21 than the initial licensee to receive the organization gaming
22 license is not subject to a surcharge. The Department shall
23 adopt rules necessary to implement and administer this
24 subsection.

25 (c) Personal Property Tax Replacement Income Tax.
26 Beginning on July 1, 1979 and thereafter, in addition to such

1 income tax, there is also hereby imposed the Personal Property
2 Tax Replacement Income Tax measured by net income on every
3 corporation (including Subchapter S corporations), partnership
4 and trust, for each taxable year ending after June 30, 1979.
5 Such taxes are imposed on the privilege of earning or
6 receiving income in or as a resident of this State. The
7 Personal Property Tax Replacement Income Tax shall be in
8 addition to the income tax imposed by subsections (a) and (b)
9 of this Section and in addition to all other occupation or
10 privilege taxes imposed by this State or by any municipal
11 corporation or political subdivision thereof.

12 (d) Additional Personal Property Tax Replacement Income
13 Tax Rates. The personal property tax replacement income tax
14 imposed by this subsection and subsection (c) of this Section
15 in the case of a corporation, other than a Subchapter S
16 corporation and except as adjusted by subsection (d-1), shall
17 be an additional amount equal to 2.85% of such taxpayer's net
18 income for the taxable year, except that beginning on January
19 1, 1981, and thereafter, the rate of 2.85% specified in this
20 subsection shall be reduced to 2.5%, and in the case of a
21 partnership, trust or a Subchapter S corporation shall be an
22 additional amount equal to 1.5% of such taxpayer's net income
23 for the taxable year.

24 (d-1) Rate reduction for certain foreign insurers. In the
25 case of a foreign insurer, as defined by Section 35A-5 of the
26 Illinois Insurance Code, whose state or country of domicile

1 imposes on insurers domiciled in Illinois a retaliatory tax
2 (excluding any insurer whose premiums from reinsurance assumed
3 are 50% or more of its total insurance premiums as determined
4 under paragraph (2) of subsection (b) of Section 304, except
5 that for purposes of this determination premiums from
6 reinsurance do not include premiums from inter-affiliate
7 reinsurance arrangements), beginning with taxable years ending
8 on or after December 31, 1999, the sum of the rates of tax
9 imposed by subsections (b) and (d) shall be reduced (but not
10 increased) to the rate at which the total amount of tax imposed
11 under this Act, net of all credits allowed under this Act,
12 shall equal (i) the total amount of tax that would be imposed
13 on the foreign insurer's net income allocable to Illinois for
14 the taxable year by such foreign insurer's state or country of
15 domicile if that net income were subject to all income taxes
16 and taxes measured by net income imposed by such foreign
17 insurer's state or country of domicile, net of all credits
18 allowed or (ii) a rate of zero if no such tax is imposed on
19 such income by the foreign insurer's state of domicile. For
20 the purposes of this subsection (d-1), an inter-affiliate
21 includes a mutual insurer under common management.

22 (1) For the purposes of subsection (d-1), in no event
23 shall the sum of the rates of tax imposed by subsections
24 (b) and (d) be reduced below the rate at which the sum of:

25 (A) the total amount of tax imposed on such
26 foreign insurer under this Act for a taxable year, net

1 of all credits allowed under this Act, plus

2 (B) the privilege tax imposed by Section 409 of
3 the Illinois Insurance Code, the fire insurance
4 company tax imposed by Section 12 of the Fire
5 Investigation Act, and the fire department taxes
6 imposed under Section 11-10-1 of the Illinois
7 Municipal Code,

8 equals 1.25% for taxable years ending prior to December
9 31, 2003, or 1.75% for taxable years ending on or after
10 December 31, 2003, of the net taxable premiums written for
11 the taxable year, as described by subsection (1) of
12 Section 409 of the Illinois Insurance Code. This paragraph
13 will in no event increase the rates imposed under
14 subsections (b) and (d).

15 (2) Any reduction in the rates of tax imposed by this
16 subsection shall be applied first against the rates
17 imposed by subsection (b) and only after the tax imposed
18 by subsection (a) net of all credits allowed under this
19 Section other than the credit allowed under subsection (i)
20 has been reduced to zero, against the rates imposed by
21 subsection (d).

22 This subsection (d-1) is exempt from the provisions of
23 Section 250.

24 (e) Investment credit. A taxpayer shall be allowed a
25 credit against the Personal Property Tax Replacement Income
26 Tax for investment in qualified property.

1 (1) A taxpayer shall be allowed a credit equal to .5%
2 of the basis of qualified property placed in service
3 during the taxable year, provided such property is placed
4 in service on or after July 1, 1984. There shall be allowed
5 an additional credit equal to .5% of the basis of
6 qualified property placed in service during the taxable
7 year, provided such property is placed in service on or
8 after July 1, 1986, and the taxpayer's base employment
9 within Illinois has increased by 1% or more over the
10 preceding year as determined by the taxpayer's employment
11 records filed with the Illinois Department of Employment
12 Security. Taxpayers who are new to Illinois shall be
13 deemed to have met the 1% growth in base employment for the
14 first year in which they file employment records with the
15 Illinois Department of Employment Security. The provisions
16 added to this Section by Public Act 85-1200 (and restored
17 by Public Act 87-895) shall be construed as declaratory of
18 existing law and not as a new enactment. If, in any year,
19 the increase in base employment within Illinois over the
20 preceding year is less than 1%, the additional credit
21 shall be limited to that percentage times a fraction, the
22 numerator of which is .5% and the denominator of which is
23 1%, but shall not exceed .5%. The investment credit shall
24 not be allowed to the extent that it would reduce a
25 taxpayer's liability in any tax year below zero, nor may
26 any credit for qualified property be allowed for any year

