

**SB0423**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB0423**

Introduced 2/8/2011, by Sen. John J. Cullerton

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/201

from Ch. 120, par. 2-201

Amends the Illinois Income Tax Act. Makes a technical change in a Section concerning the tax imposed.

LRB097 04159 HLH 44198 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) (from Ch. 120, par. 2-201)

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 ~~and~~ estate  
10 for each taxable year ending after July 31, 1969 on the  
11 privilege of earning or receiving income in or as a resident of  
12 this State. Such tax shall be in addition to all other  
13 occupation or privilege taxes imposed by this State or by any  
14 municipal 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 equal  
20 to 2 1/2% of the taxpayer's net income for the taxable  
21 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, an amount  
8 equal to 3% of the taxpayer's net income for the taxable  
9 year.

10 (4) (Blank).

11 (5) (Blank).

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

15 (7) In the case of a corporation, for taxable years  
16 beginning prior to July 1, 1989 and ending after June 30,  
17 1989, an amount equal to the sum of (i) 4% of the  
18 taxpayer's net income for the period prior to July 1, 1989,  
19 as calculated under Section 202.3, and (ii) 4.8% of the  
20 taxpayer's net income for the period after June 30, 1989,  
21 as calculated under Section 202.3.

22 (8) In the case of a corporation, for taxable years  
23 beginning after June 30, 1989, an amount equal to 4.8% of  
24 the taxpayer's net income for the taxable year.

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 receiving  
6 income in or as a resident of this State. The Personal Property  
7 Tax Replacement Income Tax shall be in addition to the income  
8 tax imposed by subsections (a) and (b) of this Section and in  
9 addition to all other occupation or privilege taxes imposed by  
10 this State or by any municipal corporation or political  
11 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 such  
19 income by the foreign insurer's state of domicile. For the  
20 purposes of this subsection (d-1), an inter-affiliate includes  
21 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 foreign  
26 insurer under this Act for a taxable year, net of all

1 credits allowed under this Act, plus

2 (B) the privilege tax imposed by Section 409 of the  
3 Illinois Insurance Code, the fire insurance company  
4 tax imposed by Section 12 of the Fire Investigation  
5 Act, and the fire department taxes imposed under  
6 Section 11-10-1 of the Illinois Municipal Code,  
7 equals 1.25% for taxable years ending prior to December 31,  
8 2003, or 1.75% for taxable years ending on or after  
9 December 31, 2003, of the net taxable premiums written for  
10 the taxable year, as described by subsection (1) of Section  
11 409 of the Illinois Insurance Code. This paragraph will in  
12 no event increase the rates imposed under subsections (b)  
13 and (d).

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

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

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

26 (1) A taxpayer shall be allowed a credit equal to .5%

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

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



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

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

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

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

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

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

1           Redevelopment Zone Act; and

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

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

25          (4) The basis of qualified property shall be the basis  
26          used to compute the depreciation deduction for federal

1 income tax purposes.

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

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

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

25 (8) Unless the investment credit is extended by law,  
26 the basis of qualified property shall not include costs

1 incurred after December 31, 2013, except for costs incurred  
2 pursuant to a binding contract entered into on or before  
3 December 31, 2013.

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

20 For taxable years ending on or after December 31, 2000,  
21 a partner that qualifies its partnership for a subtraction  
22 under subparagraph (I) of paragraph (2) of subsection (d)  
23 of Section 203 or a shareholder that qualifies a Subchapter  
24 S corporation for a subtraction under subparagraph (S) of  
25 paragraph (2) of subsection (b) of Section 203 shall be  
26 allowed a credit under this subsection (e) equal to its

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

8 (f) Investment credit; Enterprise Zone; River Edge  
9 Redevelopment Zone.

10 (1) A taxpayer shall be allowed a credit against the  
11 tax imposed by subsections (a) and (b) of this Section for  
12 investment in qualified property which is placed in service  
13 in an Enterprise Zone created pursuant to the Illinois  
14 Enterprise Zone Act or, for property placed in service on  
15 or after July 1, 2006, a River Edge Redevelopment Zone  
16 established pursuant to the River Edge Redevelopment Zone  
17 Act. For partners, shareholders of Subchapter S  
18 corporations, and owners of limited liability companies,  
19 if the liability company is treated as a partnership for  
20 purposes of federal and State income taxation, there shall  
21 be allowed a credit under this subsection (f) to be  
22 determined in accordance with the determination of income  
23 and distributive share of income under Sections 702 and 704  
24 and Subchapter S of the Internal Revenue Code. The credit  
25 shall be .5% of the basis for such property. The credit  
26 shall be available only in the taxable year in which the

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

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

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

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

25 (C) is acquired by purchase as defined in Section  
26 179(d) of the Internal Revenue Code;

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

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

7 (3) The basis of qualified property shall be the basis  
8 used to compute the depreciation deduction for federal  
9 income tax purposes.

