



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3169

Introduced 2/17/2023, by Rep. Amy Elik

SYNOPSIS AS INTRODUCED:

35 ILCS 5/208.7 new
35 ILCS 5/901
30 ILCS 105/5.990 new
5 ILCS 100/5-45.35 new

Amends the Illinois Income Tax Act. Provides that the Department of Revenue shall pay an annual rebate to each individual taxpayer who files an Illinois income tax return with the Department on or before the second Friday in October of the calendar year for which the rebate is made. Provides that surplus moneys in the Income Tax Refund Fund shall be transferred to the Illinois Individual Income Tax Rebate Fund (currently, the General Revenue Fund). Creates the Illinois Individual Income Tax Rebate Fund. Provides that moneys in the Fund shall be used for the purpose of paying rebates. Effective immediately.

LRB103 27400 HLH 53772 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 Illinois Income Tax Act is amended by
5 changing Section 901 and by adding Section 208.7 as follows:

6 (35 ILCS 5/208.7 new)

7 Sec. 208.7. Illinois Individual Income Tax Rebate Fund;
8 individual income tax rebate program.

9 (a) The Illinois Individual Income Tax Rebate Fund is
10 hereby created as a special fund in the State treasury. Moneys
11 in the Fund shall be used for the purpose of paying rebates
12 under this Section.

13 (b) Beginning in 2023, the Department shall pay an annual
14 rebate to each individual taxpayer who files an Illinois
15 income tax return with the Department on or before the second
16 Friday in October of the calendar year for which the rebate is
17 made. Each person who is entitled to a rebate under this
18 Section shall receive an equal portion of the moneys
19 transferred from the Income Tax Refund Fund to the Illinois
20 Individual Income Tax Rebate Fund under paragraph (4.6) of
21 subsection (c) of Section 901. By August 1 of each calendar
22 year, the Department shall begin to certify to the
23 Comptroller, on a rolling basis, the names of the taxpayers

1 who are eligible for a rebate under this Section, the amounts
2 of those rebates, and any other information that the
3 Comptroller requires to direct the payment of the rebates
4 provided under this Section to taxpayers.

5 (c) The amount of a rebate under this Section shall not be
6 included in the taxpayer's income or resources for the
7 purposes of determining eligibility or benefit level in any
8 means-tested benefit program administered by a governmental
9 entity unless required by federal law.

10 (35 ILCS 5/901)

11 Sec. 901. Collection authority.

12 (a) In general. The Department shall collect the taxes
13 imposed by this Act. The Department shall collect certified
14 past due child support amounts under Section 2505-650 of the
15 Department of Revenue Law of the Civil Administrative Code of
16 Illinois. Except as provided in subsections (b), (c), (e),
17 (f), (g), and (h) of this Section, money collected pursuant to
18 subsections (a) and (b) of Section 201 of this Act shall be
19 paid into the General Revenue Fund in the State treasury;
20 money collected pursuant to subsections (c) and (d) of Section
21 201 of this Act shall be paid into the Personal Property Tax
22 Replacement Fund, a special fund in the State Treasury; and
23 money collected under Section 2505-650 of the Department of
24 Revenue Law of the Civil Administrative Code of Illinois shall
25 be paid into the Child Support Enforcement Trust Fund, a

1 special fund outside the State Treasury, or to the State
2 Disbursement Unit established under Section 10-26 of the
3 Illinois Public Aid Code, as directed by the Department of
4 Healthcare and Family Services.

