

# HB3686



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3686

Introduced 2/17/2023, by Rep. Dave Severin

### SYNOPSIS AS INTRODUCED:

35 ILCS 5/201

Amends the Illinois Income Tax Act. Provides that the rate of tax on individuals, trusts, and estates is 4.85% (currently, 4.95%). Makes a conforming change concerning the pass-through entity tax. Effective immediately.

LRB103 28572 HLH 54953 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 and  
16 ending prior to January 1, 2024, an amount equal to 4.95%  
17 of the taxpayer's net income for the taxable year.

18 (5.5) In the case of an individual, trust, or estate,  
19 for taxable years beginning prior to January 1, 2024, and  
20 ending after December 31, 2023, an amount equal to the sum  
21 of (i) 4.95% of the taxpayer's net income for the period  
22 prior to January 1, 2023, as calculated under Section  
23 202.5, and (ii) 4.85% of the taxpayer's net income for the  
24 period after December 31, 2022, as calculated under  
25 Section 202.5.

26 (5.6) In the case of an individual, trust, or estate,

1 for taxable years beginning on or after January 1, 2024,  
2 an amount equal to 4.85% of the taxpayer's net income for  
3 the taxable year.

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

7 (7) In the case of a corporation, for taxable years  
8 beginning prior to July 1, 1989 and ending after June 30,  
9 1989, an amount equal to the sum of (i) 4% of the  
10 taxpayer's net income for the period prior to July 1,  
11 1989, as calculated under Section 202.3, and (ii) 4.8% of  
12 the taxpayer's net income for the period after June 30,  
13 1989, as calculated under Section 202.3.

14 (8) In the case of a corporation, for taxable years  
15 beginning after June 30, 1989, and ending prior to January  
16 1, 2011, an amount equal to 4.8% of the taxpayer's net  
17 income for the taxable year.

18 (9) In the case of a corporation, for taxable years  
19 beginning prior to January 1, 2011, and ending after  
20 December 31, 2010, an amount equal to the sum of (i) 4.8%  
21 of the taxpayer's net income for the period prior to  
22 January 1, 2011, as calculated under Section 202.5, and  
23 (ii) 7% of the taxpayer's net income for the period after  
24 December 31, 2010, as calculated under Section 202.5.

25 (10) In the case of a corporation, for taxable years  
26 beginning on or after January 1, 2011, and ending prior to

1 January 1, 2015, an amount equal to 7% of the taxpayer's  
2 net income for the taxable year.

3 (11) In the case of a corporation, for taxable years  
4 beginning prior to January 1, 2015, and ending after  
5 December 31, 2014, an amount equal to the sum of (i) 7% of  
6 the taxpayer's net income for the period prior to January  
7 1, 2015, as calculated under Section 202.5, and (ii) 5.25%  
8 of the taxpayer's net income for the period after December  
9 31, 2014, as calculated under Section 202.5.

10 (12) In the case of a corporation, for taxable years  
11 beginning on or after January 1, 2015, and ending prior to  
12 July 1, 2017, an amount equal to 5.25% of the taxpayer's  
13 net income for the taxable year.

14 (13) In the case of a corporation, for taxable years  
15 beginning prior to July 1, 2017, and ending after June 30,  
16 2017, an amount equal to the sum of (i) 5.25% of the  
17 taxpayer's net income for the period prior to July 1,  
18 2017, as calculated under Section 202.5, and (ii) 7% of  
19 the taxpayer's net income for the period after June 30,  
20 2017, as calculated under Section 202.5.

21 (14) In the case of a corporation, for taxable years  
22 beginning on or after July 1, 2017, an amount equal to 7%  
23 of the taxpayer's net income for the taxable year.

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

26 (b-5) Surcharge; sale or exchange of assets, properties,

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

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

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

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

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

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

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 license when the license was issued; or

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

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

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

26 (c) Personal Property Tax Replacement Income Tax.