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

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

18 (6) If during any taxable year, any property ceases to  
19 be qualified property in the hands of the taxpayer within  
20 48 months after being placed in service, or the situs of  
21 any qualified property is moved outside the Enterprise Zone  
22 or River Edge Redevelopment Zone within 48 months after  
23 being placed in service, the tax imposed under subsections  
24 (a) and (b) of this Section for such taxable year shall be  
25 increased. Such increase shall be determined by (i)  
26 recomputing the investment credit which would have been

1           allowed for the year in which credit for such property was  
2           originally allowed by eliminating such property from such  
3           computation, and (ii) subtracting such recomputed credit  
4           from the amount of credit previously allowed. For the  
5           purposes of this paragraph (6), a reduction of the basis of  
6           qualified property resulting from a redetermination of the  
7           purchase price shall be deemed a disposition of qualified  
8           property to the extent of such reduction.

9           (7) There shall be allowed an additional credit equal  
10          to 0.5% of the basis of qualified property placed in  
11          service during the taxable year in a River Edge  
12          Redevelopment Zone, provided such property is placed in  
13          service on or after July 1, 2006, and the taxpayer's base  
14          employment within Illinois has increased by 1% or more over  
15          the preceding year as determined by the taxpayer's  
16          employment records filed with the Illinois Department of  
17          Employment Security. Taxpayers who are new to Illinois  
18          shall be deemed to have met the 1% growth in base  
19          employment for the first year in which they file employment  
20          records with the Illinois Department of Employment  
21          Security. If, in any year, the increase in base employment  
22          within Illinois over the preceding year is less than 1%,  
23          the additional credit shall be limited to that percentage  
24          times a fraction, the numerator of which is 0.5% and the  
25          denominator of which is 1%, but shall not exceed 0.5%.

26          (g) Jobs Tax Credit; Enterprise Zone, River Edge



1 Redevelopment Zone, and Foreign Trade Zone or Sub-Zone.

2 (1) A taxpayer conducting a trade or business in an  
3 enterprise zone or a High Impact Business designated by the  
4 Department of Commerce and Economic Opportunity or for  
5 taxable years ending on or after December 31, 2006, in a  
6 River Edge Redevelopment Zone conducting a trade or  
7 business in a federally designated Foreign Trade Zone or  
8 Sub-Zone shall be allowed a credit against the tax imposed  
9 by subsections (a) and (b) of this Section in the amount of  
10 \$500 per eligible employee hired to work in the zone during  
11 the taxable year.

12 (2) To qualify for the credit:

13 (A) the taxpayer must hire 5 or more eligible  
14 employees to work in an enterprise zone, River Edge  
15 Redevelopment Zone, or federally designated Foreign  
16 Trade Zone or Sub-Zone during the taxable year;

17 (B) the taxpayer's total employment within the  
18 enterprise zone, River Edge Redevelopment Zone, or  
19 federally designated Foreign Trade Zone or Sub-Zone  
20 must increase by 5 or more full-time employees beyond  
21 the total employed in that zone at the end of the  
22 previous tax year for which a jobs tax credit under  
23 this Section was taken, or beyond the total employed by  
24 the taxpayer as of December 31, 1985, whichever is  
25 later; and

26 (C) the eligible employees must be employed 180

1 consecutive days in order to be deemed hired for  
2 purposes of this subsection.

3 (3) An "eligible employee" means an employee who is:

4 (A) Certified by the Department of Commerce and  
5 Economic Opportunity as "eligible for services"  
6 pursuant to regulations promulgated in accordance with  
7 Title II of the Job Training Partnership Act, Training  
8 Services for the Disadvantaged or Title III of the Job  
9 Training Partnership Act, Employment and Training  
10 Assistance for Dislocated Workers Program.