5 (b) Local Government Distributive Fund. Beginning August
6 1, 2017 and continuing through July 31, 2022, the Treasurer
7 shall transfer each month from the General Revenue Fund to the
8 Local Government Distributive Fund an amount equal to the sum
9 of: (i) 6.06% (10% of the ratio of the 3% individual income tax
10 rate prior to 2011 to the 4.95% individual income tax rate
11 after July 1, 2017) of the net revenue realized from the tax
12 imposed by subsections (a) and (b) of Section 201 of this Act
13 upon individuals, trusts, and estates during the preceding
14 month; (ii) 6.85% (10% of the ratio of the 4.8% corporate
15 income tax rate prior to 2011 to the 7% corporate income tax
16 rate after July 1, 2017) of the net revenue realized from the
17 tax imposed by subsections (a) and (b) of Section 201 of this
18 Act upon corporations during the preceding month; and (iii)
19 beginning February 1, 2022, 6.06% of the net revenue realized
20 from the tax imposed by subsection (p) of Section 201 of this
21 Act upon electing pass-through entities. Beginning August 1,
22 2022, the Treasurer shall transfer each month from the General
23 Revenue Fund to the Local Government Distributive Fund an
24 amount equal to the sum of: (i) 6.16% of the net revenue
25 realized from the tax imposed by subsections (a) and (b) of
26 Section 201 of this Act upon individuals, trusts, and estates

1 during the preceding month; (ii) 6.85% of the net revenue
2 realized from the tax imposed by subsections (a) and (b) of
3 Section 201 of this Act upon corporations during the preceding
4 month; and (iii) 6.16% of the net revenue realized from the tax
5 imposed by subsection (p) of Section 201 of this Act upon
6 electing pass-through entities. Net revenue realized for a
7 month shall be defined as the revenue from the tax imposed by
8 subsections (a) and (b) of Section 201 of this Act which is
9 deposited in the General Revenue Fund, the Education
10 Assistance Fund, the Income Tax Surcharge Local Government
11 Distributive Fund, the Fund for the Advancement of Education,
12 and the Commitment to Human Services Fund during the month
13 minus the amount paid out of the General Revenue Fund in State
14 warrants during that same month as refunds to taxpayers for
15 overpayment of liability under the tax imposed by subsections
16 (a) and (b) of Section 201 of this Act.

17 Notwithstanding any provision of law to the contrary,
18 beginning on July 6, 2017 (the effective date of Public Act
19 100-23), those amounts required under this subsection (b) to
20 be transferred by the Treasurer into the Local Government
21 Distributive Fund from the General Revenue Fund shall be
22 directly deposited into the Local Government Distributive Fund
23 as the revenue is realized from the tax imposed by subsections
24 (a) and (b) of Section 201 of this Act.

25 (c) Deposits Into Income Tax Refund Fund.

26 (1) Beginning on January 1, 1989 and thereafter, the

1 Department shall deposit a percentage of the amounts
2 collected pursuant to subsections (a) and (b) (1), (2), and
3 (3) of Section 201 of this Act into a fund in the State
4 treasury known as the Income Tax Refund Fund. Beginning
5 with State fiscal year 1990 and for each fiscal year
6 thereafter, the percentage deposited into the Income Tax
7 Refund Fund during a fiscal year shall be the Annual
8 Percentage. For fiscal year 2011, the Annual Percentage
9 shall be 8.75%. For fiscal year 2012, the Annual
10 Percentage shall be 8.75%. For fiscal year 2013, the
11 Annual Percentage shall be 9.75%. For fiscal year 2014,
12 the Annual Percentage shall be 9.5%. For fiscal year 2015,
13 the Annual Percentage shall be 10%. For fiscal year 2018,
14 the Annual Percentage shall be 9.8%. For fiscal year 2019,
15 the Annual Percentage shall be 9.7%. For fiscal year 2020,
16 the Annual Percentage shall be 9.5%. For fiscal year 2021,
17 the Annual Percentage shall be 9%. For fiscal year 2022,
18 the Annual Percentage shall be 9.25%. For fiscal year
19 2023, the Annual Percentage shall be 9.25%. For all other
20 fiscal years, the Annual Percentage shall be calculated as
21 a fraction, the numerator of which shall be the amount of
22 refunds approved for payment by the Department during the
23 preceding fiscal year as a result of overpayment of tax
24 liability under subsections (a) and (b) (1), (2), and (3)
25 of Section 201 of this Act plus the amount of such refunds
26 remaining approved but unpaid at the end of the preceding