1 other than the year in which the property was placed in
2 service in Illinois. For tax years ending on or after
3 December 31, 1987, and on or before December 31, 1988, the
4 credit shall be allowed for the tax year in which the
5 property is placed in service, or, if the amount of the
6 credit exceeds the tax liability for that year, whether it
7 exceeds the original liability or the liability as later
8 amended, such excess may be carried forward and applied to
9 the tax liability of the 5 taxable years following the
10 excess credit years if the taxpayer (i) makes investments
11 which cause the creation of a minimum of 2,000 full-time
12 equivalent jobs in Illinois, (ii) is located in an
13 enterprise zone established pursuant to the Illinois
14 Enterprise Zone Act and (iii) is certified by the
15 Department of Commerce and Community Affairs (now
16 Department of Commerce and Economic Opportunity) as
17 complying with the requirements specified in clause (i)
18 and (ii) by July 1, 1986. The Department of Commerce and
19 Community Affairs (now Department of Commerce and Economic
20 Opportunity) shall notify the Department of Revenue of all
21 such certifications immediately. For tax years ending
22 after December 31, 1988, the credit shall be allowed for
23 the tax year in which the property is placed in service,
24 or, if the amount of the credit exceeds the tax liability
25 for that year, whether it exceeds the original liability
26 or the liability as later amended, such excess may be

1 carried forward and applied to the tax liability of the 5
2 taxable years following the excess credit years. The
3 credit shall be applied to the earliest year for which
4 there is a liability. If there is credit from more than one
5 tax year that is available to offset a liability, earlier
6 credit shall be applied first.

7 (2) The term "qualified property" means property
8 which:

9 (A) is tangible, whether new or used, including
10 buildings and structural components of buildings and
11 signs that are real property, but not including land
12 or improvements to real property that are not a
13 structural component of a building such as
14 landscaping, sewer lines, local access roads, fencing,
15 parking lots, and other appurtenances;

16 (B) is depreciable pursuant to Section 167 of the
17 Internal Revenue Code, except that "3-year property"
18 as defined in Section 168(c)(2)(A) of that Code is not
19 eligible for the credit provided by this subsection
20 (e);

21 (C) is acquired by purchase as defined in Section
22 179(d) of the Internal Revenue Code;

23 (D) is used in Illinois by a taxpayer who is
24 primarily engaged in manufacturing, or in mining coal
25 or fluorite, or in retailing, or was placed in service
26 on or after July 1, 2006 in a River Edge Redevelopment

1 Zone established pursuant to the River Edge
2 Redevelopment Zone Act; and

3 (E) has not previously been used in Illinois in
4 such a manner and by such a person as would qualify for
5 the credit provided by this subsection (e) or
6 subsection (f).

7 (3) For purposes of this subsection (e),
8 "manufacturing" means the material staging and production
9 of tangible personal property by procedures commonly
10 regarded as manufacturing, processing, fabrication, or
11 assembling which changes some existing material into new
12 shapes, new qualities, or new combinations. For purposes
13 of this subsection (e) the term "mining" shall have the
14 same meaning as the term "mining" in Section 613(c) of the
15 Internal Revenue Code. For purposes of this subsection
16 (e), the term "retailing" means the sale of tangible
17 personal property for use or consumption and not for
18 resale, or services rendered in conjunction with the sale
19 of tangible personal property for use or consumption and
20 not for resale. For purposes of this subsection (e),
21 "tangible personal property" has the same meaning as when
22 that term is used in the Retailers' Occupation Tax Act,
23 and, for taxable years ending after December 31, 2008,
24 does not include the generation, transmission, or
25 distribution of electricity.

26 (4) The basis of qualified property shall be the basis

1 used to compute the depreciation deduction for federal
2 income tax purposes.

3 (5) If the basis of the property for federal income
4 tax depreciation purposes is increased after it has been
5 placed in service in Illinois by the taxpayer, the amount
6 of such increase shall be deemed property placed in
7 service on the date of such increase in basis.

8 (6) The term "placed in service" shall have the same
9 meaning as under Section 46 of the Internal Revenue Code.

10 (7) If during any taxable year, any property ceases to
11 be qualified property in the hands of the taxpayer within
12 48 months after being placed in service, or the situs of
13 any qualified property is moved outside Illinois within 48
14 months after being placed in service, the Personal
15 Property Tax Replacement Income Tax for such taxable year
16 shall be increased. Such increase shall be determined by
17 (i) recomputing the investment credit which would have
18 been allowed for the year in which credit for such
19 property was originally allowed by eliminating such
20 property from such computation and, (ii) subtracting such
21 recomputed credit from the amount of credit previously
22 allowed. For the purposes of this paragraph (7), a
23 reduction of the basis of qualified property resulting
24 from a redetermination of the purchase price shall be
25 deemed a disposition of qualified property to the extent
26 of such reduction.

1 (8) Unless the investment credit is extended by law,
2 the basis of qualified property shall not include costs
3 incurred after December 31, 2018, except for costs
4 incurred pursuant to a binding contract entered into on or
5 before December 31, 2018.

6 (9) Each taxable year ending before December 31, 2000,
7 a partnership may elect to pass through to its partners
8 the credits to which the partnership is entitled under
9 this subsection (e) for the taxable year. A partner may
10 use the credit allocated to him or her under this
11 paragraph only against the tax imposed in subsections (c)
12 and (d) of this Section. If the partnership makes that
13 election, those credits shall be allocated among the
14 partners in the partnership in accordance with the rules
15 set forth in Section 704(b) of the Internal Revenue Code,
16 and the rules promulgated under that Section, and the
17 allocated amount of the credits shall be allowed to the
18 partners for that taxable year. The partnership shall make
19 this election on its Personal Property Tax Replacement
20 Income Tax return for that taxable year. The election to
21 pass through the credits shall be irrevocable.

22 For taxable years ending on or after December 31,
23 2000, a partner that qualifies its partnership for a
24 subtraction under subparagraph (I) of paragraph (2) of
25 subsection (d) of Section 203 or a shareholder that
26 qualifies a Subchapter S corporation for a subtraction

1 under subparagraph (S) of paragraph (2) of subsection (b)
2 of Section 203 shall be allowed a credit under this
3 subsection (e) equal to its share of the credit earned
4 under this subsection (e) during the taxable year by the
5 partnership or Subchapter S corporation, determined in
6 accordance with the determination of income and
7 distributive share of income under Sections 702 and 704
8 and Subchapter S of the Internal Revenue Code. This
9 paragraph is exempt from the provisions of Section 250.