11 (B) Hired after the enterprise zone, River Edge  
12 Redevelopment Zone, or federally designated Foreign  
13 Trade Zone or Sub-Zone was designated or the trade or  
14 business was located in that zone, whichever is later.

15 (C) Employed in the enterprise zone, River Edge  
16 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.  
17 An employee is employed in an enterprise zone or  
18 federally designated Foreign Trade Zone or Sub-Zone if  
19 his services are rendered there or it is the base of  
20 operations for the services performed.

21 (D) A full-time employee working 30 or more hours  
22 per week.

23 (4) For tax years ending on or after December 31, 1985  
24 and prior to December 31, 1988, the credit shall be allowed  
25 for the tax year in which the eligible employees are hired.  
26 For tax years ending on or after December 31, 1988, the

1 credit shall be allowed for the tax year immediately  
2 following the tax year in which the eligible employees are  
3 hired. If the amount of the credit exceeds the tax  
4 liability for that year, whether it exceeds the original  
5 liability or the liability as later amended, such excess  
6 may be carried forward and applied to the tax liability of  
7 the 5 taxable years following the excess credit year. The  
8 credit shall be applied to the earliest year for which  
9 there is a liability. If there is credit from more than one  
10 tax year that is available to offset a liability, earlier  
11 credit shall be applied first.

12 (5) The Department of Revenue shall promulgate such  
13 rules and regulations as may be deemed necessary to carry  
14 out the purposes of this subsection (g).

15 (6) The credit shall be available for eligible  
16 employees hired on or after January 1, 1986.

17 (h) Investment credit; High Impact Business.

18 (1) Subject to subsections (b) and (b-5) of Section 5.5  
19 of the Illinois Enterprise Zone Act, a taxpayer shall be  
20 allowed a credit against the tax imposed by subsections (a)  
21 and (b) of this Section for investment in qualified  
22 property which is placed in service by a Department of  
23 Commerce and Economic Opportunity designated High Impact  
24 Business. The credit shall be .5% of the basis for such  
25 property. The credit shall not be available (i) until the  
26 minimum investments in qualified property set forth in

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

1 credit shall be applied to the earliest year for which  
2 there is a liability. If there is credit from more than one  
3 tax year that is available to offset a liability, the  
4 credit accruing first in time shall be applied first.

5 Changes made in this subdivision (h) (1) by Public Act  
6 88-670 restore changes made by Public Act 85-1182 and  
7 reflect existing law.

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

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

11 (B) is depreciable pursuant to Section 167 of the  
12 Internal Revenue Code, except that "3-year property"  
13 as defined in Section 168(c) (2) (A) of that Code is not  
14 eligible for the credit provided by this subsection  
15 (h);

16 (C) is acquired by purchase as defined in Section  
17 179(d) of the Internal Revenue Code; and

18 (D) is not eligible for the Enterprise Zone  
19 Investment Credit provided by subsection (f) of this  
20 Section.

21 (3) The basis of qualified property shall be the basis  
22 used to compute the depreciation deduction for federal  
23 income tax purposes.

24 (4) If the basis of the property for federal income tax  
25 depreciation purposes is increased after it has been placed  
26 in service in a federally designated Foreign Trade Zone or

1 Sub-Zone located in Illinois by the taxpayer, the amount of  
2 such increase shall be deemed property placed in service on  
3 the date of such increase in basis.

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

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

24 (7) Beginning with tax years ending after December 31,  
25 1996, if a taxpayer qualifies for the credit under this  
26 subsection (h) and thereby is granted a tax abatement and

1           the taxpayer relocates its entire facility in violation of  
2           the explicit terms and length of the contract under Section  
3           18-183 of the Property Tax Code, the tax imposed under  
4           subsections (a) and (b) of this Section shall be increased  
5           for the taxable year in which the taxpayer relocated its  
6           facility by an amount equal to the amount of credit  
7           received by the taxpayer under this subsection (h).

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

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

1 applied first to the earliest year for which there is a  
2 liability. If there is a credit under this subsection from more  
3 than one tax year that is available to offset a liability the  
4 earliest credit arising under this subsection shall be applied  
5 first.