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

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

25 (d-1) Rate reduction for certain foreign insurers. In the  
26 case of a foreign insurer, as defined by Section 35A-5 of the

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

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

26 (A) the total amount of tax imposed on such

1 foreign insurer under this Act for a taxable year, net  
2 of all credits allowed under this Act, plus

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

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

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

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

25 (e) Investment credit. A taxpayer shall be allowed a  
26 credit against the Personal Property Tax Replacement Income

1 Tax for investment in qualified property.

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

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

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

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

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

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

22 (C) is acquired by purchase as defined in Section  
23 179(d) of the Internal Revenue Code;

24 (D) is used in Illinois by a taxpayer who is  
25 primarily engaged in manufacturing, or in mining coal  
26 or fluorite, or in retailing, or was placed in service

1           on or after July 1, 2006 in a River Edge Redevelopment  
2           Zone established pursuant to the River Edge  
3           Redevelopment Zone Act; and

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

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

1           (4) The basis of qualified property shall be the basis  
2 used to compute the depreciation deduction for federal  
3 income tax purposes.

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

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

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



1 of such reduction.

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

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

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

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

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

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

1 under Sections 702 and 704 and Subchapter S of the  
2 Internal Revenue Code. The credit shall be .5% of the  
3 basis for such property. The credit shall be available  
4 only in the taxable year in which the property is placed in  
5 service in the Enterprise Zone or River Edge Redevelopment  
6 Zone and shall not be allowed to the extent that it would  
7 reduce a taxpayer's liability for the tax imposed by  
8 subsections (a) and (b) of this Section to below zero. For  
9 tax years ending on or after December 31, 1985, the credit  
10 shall be allowed for the tax year in which the property is  
11 placed in service, or, if the amount of the credit exceeds  
12 the tax liability for that year, whether it exceeds the  
13 original liability or the liability as later amended, such  
14 excess may be carried forward and applied to the tax  
15 liability of the 5 taxable years following the excess  
16 credit year. The credit shall be applied to the earliest  
17 year for which there is a liability. If there is credit  
18 from more than one tax year that is available to offset a  
19 liability, the credit accruing first in time shall be  
20 applied first.

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

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

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

1 eligible for the credit provided by this subsection  
2 (f);

3 (C) is acquired by purchase as defined in Section  
4 179(d) of the Internal Revenue Code;

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

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

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

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

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

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

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

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

1 employment within Illinois over the preceding year is less  
2 than 1%, the additional credit shall be limited to that  
3 percentage times a fraction, the numerator of which is  
4 0.5% and the denominator of which is 1%, but shall not  
5 exceed 0.5%.

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

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

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

1 determined in accordance with the determination of income  
2 and distributive share of income under Sections 702 and  
3 704 and Subchapter S of the Internal Revenue Code.

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

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

9 (g) (Blank).

10 (h) Investment credit; High Impact Business.

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

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

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



1 reflect existing law.

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

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

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

10 (C) is acquired by purchase as defined in Section  
11 179(d) of the Internal Revenue Code; and

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

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

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

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

26 (6) If during any taxable year ending on or before

1 December 31, 1996, any property ceases to be qualified  
2 property in the hands of the taxpayer within 48 months  
3 after being placed in service, or the situs of any  
4 qualified property is moved outside Illinois within 48  
5 months after being placed in service, the tax imposed  
6 under subsections (a) and (b) of this Section for such  
7 taxable year shall be increased. Such increase shall be  
8 determined by (i) recomputing the investment credit which  
9 would have been allowed for the year in which credit for  
10 such property was originally allowed by eliminating such  
11 property from such computation, and (ii) subtracting such  
12 recomputed credit from the amount of credit previously  
13 allowed. For the purposes of this paragraph (6), a  
14 reduction of the basis of qualified property resulting  
15 from a redetermination of the purchase price shall be  
16 deemed a disposition of qualified property to the extent  
17 of such reduction.

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

1 credit received by the taxpayer under this subsection (h).

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

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

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

26 The total aggregate amount of credits awarded under the

1 Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not  
2 exceed \$20,000,000 in any State fiscal year.

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

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

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

1 offset a liability the earliest credit arising under this  
2 subsection shall be applied first.

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

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

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

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

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

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

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

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

1 year ending on or after December 31, 2003.

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

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

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

26 (1) Environmental Remediation Tax Credit.