10 (f) Investment credit; Enterprise Zone; River Edge
11 Redevelopment Zone.

12 (1) A taxpayer shall be allowed a credit against the
13 tax imposed by subsections (a) and (b) of this Section for
14 investment in qualified property which is placed in
15 service in an Enterprise Zone created pursuant to the
16 Illinois Enterprise Zone Act or, for property placed in
17 service on or after July 1, 2006, a River Edge
18 Redevelopment Zone established pursuant to the River Edge
19 Redevelopment Zone Act. For partners, shareholders of
20 Subchapter S corporations, and owners of limited liability
21 companies, if the liability company is treated as a
22 partnership for purposes of federal and State income
23 taxation, there shall be allowed a credit under this
24 subsection (f) to be determined in accordance with the
25 determination of income and distributive share of income
26 under Sections 702 and 704 and Subchapter S of the

1 Internal Revenue Code. The credit shall be .5% of the
2 basis for such property. The credit shall be available
3 only in the taxable year in which the property is placed in
4 service in the Enterprise Zone or River Edge Redevelopment
5 Zone and shall not be allowed to the extent that it would
6 reduce a taxpayer's liability for the tax imposed by
7 subsections (a) and (b) of this Section to below zero. For
8 tax years ending on or after December 31, 1985, the credit
9 shall be allowed for the tax year in which the property is
10 placed in service, or, if the amount of the credit exceeds
11 the tax liability for that year, whether it exceeds the
12 original liability or the liability as later amended, such
13 excess may be carried forward and applied to the tax
14 liability of the 5 taxable years following the excess
15 credit year. The credit shall be applied to the earliest
16 year for which there is a liability. If there is credit
17 from more than one tax year that is available to offset a
18 liability, the credit accruing first in time shall be
19 applied first.

20 (2) The term qualified property means property which:

21 (A) is tangible, whether new or used, including
22 buildings and structural components of buildings;

23 (B) is depreciable pursuant to Section 167 of the
24 Internal Revenue Code, except that "3-year property"
25 as defined in Section 168(c)(2)(A) of that Code is not
26 eligible for the credit provided by this subsection

1 (f);

2 (C) is acquired by purchase as defined in Section
3 179(d) of the Internal Revenue Code;

4 (D) is used in the Enterprise Zone or River Edge
5 Redevelopment Zone by the taxpayer; and

6 (E) has not been previously used in Illinois in
7 such a manner and by such a person as would qualify for
8 the credit provided by this subsection (f) or
9 subsection (e).

10 (3) The basis of qualified property shall be the basis
11 used to compute the depreciation deduction for federal
12 income tax purposes.

13 (4) If the basis of the property for federal income
14 tax depreciation purposes is increased after it has been
15 placed in service in the Enterprise Zone or River Edge
16 Redevelopment Zone by the taxpayer, the amount of such
17 increase shall be deemed property placed in service on the
18 date of such increase in basis.

19 (5) The term "placed in service" shall have the same
20 meaning as under Section 46 of the Internal Revenue Code.

21 (6) If during any taxable year, any property ceases to
22 be qualified property in the hands of the taxpayer within
23 48 months after being placed in service, or the situs of
24 any qualified property is moved outside the Enterprise
25 Zone or River Edge Redevelopment Zone within 48 months
26 after being placed in service, the tax imposed under

1 subsections (a) and (b) of this Section for such taxable
2 year shall be increased. Such increase shall be determined
3 by (i) recomputing the investment credit which would have
4 been allowed for the year in which credit for such
5 property was originally allowed by eliminating such
6 property from such computation, and (ii) subtracting such
7 recomputed credit from the amount of credit previously
8 allowed. For the purposes of this paragraph (6), a
9 reduction of the basis of qualified property resulting
10 from a redetermination of the purchase price shall be
11 deemed a disposition of qualified property to the extent
12 of such reduction.

13 (7) There shall be allowed an additional credit equal
14 to 0.5% of the basis of qualified property placed in
15 service during the taxable year in a River Edge
16 Redevelopment Zone, provided such property is placed in
17 service on or after July 1, 2006, and the taxpayer's base
18 employment within Illinois has increased by 1% or more
19 over the preceding year as determined by the taxpayer's
20 employment records filed with the Illinois Department of
21 Employment Security. Taxpayers who are new to Illinois
22 shall be deemed to have met the 1% growth in base
23 employment for the first year in which they file
24 employment records with the Illinois Department of
25 Employment Security. If, in any year, the increase in base
26 employment within Illinois over the preceding year is less

1 than 1%, the additional credit shall be limited to that
2 percentage times a fraction, the numerator of which is
3 0.5% and the denominator of which is 1%, but shall not
4 exceed 0.5%.

5 (8) For taxable years beginning on or after January 1,
6 2021, there shall be allowed an Enterprise Zone
7 construction jobs credit against the taxes imposed under
8 subsections (a) and (b) of this Section as provided in
9 Section 13 of the Illinois Enterprise Zone Act.

10 The credit or credits may not reduce the taxpayer's
11 liability to less than zero. If the amount of the credit or
12 credits exceeds the taxpayer's liability, the excess may
13 be carried forward and applied against the taxpayer's
14 liability in succeeding calendar years in the same manner
15 provided under paragraph (4) of Section 211 of this Act.
16 The credit or credits shall be applied to the earliest
17 year for which there is a tax liability. If there are
18 credits from more than one taxable year that are available
19 to offset a liability, the earlier credit shall be applied
20 first.