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

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



1 training expenses. For partners, shareholders of subchapter S  
2 corporations, and owners of limited liability companies, if the  
3 liability company is treated as a partnership for purposes of  
4 federal and State income taxation, there shall be allowed a  
5 credit under this subsection (j) to be determined in accordance  
6 with the determination of income and distributive share of  
7 income under Sections 702 and 704 and subchapter S of the  
8 Internal Revenue Code.

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

19 (k) Research and development credit.

20 For tax years ending after July 1, 1990 and prior to  
21 December 31, 2003, and beginning again for tax years ending on  
22 or after December 31, 2004, and ending prior to January 1,  
23 2011, a taxpayer shall be allowed a credit against the tax  
24 imposed by subsections (a) and (b) of this Section for  
25 increasing research activities in this State. The credit  
26 allowed against the tax imposed by subsections (a) and (b)

1 shall be equal to 6 1/2% of the qualifying expenditures for  
2 increasing research activities in this State. For partners,  
3 shareholders of subchapter S corporations, and owners of  
4 limited liability companies, if the liability company is  
5 treated as a partnership for purposes of federal and State  
6 income taxation, there shall be allowed a credit under this  
7 subsection to be determined in accordance with the  
8 determination of income and distributive share of income under  
9 Sections 702 and 704 and subchapter S of the Internal Revenue  
10 Code.

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

24 Any credit in excess of the tax liability for the taxable  
25 year may be carried forward. A taxpayer may elect to have the  
26 unused credit shown on its final completed return carried over

1 as a credit against the tax liability for the following 5  
2 taxable years or until it has been fully used, whichever occurs  
3 first; provided that no credit earned in a tax year ending  
4 prior to December 31, 2003 may be carried forward to any year  
5 ending on or after December 31, 2003, and no credit may be  
6 carried forward to any taxable year ending on or after January  
7 1, 2011.

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

20 No inference shall be drawn from this amendatory Act of the  
21 91st General Assembly in construing this Section for taxable  
22 years beginning before January 1, 1999.

23 (1) Environmental Remediation Tax Credit.

24 (i) For tax years ending after December 31, 1997 and on  
25 or before December 31, 2001, a taxpayer shall be allowed a  
26 credit against the tax imposed by subsections (a) and (b)

1 of this Section for certain amounts paid for unreimbursed  
2 eligible remediation costs, as specified in this  
3 subsection. For purposes of this Section, "unreimbursed  
4 eligible remediation costs" means costs approved by the  
5 Illinois Environmental Protection Agency ("Agency") under  
6 Section 58.14 of the Environmental Protection Act that were  
7 paid in performing environmental remediation at a site for  
8 which a No Further Remediation Letter was issued by the  
9 Agency and recorded under Section 58.10 of the  
10 Environmental Protection Act. The credit must be claimed  
11 for the taxable year in which Agency approval of the  
12 eligible remediation costs is granted. The credit is not  
13 available to any taxpayer if the taxpayer or any related  
14 party caused or contributed to, in any material respect, a  
15 release of regulated substances on, in, or under the site  
16 that was identified and addressed by the remedial action  
17 pursuant to the Site Remediation Program of the  
18 Environmental Protection Act. After the Pollution Control  
19 Board rules are adopted pursuant to the Illinois  
20 Administrative Procedure Act for the administration and  
21 enforcement of Section 58.9 of the Environmental  
22 Protection Act, determinations as to credit availability  
23 for purposes of this Section shall be made consistent with  
24 those rules. For purposes of this Section, "taxpayer"  
25 includes a person whose tax attributes the taxpayer has  
26 succeeded to under Section 381 of the Internal Revenue Code

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

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

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

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

21                 (m) Education expense credit. Beginning with tax years  
22                 ending after December 31, 1999, a taxpayer who is the custodian  
23                 of one or more qualifying pupils shall be allowed a credit  
24                 against the tax imposed by subsections (a) and (b) of this  
25                 Section for qualified education expenses incurred on behalf of  
26                 the qualifying pupils. The credit shall be equal to 25% of

1 qualified education expenses, but in no event may the total  
2 credit under this subsection claimed by a family that is the  
3 custodian of qualifying pupils exceed \$500. In no event shall a  
4 credit under this subsection reduce the taxpayer's liability  
5 under this Act to less than zero. This subsection is exempt  
6 from the provisions of Section 250 of this Act.