1           (i) For tax years ending after December 31, 1997 and  
2 on or before December 31, 2001, a taxpayer shall be  
3 allowed a credit against the tax imposed by subsections  
4 (a) and (b) of this Section for certain amounts paid for  
5 unreimbursed eligible remediation costs, as specified in  
6 this subsection. For purposes of this Section,  
7 "unreimbursed eligible remediation costs" means costs  
8 approved by the Illinois Environmental Protection Agency  
9 ("Agency") under Section 58.14 of the Environmental  
10 Protection Act that were paid in performing environmental  
11 remediation at a site for which a No Further Remediation  
12 Letter was issued by the Agency and recorded under Section  
13 58.10 of the Environmental Protection Act. The credit must  
14 be claimed for the taxable year in which Agency approval  
15 of the eligible remediation costs is granted. The credit  
16 is not available to any taxpayer if the taxpayer or any  
17 related party caused or contributed to, in any material  
18 respect, a release of regulated substances on, in, or  
19 under the site that was identified and addressed by the  
20 remedial action pursuant to the Site Remediation Program  
21 of the Environmental Protection Act. After the Pollution  
22 Control Board rules are adopted pursuant to the Illinois  
23 Administrative Procedure Act for the administration and  
24 enforcement of Section 58.9 of the Environmental  
25 Protection Act, determinations as to credit availability  
26 for purposes of this Section shall be made consistent with

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

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

1 unreimbursed eligible remediation costs in excess of the  
2 maximum credit per site authorized under paragraph (i).  
3 This credit shall be applied first to the earliest year  
4 for which there is a liability. If there is a credit under  
5 this subsection from more than one tax year that is  
6 available to offset a liability, the earliest credit  
7 arising under this subsection shall be applied first. A  
8 credit allowed under this subsection may be sold to a  
9 buyer as part of a sale of all or part of the remediation  
10 site for which the credit was granted. The purchaser of a  
11 remediation site and the tax credit shall succeed to the  
12 unused credit and remaining carry-forward period of the  
13 seller. To perfect the transfer, the assignor shall record  
14 the transfer in the chain of title for the site and provide  
15 written notice to the Director of the Illinois Department  
16 of Revenue of the assignor's intent to sell the  
17 remediation site and the amount of the tax credit to be  
18 transferred as a portion of the sale. In no event may a  
19 credit be transferred to any taxpayer if the taxpayer or a  
20 related party would not be eligible under the provisions  
21 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 (m) Education expense credit. Beginning with tax years  
26 ending after December 31, 1999, a taxpayer who is the

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

19 For purposes of this subsection:

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

1 "Qualified education expense" means the amount incurred on  
2 behalf of a qualifying pupil in excess of \$250 for tuition,  
3 book fees, and lab fees at the school in which the pupil is  
4 enrolled during the regular school year.

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

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

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

17 (i) For tax years ending on or after December 31,  
18 2006, a taxpayer shall be allowed a credit against the tax  
19 imposed by subsections (a) and (b) of this Section for  
20 certain amounts paid for unreimbursed eligible remediation  
21 costs, as specified in this subsection. For purposes of  
22 this Section, "unreimbursed eligible remediation costs"  
23 means costs approved by the Illinois Environmental  
24 Protection Agency ("Agency") under Section 58.14a of the  
25 Environmental Protection Act that were paid in performing  
26 environmental remediation at a site within a River Edge

1           Redevelopment Zone for which a No Further Remediation  
2           Letter was issued by the Agency and recorded under Section  
3           58.10 of the Environmental Protection Act. The credit must  
4           be claimed for the taxable year in which Agency approval  
5           of the eligible remediation costs is granted. The credit  
6           is not available to any taxpayer if the taxpayer or any  
7           related party caused or contributed to, in any material  
8           respect, a release of regulated substances on, in, or  
9           under the site that was identified and addressed by the  
10          remedial action pursuant to the Site Remediation Program  
11          of the Environmental Protection Act. Determinations as to  
12          credit availability for purposes of this Section shall be  
13          made consistent with rules adopted by the Pollution  
14          Control Board pursuant to the Illinois Administrative  
15          Procedure Act for the administration and enforcement of  
16          Section 58.9 of the Environmental Protection Act. For  
17          purposes of this Section, "taxpayer" includes a person  
18          whose tax attributes the taxpayer has succeeded to under  
19          Section 381 of the Internal Revenue Code and "related  
20          party" includes the persons disallowed a deduction for  
21          losses by paragraphs (b), (c), and (f)(1) of Section 267  
22          of the Internal Revenue Code by virtue of being a related  
23          taxpayer, as well as any of its partners. The credit  
24          allowed against the tax imposed by subsections (a) and (b)  
25          shall be equal to 25% of the unreimbursed eligible  
26          remediation costs in excess of \$100,000 per site.