21 For partners, shareholders of Subchapter S
22 corporations, and owners of limited liability companies,
23 if the liability company is treated as a partnership for
24 the purposes of federal and State income taxation, there
25 shall be allowed a credit under this Section to be
26 determined in accordance with the determination of income

1 and distributive share of income under Sections 702 and
2 704 and Subchapter S of the Internal Revenue Code.

3 The total aggregate amount of credits awarded under
4 the Blue Collar Jobs Act (Article 20 of Public Act 101-9)
5 shall not exceed \$20,000,000 in any State fiscal year.

6 This paragraph (8) is exempt from the provisions of
7 Section 250.

8 (g) (Blank).

9 (h) Investment credit; High Impact Business.

10 (1) Subject to subsections (b) and (b-5) of Section
11 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall
12 be allowed a credit against the tax imposed by subsections
13 (a) and (b) of this Section for investment in qualified
14 property which is placed in service by a Department of
15 Commerce and Economic Opportunity designated High Impact
16 Business. The credit shall be .5% of the basis for such
17 property. The credit shall not be available (i) until the
18 minimum investments in qualified property set forth in
19 subdivision (a)(3)(A) of Section 5.5 of the Illinois
20 Enterprise Zone Act have been satisfied or (ii) until the
21 time authorized in subsection (b-5) of the Illinois
22 Enterprise Zone Act for entities designated as High Impact
23 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
24 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
25 Act, and shall not be allowed to the extent that it would
26 reduce a taxpayer's liability for the tax imposed by

1 subsections (a) and (b) of this Section to below zero. The
2 credit applicable to such investments shall be taken in
3 the taxable year in which such investments have been
4 completed. The credit for additional investments beyond
5 the minimum investment by a designated high impact
6 business authorized under subdivision (a) (3) (A) of Section
7 5.5 of the Illinois Enterprise Zone Act shall be available
8 only in the taxable year in which the property is placed in
9 service and shall not be allowed to the extent that it
10 would reduce a taxpayer's liability for the tax imposed by
11 subsections (a) and (b) of this Section to below zero. For
12 tax years ending on or after December 31, 1987, the credit
13 shall be allowed for the tax year in which the property is
14 placed in service, or, if the amount of the credit exceeds
15 the tax liability for that year, whether it exceeds the
16 original liability or the liability as later amended, such
17 excess may be carried forward and applied to the tax
18 liability of the 5 taxable years following the excess
19 credit year. The credit shall be applied to the earliest
20 year for which there is a liability. If there is credit
21 from more than one tax year that is available to offset a
22 liability, the credit accruing first in time shall be
23 applied first.

24 Changes made in this subdivision (h) (1) by Public Act
25 88-670 restore changes made by Public Act 85-1182 and
26 reflect existing law.

1 (2) The term qualified property means property which:

2 (A) is tangible, whether new or used, including
3 buildings and structural components of buildings;

4 (B) is depreciable pursuant to Section 167 of the
5 Internal Revenue Code, except that "3-year property"
6 as defined in Section 168(c)(2)(A) of that Code is not
7 eligible for the credit provided by this subsection
8 (h);

9 (C) is acquired by purchase as defined in Section
10 179(d) of the Internal Revenue Code; and

11 (D) is not eligible for the Enterprise Zone
12 Investment Credit provided by subsection (f) of this
13 Section.

14 (3) The basis of qualified property shall be the basis
15 used to compute the depreciation deduction for federal
16 income tax purposes.

17 (4) If the basis of the property for federal income
18 tax depreciation purposes is increased after it has been
19 placed in service in a federally designated Foreign Trade
20 Zone or Sub-Zone located in Illinois by the taxpayer, the
21 amount of such increase shall be deemed property placed in
22 service on the date of such increase in basis.

23 (5) The term "placed in service" shall have the same
24 meaning as under Section 46 of the Internal Revenue Code.

25 (6) If during any taxable year ending on or before
26 December 31, 1996, any property ceases to be qualified

1 property in the hands of the taxpayer within 48 months
2 after being placed in service, or the situs of any
3 qualified property is moved outside Illinois within 48
4 months after being placed in service, the tax imposed
5 under subsections (a) and (b) of this Section for such
6 taxable year shall be increased. Such increase shall be
7 determined by (i) recomputing the investment credit which
8 would have been allowed for the year in which credit for
9 such property was originally allowed by eliminating such
10 property from such computation, and (ii) subtracting such
11 recomputed credit from the amount of credit previously
12 allowed. For the purposes of this paragraph (6), a
13 reduction of the basis of qualified property resulting
14 from a redetermination of the purchase price shall be
15 deemed a disposition of qualified property to the extent
16 of such reduction.

17 (7) Beginning with tax years ending after December 31,
18 1996, if a taxpayer qualifies for the credit under this
19 subsection (h) and thereby is granted a tax abatement and
20 the taxpayer relocates its entire facility in violation of
21 the explicit terms and length of the contract under
22 Section 18-183 of the Property Tax Code, the tax imposed
23 under subsections (a) and (b) of this Section shall be
24 increased for the taxable year in which the taxpayer
25 relocated its facility by an amount equal to the amount of
26 credit received by the taxpayer under this subsection (h).

1 (h-5) High Impact Business construction jobs credit. For
2 taxable years beginning on or after January 1, 2021, there
3 shall also be allowed a High Impact Business construction jobs
4 credit against the tax imposed under subsections (a) and (b)
5 of this Section as provided in subsections (i) and (j) of
6 Section 5.5 of the Illinois Enterprise Zone Act.

7 The credit or credits may not reduce the taxpayer's
8 liability to less than zero. If the amount of the credit or
9 credits exceeds the taxpayer's liability, the excess may be
10 carried forward and applied against the taxpayer's liability
11 in succeeding calendar years in the manner provided under
12 paragraph (4) of Section 211 of this Act. The credit or credits
13 shall be applied to the earliest year for which there is a tax
14 liability. If there are credits from more than one taxable
15 year that are available to offset a liability, the earlier
16 credit shall be applied first.