1 fiscal year, minus the amounts transferred into the Income
2 Tax Refund Fund from the Tobacco Settlement Recovery Fund,
3 and the denominator of which shall be the amounts which
4 will be collected pursuant to subsections (a) and (b)(1),
5 (2), and (3) of Section 201 of this Act during the
6 preceding fiscal year; except that in State fiscal year
7 2002, the Annual Percentage shall in no event exceed 7.6%.
8 The Director of Revenue shall certify the Annual
9 Percentage to the Comptroller on the last business day of
10 the fiscal year immediately preceding the fiscal year for
11 which it is to be effective.

12 (2) Beginning on January 1, 1989 and thereafter, the
13 Department shall deposit a percentage of the amounts
14 collected pursuant to subsections (a) and (b)(6), (7), and
15 (8), (c) and (d) of Section 201 of this Act into a fund in
16 the State treasury known as the Income Tax Refund Fund.
17 Beginning with State fiscal year 1990 and for each fiscal
18 year thereafter, the percentage deposited into the Income
19 Tax Refund Fund during a fiscal year shall be the Annual
20 Percentage. For fiscal year 2011, the Annual Percentage
21 shall be 17.5%. For fiscal year 2012, the Annual
22 Percentage shall be 17.5%. For fiscal year 2013, the
23 Annual Percentage shall be 14%. For fiscal year 2014, the
24 Annual Percentage shall be 13.4%. For fiscal year 2015,
25 the Annual Percentage shall be 14%. For fiscal year 2018,
26 the Annual Percentage shall be 17.5%. For fiscal year

1 2019, the Annual Percentage shall be 15.5%. For fiscal
2 year 2020, the Annual Percentage shall be 14.25%. For
3 fiscal year 2021, the Annual Percentage shall be 14%. For
4 fiscal year 2022, the Annual Percentage shall be 15%. For
5 fiscal year 2023, the Annual Percentage shall be 14.5%.
6 For all other fiscal years, the Annual Percentage shall be
7 calculated as a fraction, the numerator of which shall be
8 the amount of refunds approved for payment by the
9 Department during the preceding fiscal year as a result of
10 overpayment of tax liability under subsections (a) and
11 (b) (6), (7), and (8), (c) and (d) of Section 201 of this
12 Act plus the amount of such refunds remaining approved but
13 unpaid at the end of the preceding fiscal year, and the
14 denominator of which shall be the amounts which will be
15 collected pursuant to subsections (a) and (b) (6), (7), and
16 (8), (c) and (d) of Section 201 of this Act during the
17 preceding fiscal year; except that in State fiscal year
18 2002, the Annual Percentage shall in no event exceed 23%.
19 The Director of Revenue shall certify the Annual
20 Percentage to the Comptroller on the last business day of
21 the fiscal year immediately preceding the fiscal year for
22 which it is to be effective.

23 (3) The Comptroller shall order transferred and the
24 Treasurer shall transfer from the Tobacco Settlement
25 Recovery Fund to the Income Tax Refund Fund (i)
26 \$35,000,000 in January, 2001, (ii) \$35,000,000 in January,

1 2002, and (iii) \$35,000,000 in January, 2003.

2 (d) Expenditures from Income Tax Refund Fund.

3 (1) Beginning January 1, 1989, money in the Income Tax
4 Refund Fund shall be expended exclusively for the purpose
5 of paying refunds resulting from overpayment of tax
6 liability under Section 201 of this Act and for making
7 transfers pursuant to this subsection (d), except that in
8 State fiscal years 2022 and 2023, moneys in the Income Tax
9 Refund Fund shall also be used to pay one-time rebate
10 payments as provided under Sections 208.5 and 212.1.

11 (2) The Director shall order payment of refunds
12 resulting from overpayment of tax liability under Section
13 201 of this Act from the Income Tax Refund Fund only to the
14 extent that amounts collected pursuant to Section 201 of
15 this Act and transfers pursuant to this subsection (d) and
16 item (3) of subsection (c) have been deposited and
17 retained in the Fund.