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

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

26           (o) For each of taxable years during the Compassionate Use

1 of Medical Cannabis Program, 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 of  
5 an organization registrant under the Compassionate Use of  
6 Medical Cannabis Program Act. The amount of the surcharge is  
7 equal to the amount of federal income tax liability for the  
8 taxable year attributable to those sales and exchanges. The  
9 surcharge imposed does not apply if:

10 (1) the medical cannabis cultivation center  
11 registration, medical cannabis dispensary registration, or  
12 the property of a registration 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 registration or the substantial owners of the initial  
17 registration;

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

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

26 (D) the death of an owner of the equity interest in



1 a registrant;

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

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

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

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

18 (p) Pass-through entity tax.

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

1 Department, and, once made, is irrevocable.

2 (2) Entity-level tax. A partnership or Subchapter S  
3 corporation electing to apply the provisions of this  
4 subsection shall be subject to a tax for the privilege of  
5 earning or receiving income in this State in an amount  
6 equal to a percentage ~~4.95%~~ of the taxpayer's net income  
7 for the taxable year. For the purposes of this  
8 subparagraph (p), that percentage shall be the tax rate  
9 imposed on individuals, trusts, and estates under  
10 subsection (b) of this Section.

11 (3) Net income defined.

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

16 (i) the standard exemption allowed under  
17 Section 204;

18 (ii) the deduction for net losses allowed  
19 under Section 207;

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

22 (iv) in the case of a partnership, the  
23 modifications under Section 203(d)(2)(H) and  
24 Section 203(d)(2)(I).

25 (B) Special rule for tiered partnerships. If a  
26 taxpayer making the election under paragraph (1) is a

1 partner of another taxpayer making the election under  
2 paragraph (1), net income shall be computed as  
3 provided in subparagraph (A), except that the taxpayer  
4 shall subtract its distributive share of the net  
5 income of the electing partnership (including its  
6 distributive share of the net income of the electing  
7 partnership derived as a distributive share from  
8 electing partnerships in which it is a partner).

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

1 corporation then its partners or shareholders) in  
2 accordance with the determination of income and  
3 distributive share of income under Sections 702 and 704  
4 and Subchapter S of the Internal Revenue Code. If the  
5 amount of the credit allowed under this paragraph exceeds  
6 the partner's or shareholder's liability for tax imposed  
7 under subsections (a) and (b) of Section 201 of this Act  
8 for the taxable year, such excess shall be treated as an  
9 overpayment for purposes of Section 909 of this Act.

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

23 (6) Liability for tax. Except as provided in this  
24 paragraph, a partnership or Subchapter S making the  
25 election under paragraph (1) is liable for the  
26 entity-level tax imposed under paragraph (2). If the

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

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

25 (8) Suspension of withholding. The provisions of  
26 Section 709.5 of this Act shall not apply to a partnership

1 or Subchapter S corporation for the taxable year for which  
2 an election under paragraph (1) is in effect.

3 (9) Requirement to pay estimated tax. For each taxable  
4 year for which an election under paragraph (1) is in  
5 effect, a partnership or Subchapter S corporation is  
6 required to pay estimated tax for such taxable year under  
7 Sections 803 and 804 of this Act if the amount payable as  
8 estimated tax can reasonably be expected to exceed \$500.

9 (10) The provisions of this subsection shall apply  
10 only with respect to taxable years for which the  
11 limitation on individual deductions applies under Section  
12 164(b)(6) of the Internal Revenue Code.

13 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;  
14 101-207, eff. 8-2-19; 101-363, eff. 8-9-19; 102-558, eff.  
15 8-20-21; 102-658, eff. 8-27-21.)

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