17 For partners, shareholders of Subchapter S corporations,
18 and owners of limited liability companies, if the liability
19 company is treated as a partnership for the purposes of
20 federal and State income taxation, there shall be 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 The total aggregate amount of credits awarded under the
26 Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not

1 exceed \$20,000,000 in any State fiscal year.

2 This subsection (h-5) is exempt from the provisions of
3 Section 250.

4 (i) Credit for Personal Property Tax Replacement Income
5 Tax. For tax years ending prior to December 31, 2003, a credit
6 shall be allowed against the tax imposed by subsections (a)
7 and (b) of this Section for the tax imposed by subsections (c)
8 and (d) of this Section. This credit shall be computed by
9 multiplying the tax imposed by subsections (c) and (d) of this
10 Section by a fraction, the numerator of which is base income
11 allocable to Illinois and the denominator of which is Illinois
12 base income, and further multiplying the product by the tax
13 rate imposed by subsections (a) and (b) of this Section.

14 Any credit earned on or after December 31, 1986 under this
15 subsection which is unused in the year the credit is computed
16 because it exceeds the tax liability imposed by subsections
17 (a) and (b) for that year (whether it exceeds the original
18 liability or the liability as later amended) may be carried
19 forward and applied to the tax liability imposed by
20 subsections (a) and (b) of the 5 taxable years following the
21 excess credit year, provided that no credit may be carried
22 forward to any year ending on or after December 31, 2003. This
23 credit shall be applied first to the earliest year for which
24 there is a liability. If there is a credit under this
25 subsection from more than one tax year that is available to
26 offset a liability the earliest credit arising under this

1 subsection shall be applied first.

2 If, during any taxable year ending on or after December
3 31, 1986, the tax imposed by subsections (c) and (d) of this
4 Section for which a taxpayer has claimed a credit under this
5 subsection (i) is reduced, the amount of credit for such tax
6 shall also be reduced. Such reduction shall be determined by
7 recomputing the credit to take into account the reduced tax
8 imposed by subsections (c) and (d). If any portion of the
9 reduced amount of credit has been carried to a different
10 taxable year, an amended return shall be filed for such
11 taxable year to reduce the amount of credit claimed.

12 (j) Training expense credit. Beginning with tax years
13 ending on or after December 31, 1986 and prior to December 31,
14 2003, a taxpayer shall be allowed a credit against the tax
15 imposed by subsections (a) and (b) under this Section for all
16 amounts paid or accrued, on behalf of all persons employed by
17 the taxpayer in Illinois or Illinois residents employed
18 outside of Illinois by a taxpayer, for educational or
19 vocational training in semi-technical or technical fields or
20 semi-skilled or skilled fields, which were deducted from gross
21 income in the computation of taxable income. The credit
22 against the tax imposed by subsections (a) and (b) shall be
23 1.6% of such training expenses. For partners, shareholders of
24 subchapter S corporations, and owners of limited liability
25 companies, if the liability company is treated as a
26 partnership for purposes of federal and State income taxation,

1 there shall be allowed a credit under this subsection (j) to be
2 determined in accordance with the determination of income and
3 distributive share of income under Sections 702 and 704 and
4 subchapter S of the Internal Revenue Code.

5 Any credit allowed under this subsection which is unused
6 in the year the credit is earned may be carried forward to each
7 of the 5 taxable years following the year for which the credit
8 is first computed until it is used. This credit shall be
9 applied first to the earliest year for which there is a
10 liability. If there is a credit under this subsection from
11 more than one tax year that is available to offset a liability,
12 the earliest credit arising under this subsection shall be
13 applied first. No carryforward credit may be claimed in any
14 tax year ending on or after December 31, 2003.

15 (k) Research and development credit. For tax years ending
16 after July 1, 1990 and prior to December 31, 2003, and
17 beginning again for tax years ending on or after December 31,
18 2004, and ending prior to January 1, 2027, a taxpayer shall be
19 allowed a credit against the tax imposed by subsections (a)
20 and (b) of this Section for increasing research activities in
21 this State. The credit allowed against the tax imposed by
22 subsections (a) and (b) shall be equal to 6 1/2% of the
23 qualifying expenditures for increasing research activities in
24 this State. For partners, shareholders of subchapter S
25 corporations, and owners of limited liability companies, if
26 the liability company is treated as a partnership for purposes

1 of federal and State income taxation, there shall be allowed a
2 credit under this subsection to be determined in accordance
3 with the determination of income and distributive share of
4 income under Sections 702 and 704 and subchapter S of the
5 Internal Revenue Code.

6 For purposes of this subsection, "qualifying expenditures"
7 means the qualifying expenditures as defined for the federal
8 credit for increasing research activities which would be
9 allowable under Section 41 of the Internal Revenue Code and
10 which are conducted in this State, "qualifying expenditures
11 for increasing research activities in this State" means the
12 excess of qualifying expenditures for the taxable year in
13 which incurred over qualifying expenditures for the base
14 period, "qualifying expenditures for the base period" means
15 the average of the qualifying expenditures for each year in
16 the base period, and "base period" means the 3 taxable years
17 immediately preceding the taxable year for which the
18 determination is being made.

19 Any credit in excess of the tax liability for the taxable
20 year may be carried forward. A taxpayer may elect to have the
21 unused credit shown on its final completed return carried over
22 as a credit against the tax liability for the following 5
23 taxable years or until it has been fully used, whichever
24 occurs first; provided that no credit earned in a tax year
25 ending prior to December 31, 2003 may be carried forward to any
26 year ending on or after December 31, 2003.

1 If an unused credit is carried forward to a given year from
2 2 or more earlier years, that credit arising in the earliest
3 year will be applied first against the tax liability for the
4 given year. If a tax liability for the given year still
5 remains, the credit from the next earliest year will then be
6 applied, and so on, until all credits have been used or no tax
7 liability for the given year remains. Any remaining unused
8 credit or credits then will be carried forward to the next
9 following year in which a tax liability is incurred, except
10 that no credit can be carried forward to a year which is more
11 than 5 years after the year in which the expense for which the
12 credit is given was incurred.