18 (3) As soon as possible after the end of each fiscal
19 year, the Director shall order transferred and the State
20 Treasurer and State Comptroller shall transfer from the
21 Income Tax Refund Fund to the Personal Property Tax
22 Replacement Fund an amount, certified by the Director to
23 the Comptroller, equal to the excess of the amount
24 collected pursuant to subsections (c) and (d) of Section
25 201 of this Act deposited into the Income Tax Refund Fund
26 during the fiscal year over the amount of refunds

1 resulting from overpayment of tax liability under
2 subsections (c) and (d) of Section 201 of this Act paid
3 from the Income Tax Refund Fund during the fiscal year.

4 (4) As soon as possible after the end of each fiscal
5 year, the Director shall order transferred and the State
6 Treasurer and State Comptroller shall transfer from the
7 Personal Property Tax Replacement Fund to the Income Tax
8 Refund Fund an amount, certified by the Director to the
9 Comptroller, equal to the excess of the amount of refunds
10 resulting from overpayment of tax liability under
11 subsections (c) and (d) of Section 201 of this Act paid
12 from the Income Tax Refund Fund during the fiscal year
13 over the amount collected pursuant to subsections (c) and
14 (d) of Section 201 of this Act deposited into the Income
15 Tax Refund Fund during the fiscal year.

16 (4.5) As soon as possible after the end of fiscal year
17 1999 and of each fiscal year thereafter through fiscal
18 year 2022, the Director shall order transferred and the
19 State Treasurer and State Comptroller shall transfer from
20 the Income Tax Refund Fund to the General Revenue Fund any
21 surplus remaining in the Income Tax Refund Fund as of the
22 end of such fiscal year; excluding for fiscal years 2000,
23 2001, and 2002 amounts attributable to transfers under
24 item (3) of subsection (c) less refunds resulting from the
25 earned income tax credit, and excluding for fiscal year
26 2022 amounts attributable to transfers from the General

1 Revenue Fund authorized by Public Act 102-700 ~~this~~
2 ~~amendatory Act of the 102nd General Assembly.~~

3 (4.6) As soon as possible after the end of fiscal year
4 2023 and of each fiscal year thereafter, the Director
5 shall order transferred and the State Treasurer and State
6 Comptroller shall transfer from the Income Tax Refund Fund
7 to the Illinois Individual Income Tax Rebate Fund any
8 surplus remaining in the Income Tax Refund Fund as of the
9 end of that fiscal year.

10 (5) This Act shall constitute an irrevocable and
11 continuing appropriation from the Income Tax Refund Fund
12 for the purposes of (i) paying refunds upon the order of
13 the Director in accordance with the provisions of this
14 Section and (ii) paying one-time rebate payments under
15 Sections 208.5 and 212.1.

16 (e) Deposits into the Education Assistance Fund and the
17 Income Tax Surcharge Local Government Distributive Fund. On
18 July 1, 1991, and thereafter, of the amounts collected
19 pursuant to subsections (a) and (b) of Section 201 of this Act,
20 minus deposits into the Income Tax Refund Fund, the Department
21 shall deposit 7.3% into the Education Assistance Fund in the
22 State Treasury. Beginning July 1, 1991, and continuing through
23 January 31, 1993, of the amounts collected pursuant to
24 subsections (a) and (b) of Section 201 of the Illinois Income
25 Tax Act, minus deposits into the Income Tax Refund Fund, the
26 Department shall deposit 3.0% into the Income Tax Surcharge

1 Local Government Distributive Fund in the State Treasury.
2 Beginning February 1, 1993 and continuing through June 30,
3 1993, of the amounts collected pursuant to subsections (a) and
4 (b) of Section 201 of the Illinois Income Tax Act, minus
5 deposits into the Income Tax Refund Fund, the Department shall
6 deposit 4.4% into the Income Tax Surcharge Local Government
7 Distributive Fund in the State Treasury. Beginning July 1,
8 1993, and continuing through June 30, 1994, of the amounts
9 collected under subsections (a) and (b) of Section 201 of this
10 Act, minus deposits into the Income Tax Refund Fund, the
11 Department shall deposit 1.475% into the Income Tax Surcharge
12 Local Government Distributive Fund in the State Treasury.