7 For purposes of this subsection:

8 "Qualifying pupils" means individuals who (i) are  
9 residents of the State of Illinois, (ii) are under the age of  
10 21 at the close of the school year for which a credit is  
11 sought, and (iii) during the school year for which a credit is  
12 sought were full-time pupils enrolled in a kindergarten through  
13 twelfth grade education program at any school, as defined in  
14 this subsection.

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

19 "School" means any public or nonpublic elementary or  
20 secondary school in Illinois that is in compliance with Title  
21 VI of the Civil Rights Act of 1964 and attendance at which  
22 satisfies the requirements of Section 26-1 of the School Code,  
23 except that nothing shall be construed to require a child to  
24 attend any particular public or nonpublic school to qualify for  
25 the credit under this Section.

26 "Custodian" means, with respect to qualifying pupils, an

1 Illinois resident who is a parent, the parents, a legal  
2 guardian, or the legal guardians of the qualifying pupils.

3 (n) River Edge Redevelopment Zone site remediation tax  
4 credit.

5 (i) For tax years ending on or after December 31, 2006,  
6 a taxpayer shall be allowed a credit against the tax  
7 imposed by subsections (a) and (b) of this Section for  
8 certain amounts paid for unreimbursed eligible remediation  
9 costs, as specified in this subsection. For purposes of  
10 this Section, "unreimbursed eligible remediation costs"  
11 means costs approved by the Illinois Environmental  
12 Protection Agency ("Agency") under Section 58.14a of the  
13 Environmental Protection Act that were paid in performing  
14 environmental remediation at a site within a River Edge  
15 Redevelopment Zone for which a No Further Remediation  
16 Letter was issued by the Agency and recorded under Section  
17 58.10 of the Environmental Protection Act. The credit must  
18 be claimed for the taxable year in which Agency approval of  
19 the eligible remediation costs is granted. The credit is  
20 not available to any taxpayer if the taxpayer or any  
21 related party caused or contributed to, in any material  
22 respect, a release of regulated substances on, in, or under  
23 the site that was identified and addressed by the remedial  
24 action pursuant to the Site Remediation Program of the  
25 Environmental Protection Act. Determinations as to credit  
26 availability for purposes of this Section shall be made



1 consistent with rules adopted by the Pollution Control  
2 Board pursuant to the Illinois Administrative Procedure  
3 Act for the administration and enforcement of Section 58.9  
4 of the Environmental Protection Act. For purposes of this  
5 Section, "taxpayer" includes a person whose tax attributes  
6 the taxpayer has succeeded to under Section 381 of the  
7 Internal Revenue Code and "related party" includes the  
8 persons disallowed a deduction for losses by paragraphs  
9 (b), (c), and (f) (1) of Section 267 of the Internal Revenue  
10 Code by virtue of being a related taxpayer, as well as any  
11 of its partners. The credit allowed against the tax imposed  
12 by subsections (a) and (b) shall be equal to 25% of the  
13 unreimbursed eligible remediation costs in excess of  
14 \$100,000 per site.

15 (ii) A credit allowed under this subsection that is  
16 unused in the year the credit is earned may be carried  
17 forward to each of the 5 taxable years following the year  
18 for which the credit is first earned until it is used. This  
19 credit shall be applied first to the earliest year for  
20 which there is a liability. If there is a credit under this  
21 subsection from more than one tax year that is available to  
22 offset a liability, the earliest credit arising under this  
23 subsection shall be applied first. A credit allowed under  
24 this subsection may be sold to a buyer as part of a sale of  
25 all or part of the remediation site for which the credit  
26 was granted. The purchaser of a remediation site and the

1 tax credit shall succeed to the unused credit and remaining  
2 carry-forward period of the seller. To perfect the  
3 transfer, the assignor shall record the transfer in the  
4 chain of title for the site and provide written notice to  
5 the Director of the Illinois Department of Revenue of the  
6 assignor's intent to sell the remediation site and the  
7 amount of the tax credit to be transferred as a portion of  
8 the sale. In no event may a credit be transferred to any  
9 taxpayer if the taxpayer or a related party would not be  
10 eligible under the provisions of subsection (i).

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

14 (iv) This subsection is exempt from the provisions of  
15 Section 250.

16 (Source: P.A. 95-454, eff. 8-27-07; 96-115, eff. 7-31-09;  
17 96-116, eff. 7-31-09; 96-937, eff. 6-23-10; 96-1000, eff.  
18 7-2-10.)