13 No inference shall be drawn from Public Act 91-644 in
14 construing this Section for taxable years beginning before
15 January 1, 1999.

16 It is the intent of the General Assembly that the research
17 and development credit under this subsection (k) shall apply
18 continuously for all tax years ending on or after December 31,
19 2004 and ending prior to January 1, 2027, including, but not
20 limited to, the period beginning on January 1, 2016 and ending
21 on July 6, 2017 (the effective date of Public Act 100-22). All
22 actions taken in reliance on the continuation of the credit
23 under this subsection (k) by any taxpayer are hereby
24 validated.

25 (1) Environmental Remediation Tax Credit.

26 (i) For tax years ending after December 31, 1997 and

1 on or before December 31, 2001, a taxpayer shall be
2 allowed a credit against the tax imposed by subsections
3 (a) and (b) of this Section for certain amounts paid for
4 unreimbursed eligible remediation costs, as specified in
5 this subsection. For purposes of this Section,
6 "unreimbursed eligible remediation costs" means costs
7 approved by the Illinois Environmental Protection Agency
8 ("Agency") under Section 58.14 of the Environmental
9 Protection Act that were paid in performing environmental
10 remediation at a site for which a No Further Remediation
11 Letter was issued by the Agency and recorded under Section
12 58.10 of the Environmental Protection Act. The credit must
13 be claimed for the taxable year in which Agency approval
14 of the eligible remediation costs is granted. The credit
15 is not available to any taxpayer if the taxpayer or any
16 related party caused or contributed to, in any material
17 respect, a release of regulated substances on, in, or
18 under the site that was identified and addressed by the
19 remedial action pursuant to the Site Remediation Program
20 of the Environmental Protection Act. After the Pollution
21 Control Board rules are adopted pursuant to the Illinois
22 Administrative Procedure Act for the administration and
23 enforcement of Section 58.9 of the Environmental
24 Protection Act, determinations as to credit availability
25 for purposes of this Section shall be made consistent with
26 those rules. For purposes of this Section, "taxpayer"

1 includes a person whose tax attributes the taxpayer has
2 succeeded to under Section 381 of the Internal Revenue
3 Code and "related party" includes the persons disallowed a
4 deduction for losses by paragraphs (b), (c), and (f)(1) of
5 Section 267 of the Internal Revenue Code by virtue of
6 being a related taxpayer, as well as any of its partners.
7 The credit allowed against the tax imposed by subsections
8 (a) and (b) shall be equal to 25% of the unreimbursed
9 eligible remediation costs in excess of \$100,000 per site,
10 except that the \$100,000 threshold shall not apply to any
11 site contained in an enterprise zone as determined by the
12 Department of Commerce and Community Affairs (now
13 Department of Commerce and Economic Opportunity). The
14 total credit allowed shall not exceed \$40,000 per year
15 with a maximum total of \$150,000 per site. For partners
16 and shareholders of subchapter S corporations, there shall
17 be allowed a credit under this subsection to be determined
18 in accordance with the determination of income and
19 distributive share of income under Sections 702 and 704
20 and subchapter S of the Internal Revenue Code.

21 (ii) A credit allowed under this subsection that is
22 unused in the year the credit is earned may be carried
23 forward to each of the 5 taxable years following the year
24 for which the credit is first earned until it is used. The
25 term "unused credit" does not include any amounts of
26 unreimbursed eligible remediation costs in excess of the

1 maximum credit per site authorized under paragraph (i).
2 This credit shall be applied first to the earliest year
3 for which there is a liability. If there is a credit under
4 this subsection from more than one tax year that is
5 available to offset a liability, the earliest credit
6 arising under this subsection shall be applied first. A
7 credit allowed under this subsection may be sold to a
8 buyer as part of a sale of all or part of the remediation
9 site for which the credit was granted. The purchaser of a
10 remediation site and the tax credit shall succeed to the
11 unused credit and remaining carry-forward period of the
12 seller. To perfect the transfer, the assignor shall record
13 the transfer in the chain of title for the site and provide
14 written notice to the Director of the Illinois Department
15 of Revenue of the assignor's intent to sell the
16 remediation site and the amount of the tax credit to be
17 transferred as a portion of the sale. In no event may a
18 credit be transferred to any taxpayer if the taxpayer or a
19 related party would not be eligible under the provisions
20 of subsection (i).

21 (iii) For purposes of this Section, the term "site"
22 shall have the same meaning as under Section 58.2 of the
23 Environmental Protection Act.

24 (m) Education expense credit. Beginning with tax years
25 ending after December 31, 1999, a taxpayer who is the
26 custodian of one or more qualifying pupils shall be allowed a

1 credit against the tax imposed by subsections (a) and (b) of
2 this Section for qualified education expenses incurred on
3 behalf of the qualifying pupils. The credit shall be equal to
4 25% of qualified education expenses, but in no event may the
5 total credit under this subsection claimed by a family that is
6 the custodian of qualifying pupils exceed (i) \$500 for tax
7 years ending prior to December 31, 2017, and (ii) \$750 for tax
8 years ending on or after December 31, 2017. In no event shall a
9 credit under this subsection reduce the taxpayer's liability
10 under this Act to less than zero. Notwithstanding any other
11 provision of law, for taxable years beginning on or after
12 January 1, 2017, no taxpayer may claim a credit under this
13 subsection (m) if the taxpayer's adjusted gross income for the
14 taxable year exceeds (i) \$500,000, in the case of spouses
15 filing a joint federal tax return or (ii) \$250,000, in the case
16 of all other taxpayers. This subsection is exempt from the
17 provisions of Section 250 of this Act.

18 For purposes of this subsection:

19 "Qualifying pupils" means individuals who (i) are
20 residents of the State of Illinois, (ii) are under the age of
21 21 at the close of the school year for which a credit is
22 sought, and (iii) during the school year for which a credit is
23 sought were full-time pupils enrolled in a kindergarten
24 through twelfth grade education program at any school, as
25 defined in this subsection.