13 (f) Deposits into the Fund for the Advancement of
14 Education. Beginning February 1, 2015, the Department shall
15 deposit the following portions of the revenue realized from
16 the tax imposed upon individuals, trusts, and estates by
17 subsections (a) and (b) of Section 201 of this Act, minus
18 deposits into the Income Tax Refund Fund, into the Fund for the
19 Advancement of Education:

20 (1) beginning February 1, 2015, and prior to February
21 1, 2025, 1/30; and

22 (2) beginning February 1, 2025, 1/26.

23 If the rate of tax imposed by subsection (a) and (b) of
24 Section 201 is reduced pursuant to Section 201.5 of this Act,
25 the Department shall not make the deposits required by this
26 subsection (f) on or after the effective date of the

1 reduction.

2 (g) Deposits into the Commitment to Human Services Fund.
3 Beginning February 1, 2015, the Department shall deposit the
4 following portions of the revenue realized from the tax
5 imposed upon individuals, trusts, and estates by subsections
6 (a) and (b) of Section 201 of this Act, minus deposits into the
7 Income Tax Refund Fund, into the Commitment to Human Services
8 Fund:

9 (1) beginning February 1, 2015, and prior to February
10 1, 2025, 1/30; and

11 (2) beginning February 1, 2025, 1/26.

12 If the rate of tax imposed by subsection (a) and (b) of
13 Section 201 is reduced pursuant to Section 201.5 of this Act,
14 the Department shall not make the deposits required by this
15 subsection (g) on or after the effective date of the
16 reduction.

17 (h) Deposits into the Tax Compliance and Administration
18 Fund. Beginning on the first day of the first calendar month to
19 occur on or after August 26, 2014 (the effective date of Public
20 Act 98-1098), each month the Department shall pay into the Tax
21 Compliance and Administration Fund, to be used, subject to
22 appropriation, to fund additional auditors and compliance
23 personnel at the Department, an amount equal to 1/12 of 5% of
24 the cash receipts collected during the preceding fiscal year
25 by the Audit Bureau of the Department from the tax imposed by
26 subsections (a), (b), (c), and (d) of Section 201 of this Act,

1 net of deposits into the Income Tax Refund Fund made from those
2 cash receipts.

3 (Source: P.A. 101-8, see Section 99 for effective date;
4 101-10, eff. 6-5-19; 101-81, eff. 7-12-19; 101-636, eff.
5 6-10-20; 102-16, eff. 6-17-21; 102-558, eff. 8-20-21; 102-658,
6 eff. 8-27-21; 102-699, eff. 4-19-22; 102-700, eff. 4-19-22;
7 102-813, eff. 5-13-22; revised 8-2-22.)

8 Section 10. The State Finance Act is amended by adding
9 Section 5.990 as follows:

10 (30 ILCS 105/5.990 new)

11 Sec. 5.990. The Illinois Individual Income Tax Rebate
12 Fund.

13 Section 15. The Illinois Administrative Procedure Act is
14 amended by adding Section 5-45.35 as follows:

15 (5 ILCS 100/5-45.35 new)

16 Sec. 5-45.35. Emergency rulemaking. To provide for the
17 expeditious and timely implementation of this amendatory Act
18 of the 103rd General Assembly, emergency rules implementing
19 this amendatory Act of the 103rd General Assembly may be
20 adopted in accordance with Section 5-45 by the Department of
21 Revenue. The adoption of emergency rules authorized by Section
22 5-45 and this Section is deemed to be necessary for the public

1 interest, safety, and welfare.

2 This Section is repealed one year after the effective date
3 of this amendatory Act of the 103rd General Assembly.

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