26 "Qualified education expense" means the amount incurred on

1 behalf of a qualifying pupil in excess of \$250 for tuition,
2 book fees, and lab fees at the school in which the pupil is
3 enrolled during the regular school year.

4 "School" means any public or nonpublic elementary or
5 secondary school in Illinois that is in compliance with Title
6 VI of the Civil Rights Act of 1964 and attendance at which
7 satisfies the requirements of Section 26-1 of the School Code,
8 except that nothing shall be construed to require a child to
9 attend any particular public or nonpublic school to qualify
10 for the credit under this Section.

11 "Custodian" means, with respect to qualifying pupils, an
12 Illinois resident who is a parent, the parents, a legal
13 guardian, or the legal guardians of the qualifying pupils.

14 (n) River Edge Redevelopment Zone site remediation tax
15 credit.

16 (i) For tax years ending on or after December 31,
17 2006, a taxpayer shall be allowed a credit against the tax
18 imposed by subsections (a) and (b) of this Section for
19 certain amounts paid for unreimbursed eligible remediation
20 costs, as specified in this subsection. For purposes of
21 this Section, "unreimbursed eligible remediation costs"
22 means costs approved by the Illinois Environmental
23 Protection Agency ("Agency") under Section 58.14a of the
24 Environmental Protection Act that were paid in performing
25 environmental remediation at a site within a River Edge
26 Redevelopment Zone for which a No Further Remediation

1 Letter was issued by the Agency and recorded under Section
2 58.10 of the Environmental Protection Act. The credit must
3 be claimed for the taxable year in which Agency approval
4 of the eligible remediation costs is granted. The credit
5 is not available to any taxpayer if the taxpayer or any
6 related party caused or contributed to, in any material
7 respect, a release of regulated substances on, in, or
8 under the site that was identified and addressed by the
9 remedial action pursuant to the Site Remediation Program
10 of the Environmental Protection Act. Determinations as to
11 credit availability for purposes of this Section shall be
12 made consistent with rules adopted by the Pollution
13 Control Board pursuant to the Illinois Administrative
14 Procedure Act for the administration and enforcement of
15 Section 58.9 of the Environmental Protection Act. For
16 purposes of this Section, "taxpayer" includes a person
17 whose tax attributes the taxpayer has succeeded to under
18 Section 381 of the Internal Revenue Code and "related
19 party" includes the persons disallowed a deduction for
20 losses by paragraphs (b), (c), and (f)(1) of Section 267
21 of the Internal Revenue Code by virtue of being a related
22 taxpayer, as well as any of its partners. The credit
23 allowed against the tax imposed by subsections (a) and (b)
24 shall be equal to 25% of the unreimbursed eligible
25 remediation costs in excess of \$100,000 per site.

26 (ii) A credit allowed under this subsection that is

1 unused in the year the credit is earned may be carried
2 forward to each of the 5 taxable years following the year
3 for which the credit is first earned until it is used. This
4 credit shall be applied first to the earliest year for
5 which there is a liability. If there is a credit under this
6 subsection from more than one tax year that is available
7 to offset a liability, the earliest credit arising under
8 this subsection shall be applied first. A credit allowed
9 under this subsection may be sold to a buyer as part of a
10 sale of all or part of the remediation site for which the
11 credit was granted. The purchaser of a remediation site
12 and the tax credit shall succeed to the unused credit and
13 remaining carry-forward period of the seller. To perfect
14 the transfer, the assignor shall record the transfer in
15 the chain of title for the site and provide written notice
16 to the Director of the Illinois Department of Revenue of
17 the assignor's intent to sell the remediation site and the
18 amount of the tax credit to be transferred as a portion of
19 the sale. In no event may a credit be transferred to any
20 taxpayer if the taxpayer or a related party would not be
21 eligible under the provisions of subsection (i).

22 (iii) For purposes of this Section, the term "site"
23 shall have the same meaning as under Section 58.2 of the
24 Environmental Protection Act.

25 (o) For each of taxable years during the Compassionate Use
26 of Medical Cannabis Program, a surcharge is imposed on all

1 taxpayers on income arising from the sale or exchange of
2 capital assets, depreciable business property, real property
3 used in the trade or business, and Section 197 intangibles of
4 an organization registrant under the Compassionate Use of
5 Medical Cannabis Program Act. The amount of the surcharge is
6 equal to the amount of federal income tax liability for the
7 taxable year attributable to those sales and exchanges. The
8 surcharge imposed does not apply if:

9 (1) the medical cannabis cultivation center
10 registration, medical cannabis dispensary registration, or
11 the property of a registration is transferred as a result
12 of any of the following:

13 (A) bankruptcy, a receivership, or a debt
14 adjustment initiated by or against the initial
15 registration or the substantial owners of the initial
16 registration;

17 (B) cancellation, revocation, or termination of
18 any registration by the Illinois Department of Public
19 Health;

20 (C) a determination by the Illinois Department of
21 Public Health that transfer of the registration is in
22 the best interests of Illinois qualifying patients as
23 defined by the Compassionate Use of Medical Cannabis
24 Program Act;

25 (D) the death of an owner of the equity interest in
26 a registrant;

1 (E) the acquisition of a controlling interest in
2 the stock or substantially all of the assets of a
3 publicly traded company;

4 (F) a transfer by a parent company to a wholly
5 owned subsidiary; or

6 (G) the transfer or sale to or by one person to
7 another person where both persons were initial owners
8 of the registration when the registration was issued;
9 or

10 (2) the cannabis cultivation center registration,
11 medical cannabis dispensary registration, or the
12 controlling interest in a registrant's property is
13 transferred in a transaction to lineal descendants in
14 which no gain or loss is recognized or as a result of a
15 transaction in accordance with Section 351 of the Internal
16 Revenue Code in which no gain or loss is recognized.

17 (p) Pass-through entity tax.

18 (1) For taxable years ending on or after December 31,
19 2021 and beginning prior to January 1, 2026, a partnership
20 (other than a publicly traded partnership under Section
21 7704 of the Internal Revenue Code) or Subchapter S
22 corporation may elect to apply the provisions of this
23 subsection. A separate election shall be made for each
24 taxable year. Such election shall be made at such time,
25 and in such form and manner as prescribed by the
26 Department, and, once made, is irrevocable.

1 (2) Entity-level tax. A partnership or Subchapter S
2 corporation electing to apply the provisions of this
3 subsection shall be subject to a tax for the privilege of
4 earning or receiving income in this State in an amount
5 equal to 4.95% of the taxpayer's net income for the
6 taxable year.

7 (3) Net income defined.

8 (A) In general. For purposes of paragraph (2), the
9 term net income has the same meaning as defined in
10 Section 202 of this Act, except that the following
11 provisions shall not apply:

12 (i) the standard exemption allowed under
13 Section 204;

14 (ii) the deduction for net losses allowed
15 under Section 207;

16 (iii) in the case of an S corporation, the
17 modification under Section 203(b)(2)(S); and

18 (iv) in the case of a partnership, the
19 modifications under Section 203(d)(2)(H) and
20 Section 203(d)(2)(I).

21 (B) Special rule for tiered partnerships. If a
22 taxpayer making the election under paragraph (1) is a
23 partner of another taxpayer making the election under
24 paragraph (1), net income shall be computed as
25 provided in subparagraph (A), except that the taxpayer
26 shall subtract its distributive share of the net

1 income of the electing partnership (including its
2 distributive share of the net income of the electing
3 partnership derived as a distributive share from
4 electing partnerships in which it is a partner).

5 (4) Credit for entity level tax. Each partner or
6 shareholder of a taxpayer making the election under this
7 Section shall be allowed a credit against the tax imposed
8 under subsections (a) and (b) of Section 201 of this Act
9 for the taxable year of the partnership or Subchapter S
10 corporation for which an election is in effect ending
11 within or with the taxable year of the partner or
12 shareholder in an amount equal to 4.95% times the partner
13 or shareholder's distributive share of the net income of
14 the electing partnership or Subchapter S corporation, but
15 not to exceed the partner's or shareholder's share of the
16 tax imposed under paragraph (1) which is actually paid by
17 the partnership or Subchapter S corporation. If the
18 taxpayer is a partnership or Subchapter S corporation that
19 is itself a partner of a partnership making the election
20 under paragraph (1), the credit under this paragraph shall
21 be allowed to the taxpayer's partners or shareholders (or
22 if the partner is a partnership or Subchapter S
23 corporation then its partners or shareholders) in
24 accordance with the determination of income and
25 distributive share of income under Sections 702 and 704
26 and Subchapter S of the Internal Revenue Code. If the

1 amount of the credit allowed under this paragraph exceeds
2 the partner's or shareholder's liability for tax imposed
3 under subsections (a) and (b) of Section 201 of this Act
4 for the taxable year, such excess shall be treated as an
5 overpayment for purposes of Section 909 of this Act.

6 (5) Nonresidents. A nonresident individual who is a
7 partner or shareholder of a partnership or Subchapter S
8 corporation for a taxable year for which an election is in
9 effect under paragraph (1) shall not be required to file
10 an income tax return under this Act for such taxable year
11 if the only source of net income of the individual (or the
12 individual and the individual's spouse in the case of a
13 joint return) is from an entity making the election under
14 paragraph (1) and the credit allowed to the partner or
15 shareholder under paragraph (4) equals or exceeds the
16 individual's liability for the tax imposed under
17 subsections (a) and (b) of Section 201 of this Act for the
18 taxable year.

19 (6) Liability for tax. Except as provided in this
20 paragraph, a partnership or Subchapter S making the
21 election under paragraph (1) is liable for the
22 entity-level tax imposed under paragraph (2). If the
23 electing partnership or corporation fails to pay the full
24 amount of tax deemed assessed under paragraph (2), the
25 partners or shareholders shall be liable to pay the tax
26 assessed (including penalties and interest). Each partner

1 or shareholder shall be liable for the unpaid assessment
2 based on the ratio of the partner's or shareholder's share
3 of the net income of the partnership over the total net
4 income of the partnership. If the partnership or
5 Subchapter S corporation fails to pay the tax assessed
6 (including penalties and interest) and thereafter an
7 amount of such tax is paid by the partners or
8 shareholders, such amount shall not be collected from the
9 partnership or corporation.

10 (7) Foreign tax. For purposes of the credit allowed
11 under Section 601(b)(3) of this Act, tax paid by a
12 partnership or Subchapter S corporation to another state
13 which, as determined by the Department, is substantially
14 similar to the tax imposed under this subsection, shall be
15 considered tax paid by the partner or shareholder to the
16 extent that the partner's or shareholder's share of the
17 income of the partnership or Subchapter S corporation
18 allocated and apportioned to such other state bears to the
19 total income of the partnership or Subchapter S
20 corporation allocated or apportioned to such other state.

21 (8) Suspension of withholding. The provisions of
22 Section 709.5 of this Act shall not apply to a partnership
23 or Subchapter S corporation for the taxable year for which
24 an election under paragraph (1) is in effect.

25 (9) Requirement to pay estimated tax. For each taxable
26 year for which an election under paragraph (1) is in

1 effect, a partnership or Subchapter S corporation is
2 required to pay estimated tax for such taxable year under
3 Sections 803 and 804 of this Act if the amount payable as
4 estimated tax can reasonably be expected to exceed \$500.

5 (10) The provisions of this subsection shall apply
6 only with respect to taxable years for which the
7 limitation on individual deductions applies under Section
8 164(b)(6) of the Internal Revenue Code.

9 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;
10 101-207, eff. 8-2-19; 101-363, eff. 8-9-19; 102-558, eff.
11 8-20-21; 102-658, eff. 8-27-21.)

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